

TITLE NINE – Taxation
Chap. 181. Income Tax Rules and Regulations

CHAPTER 181
Income Tax Rules and Regulations

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CROSS REFERENCES

Power to levy income tax - see Ohio Const., Art. XII, Sec. 8

Payroll deductions - see Ohio R.C. 9.42

Municipal income taxes - see Ohio R.C. Ch. 718

Income tax ordinance - see ADM. Ch. 183

181.01 DEFINITIONS.

For the purpose of this chapter the following terms have the definition hereafter given:

- (a) The definition of terms “taxpayer”, “association”, “business”, “corporation”, “employee”, “employer”, “net profits”, “nonresident”, “person”, “resident” and “other entity” shall be the same as set forth in Section 183.01.
(Res. 402. Passed 11-27-72)
- (b) “Place of business” means any bona fide office (other than a mere statutory office), factory, warehouse or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his regular employees. A taxpayer does not have a regular place of business outside of the Village solely by consigning goods to an independent factor or contractor outside the Village for sale.
(Ord. 95-06. Passed 8-23-95.)
- (c) “Business allocation percentage”, as used in this chapter, means the average percentage arrived at by applying the formula set forth in Section 183.02(h). “Business allocation percentage” is the percentage which may be applied to determine the portion of the entire net profits of a taxpayer to be allocated as having been made within the Village within the meaning of the provisions of Section 183.02.
- (d) “The Ordinance” means Ordinance 845 enacted by Council on November 27, 1972, (codified herein as Chapter 183) and any amendments or supplements thereto.
- (e) The singular shall include the plural and the masculine shall include the feminine and the neuter. (Res. 402. Passed 11-27-72.)
- (f) “Taxable income” means qualifying wages or wages paid by an employer or employers, compensation for personal services, other income defined by statute as taxable, and/or adjusted federal taxable income from the operation of a business, profession, or other enterprise or activity adjusted in accordance with the provisions of this chapter. (Ord. 97.09. Passed 9-10-97.)

181.02 COMMENCEMENT AND DURATION OF THE TAX.

The tax imposed by Chapter 183 is effective as to income and profits earned or accruing on and after January 1, 1973, and payroll deductions must be made against all qualifying wages, salaries, commissions, bonuses and other compensation earned or accruing on and after that date.

Chapter 183 continues effective insofar as the levy of taxes is concerned until December 31, 1976. (Res. 402. Passed 11-27-72.)

181.03 RESIDENT EMPLOYEES.

In the case of the residents of the Village an annual tax of one percent is imposed on all qualifying wages, salaries, commissions and other compensation earned or accrued on and after January 1, 1973. For the purpose of determining the tax on the earnings of the resident taxpayers, taxed under Section 183.02(a), the source of the earnings and the place or places in or at which the services were rendered are immaterial. All such earnings, wherever earned or paid, are taxable.

The following items are subject to tax:

- (a) Qualifying wages and salaries, bonuses or incentive payments received by an individual,

whether directly or through an agent and whether in cash or in property, for services rendered on or after January 1, 1973:

- (1) As an officer, director or employee of a corporation (including charitable and other nonprofit corporations), joint stock association or joint stock company;
 - (2) As an employee (as distinguished from a partner or member) of a partnership, limited partnership, or any other form of unincorporated enterprise owned by one or more persons;
 - (3) As an employee (as distinguished from the proprietor) of a business, trade or profession conducted by an individual owner;
 - (4) As an officer or employee (whether elected, appointed or commissioned) of a governmental administration, agency, arm, authority, board, body, branch, bureau, department, division, subdivision, section or unit of the State or any of the political subdivisions thereof;
 - (5) As an officer or employee (whether elected, appointed or commissioned) of a governmental administration, agency, arm, authority, board, body, branch, bureau, department, division, subdivision, section or unit of the United States Government or of a corporation created and owned, or controlled by the United States Government or any of its agencies;
 - (6) As an employee of any other entity or person.
- Qualifying wages, bonuses or incentive payments received by an individual, whether directly or through an agent and whether in cash or in property, for services rendered

on and after January 1, 1973:

- (1) Whether based upon hourly, daily, weekly, semimonthly, monthly, annual, unit of production or piecework rates; and
- (2) Whether paid by an individual, limited partnership, partnership, association, corporation (including charitable and other nonprofit corporations) governmental administration, agency, arm, authority, board, body, branch, department, division, subdivision, section or unit, or any other entity.

- (c) Commissions received by a taxpayer whether directly or through an agent and whether in cash or in property, for services rendered on and after January 1, 1973, regardless of how computed, by whom or wheresoever paid. If amounts received as a drawing account exceed the commissions earned, the tax is payable on the gross amount received. Amounts received from an employer by way of expenses and not by way of compensation, and used as such by the individual receiving them, are not deemed to be compensation if the employer deducts such expense advances as such from his gross income for the purpose of determining his net profits taxable under Chapter 183. If such commissions are included in the net earnings of a trade, business, profession, enterprise or activity regularly carried on by such individual and therefore subject to tax under Section 183.02(c), they shall not again be separately taxed. In such case, such net earnings shall be taxed as provided in Section 181.11.
- (d) The receipt of fees and other compensation for personal services rendered shall be deemed to be subject to taxation under Chapter 183.
- (e) Domestic servants are subject to the tax under Chapter 183 but are not subject to withholding provisions. That is to say, the domestic will report earnings and pay the tax directly to the Department of Taxation.
(Res. 402. Passed 11-27-72.)

181.04 NONRESIDENT EMPLOYEES.

(a) In the case of individuals who are nonresidents of the Village who are employees of an employer whose base office is located in the Village, there is imposed an annual tax of one percent (1%) on all, qualifying wages, salaries, commissions and other compensation, earned or accrued for work done or services performed or rendered by such employee, whether such compensation or remuneration is received or earned directly or through an agent and whether paid in cash or in property.

(b) The items subject to tax under this section are the same as those listed and defined in Section 181.03. (Ord. 90-8. Passed 9-26-90).

181.05 NET BUSINESS PROFITS; RESIDENTS.

- (a) In the case of trades, businesses, professions, other activities, enterprises or undertakings conducted, operated, engaged in, prosecuted or carried on by residents of the Village, there is imposed an annual tax of one percent on the net profits earned or accruing on or after January 1, 1973.
- (b) For the purpose of construing subsections (c) and (d) of Section 183.02, the term "residents" in the phrase "conducted by residents of the Village" will ordinarily be construed to have reference to the business entity itself, as distinguished from the partners, proprietors or other participants in its profits.
- (c) Generally, a partnership, association or other unincorporated enterprise owned by two or more persons will be taxed as an entity. However, in the case of a nonresident partnership, association or unincorporated enterprise which cannot be reached or taxed directly by the Village, or if only part of its earnings may be directly taxed, then in either such case, resident partners, co-owners, proprietors or other participants in the profits thereof must include in their declaration and tax return or returns their distributive shares of such profits, or portion thereof not taxed to the business enterprise as an entity, and must pay the tax thereon.
- (d) The tax imposed under Section 183.02(c) is levied upon the entire net profits of the resident trade, business, profession, other activity, enterprise, or undertaking, wherever earned, paid or accrued and regardless of the fact that any part of such business or professional activity may have been conducted at or through a place or places of business located outside the Village. (Res. 402 Passed 11-27-72.)

181.06 NET BUSINESS PROFITS; NONRESIDENTS.

(a) In the case of a nonresident individual, partnership, association, fiduciary or other entity (other than a corporation) engaged in the conduct, operation or prosecution of any trade, business, profession, enterprise, undertaking or other activity, there is imposed an annual tax of one percent on the net profits (earned or accruing on and after January 1, 1973) on such trade, business, profession, enterprise, undertaking, or other activity if, and to the extent, conducted in or derived from activity in the Village.

(b) A nonresident entity within the meaning of subsection (e) of Section 183.02 which has a branch or branches, office or offices and/or store or stores, warehouse, or other place or places in which the entity's business is transacted, located in the Village shall be considered to be conducting, operating, prosecuting, or carrying on a trade, business, profession, enterprise, undertaking, or other activity to the full extent of the sum total of all transactions originating or consummated in, by or through such Byesville branch, office, store, warehouse or other place of business, including:

- (1) Billings made on such transactions,
- (2) Services rendered,
- (3) Shipments made,
- (4) Goods, chattels, merchandise, etc., sold, or
- (5) Commissions, fees or other remuneration or payments earned.

(c) In the case of the partnership, association, or other unincorporated business owned by one or more persons the tax, generally, shall be upon such partnership, association, or business enterprise as an entity and not ordinarily upon the partners or members thereof. However, the provisions of Section 181.05 are applicable to render taxable against such resident partners or members their distributive share of any profits of such nonresident entity not taxable under Chapter 183.

(d) In determining the proportion or amount of the taxable net profits of a nonresident business entity having a place or places of business within and outside the Village, such business entity may at its option use and apply the Business Allocation Percentage Formula set forth in Section 183.02(h). For an explanation of the Formula, see Section 181.08. (Res. 402. Passed 11-27-72.)

181.07 NET BUSINESS PROFITS; CORPORATIONS.

(a) In the case of a corporation doing business in the Village, whether domestic or foreign, and whether domiciled in the Village, or elsewhere, there is imposed an annual tax of one percent on that part of the net profits (earned or accruing on and after January 1, 1973) of such corporations, which is earned by such corporations as a result of work done or services performed or rendered and business or other activities conducted in the Village.

(b) The provisions of Section 181.06(b) are applicable to such corporations.

(c) A corporation doing business both within and outside the Village may, in determining the part of the net profits which are taxable under Chapter 183, at its option:

(1) Use the usual accounting system to the taxpayer corporation, so long as the usual accounting system shall be acceptable to the Federal Internal Revenue Department as evidenced by acceptance and approval of income tax returns filed

therein; or

(2) Use the Business Allocation Percentage Formula set forth in Section 183.02(h).
(Res. 402. Passed 11-27-72.)

181.071 LIABILITY OF AND COLLECTION FROM BUSINESS ORGANIZATIONS.

(a) If any corporation required to withhold tax, file returns or pay tax under the provisions of this Chapter fails, for any reason, to make such filing or payment, any of its officers shall be personally liable for such failure and to comply with the requirements of this Chapter and Chapter 183.

(b) If any partnership, association or other unincorporated enterprise required to withhold tax, file returns or pay any tax under the provisions of this Chapter fails, for any reason, to make such filing or payment, any owner shall be personally liable to comply with the requirements of this Chapter and Chapter 183.

(c) The dissolution or the termination of the business of a corporation, partnership, association or other unincorporated enterprise shall not discharge the liability of an officer, owner or partner for a prior failure of the corporation, partnership, association or other unincorporated enterprise owned by two or more persons, to file returns or remit taxes due.

(d) Any corporation, partnership, association or other incorporated enterprise required to withhold tax, file returns, or pay any tax is hereby directed and required to furnish to the Tax Administrator within thirty days following written request, the names and current addresses of all officers, owners or partners of said business. (Ord. 99.08. Passed 4-7-99.)

181.08 BUSINESS ALLOCATION PERCENTAGE

(a) Use of Formula. At the option of a corporate taxpayer or of a nonresident business entity, such taxpayers may, but are not obligated to, use the formula set forth in Section 183.02 to compute the percentage of their entire net profits (derived from activities both within and outside the Village) which is taxable under Chapter 183, and to determine the tax payable to the Village thereunder.

If the taxpayer did not have a place of business outside the Village during the period covered by any declaration and/or return required under Chapter 183, its business allocation percentage is 100 percent; in other words the taxpayer is required to pay a tax of one percent on the entire net profit of the business.

If the taxpayer had a place or places of business outside the Village and was doing business in the Village during such period, the business allocation percentage shall be computed on the basis as set forth in Section 183.02(h).

The business allocation percentage is computed by determining the percentages:

- (1) Which Byesville real and tangible personal property bears to all real and tangible personal property (including that situated in Byesville) of taxpayer wheresoever situated;
- (2) Which Byesville business sales bear to taxpayer's entire business sales wheresoever derived (including those derived from Byesville); and
- (3) Which payrolls paid by taxpayer within Byesville bear to taxpayer's entire payroll wheresoever paid (including Byesville payrolls); adding together the three percentages so arrived at, and dividing the total by three.

However, if one of the factors (property, sales or payrolls) is missing, the other two percentages are added and the sum is divided by two, and if two of the factors are missing, the remaining percentage is the business allocation percentage.

EXAMPLE 1:

Corporation having places of business in Byesville, Detroit and Cleveland.

Byesville real and tangible personal property \$10,000. All real and personal property

(Byesville, Detroit and Cleveland) \$100,000. Percentage: 10%

Byesville sales \$15,000. All sales \$75,000. Percentage: 20%

Byesville payroll \$6,000. All payroll \$20,000. Percentage: 30%

Business Allocation Percentage:

10% plus 20% plus 30%

_____ Equals 20%

EXAMPLE 2:

Same corporation owning no real or tangible personal property anywhere.

Byesville sales \$15,000. All sales \$75,000. Percentage: 20%

Byesville payroll \$6,000. All payroll \$20,000. Percentage: 30%

Business Allocation Percentage:

20% plus 30%

_____ Equals 25%

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EXAMPLE 3:

Same corporation owning real and tangible personal property in Byesville valued at \$10,000 and owning no real or tangible personal property outside Byesville. Other factors same as in Examples 1 and 2.

Business Allocation Percentage:

100% plus 20% plus 30%

_____ Equals 50%

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After determining such business allocation percentage, the tax shall be determined by applying that percentage to the entire net profits of the taxpayer wherever derived (thus arriving at the taxable net profit), and computing one percent of the resultant taxable net profit.

In case it appears to the Tax Administrator that any income or capital of the taxpayer is improperly or inaccurately reflected, the Tax Administrator may adjust items of income, expense, deductions and capital, and disregard assets in computing any allocation percentage, provided any income directly traceable thereto is also excluded from entire net income, so as equitably to determine the tax.

(b) Explanation of "Property Factor". The percentage of the taxpayer's real and tangible personal property within the Village is determined by dividing the net book value (during the period covered by the report) of such property within the Village, without deduction of any encumbrances, by the average net book value similarly computed, of all such property within and without the Village. Only property owned by the taxpayer is considered in determining such percentage. __

(c) Explanation of Sales Factor. Receipts from the following are allocable to the Village:

- (1) Work done and performed or services rendered in the Village.
- (2) Rentals from property situated in the Village where the rental of such property is a usual or normal part of the taxpayer's business activity.
- (3) For the purpose of determining business allocation percentage, no account shall be given to receipts, within or without the Village, of income derived from intangibles (including stocks, bonds, royalties and the like) the income of which is taxable under the statutes of the State.

- (4) Compensation and other receipts for work done or services performed within the Village are allocable to the Village and taxable under Chapter 183. All amounts so received, credited or charged by taxpayer in payment for such work or services are so allocable, irrespective of whether done or performed by employees or agents of taxpayer or by any other person. It is immaterial where such amounts were payable or where they were received.

Commissions or fees received by the taxpayer are allocated to the Village if the services for which the commissions were paid were performed in the Village. If the taxpayer's services for which commissions or fees were paid were performed for the taxpayer by salesmen or other agents or employees attached to or working out of a Byesville place of business of the taxpayer, the taxpayer's services will be deemed to have been performed in the Village.

Where a lump sum is received by the taxpayer in payment for services within and without the Village, the amount attributable to services within the Village is to be determined on the basis of the relative values of, or amounts or time spent in the performance of, such services within and without the Village.

- (5) Receipt from sale of capital assets (property not held by the taxpayer for sale to customers in the regular course of business) are not business receipts. Receipts from the sale of real property held by the taxpayer as a dealer for sale to customers in the regular course of business are business receipts and are allocable to the Village if the real property was situated in the Village. Receipts from sale of intangibles included in business capital, held by the taxpayer as a dealer for sale to customers in the regular course of business, are business receipts and are allocable to the Village if the sales were made in the Village or through a regular place of business of the taxpayer in the Village.

(d) Payroll Factor. The percentage of the taxpayer's payroll allocable to the Village is determined by dividing the qualifying wages, salaries and other personal service compensation of the taxpayer's employees within the Village during the period covered by the report, by the total amount of compensation of all taxpayer's employees during such period.

Qualifying wages, salaries and other compensation are computed on the cash or accrual basis in accordance with the method of accounting used in the computation of the entire net income of the taxpayer.

Employees within the Village usually includes all employees regularly connected with or working out of a place of business maintained by the taxpayer in the Village.

However, where an employee performed services both within and without the Village, the amount treated as compensation for services performed within the Village shall be deemed to be:

- (1) In the case of an employee whose compensation depends directly on the volume of business secured by him, such as a salesman on a commission

basis, the amount received by him for the business attributable to his efforts within the Village;

- (2) In the case of an employee whose compensation depends on other results achieved, the proportion of the total compensation which the value of all his services within the Village bears to the value of his services; and

- (3) In the case of an employee compensated on a time basis, the proportion of the total amount received by him which the working time employed in the Village bears to the total working time.

(e) Adjustment of Formula. Generally, the Business Allocation Percentage Formula will result in a fair apportionment of the taxpayer's net profits within and without the Village. However, due to the peculiar circumstances of certain businesses, the formula may work a hardship in some cases or result in a tax evasion in others, thus not do justice to the taxpayer or the Village. Accordingly, in such cases, the Tax Administrator may substitute factors calculated to bring about a fair and proper allocation in any case where the taxpayer has adopted the optional use of the Business Allocation Percentage Formula. (Res. 402. Passed 11-27-72.)

181.09 ON WHAT EARNINGS OR NET PROFITS TAX FIRST LEVIED.

(a) The tax referred to in Sections 181.03 and 181.04 shall first be levied, collected and paid with respect to the qualifying wages, salaries, bonuses, incentive payments, commissions, fees and/or other compensation earned, as defined in this chapter.

(b) The tax referred to in Sections 181.05, 181.06 and 181.07 with respect to net profits of trades, businesses, professions, enterprises, undertakings, and other activities shall first be levied, collected and paid with respect to such net profits earned or accrued (in accordance with the regular accounting system of the taxpayer as approved by the Director of the Internal Revenue Service). See Section 181.10 for fiscal year returns. (Ord. 91-21. Passed 12-11-91.)

181.10 FISCAL YEARS.

Where the fiscal year of a trade, business, profession, enterprise, undertaking and/or other activity differs from the calendar year, the tax shall be applicable to the net profits of the fiscal year, but for the first fiscal year with respect only to such portion thereof as was earned on and after January 1, 1973.

A fiscal year will be recognized only if it has been or may be recognized as such by the Director of Internal Revenue for the purpose of Federal income tax. (Res. 402. Passed 11-27-72.)

181.11 NET BUSINESS PROFITS.

In amplification of the definition of the term “net profits” as set forth in Section 181.01(g) but not in limitation thereof, the following additional information and requirements respecting net business profits are furnished:

- (a) Where necessary to properly reflect income, inventories must be used. The basis of pricing used for the purpose of the Federal income tax must in each instance be used.
- (b) Where the books and records are kept on an “accrual basis,” “long-term contract basis,” or “installment basis” and such basis is used in the filing of Federal income tax returns, the same basis must be used for the purpose of this tax.
- (c) If the return is made on a “cash basis,” gross profit shall include:
 - (1) Commissions, fees and interest earned; plus
 - (2) The gross profit or loss from sales of merchandise, chattels, goods, wares, securities, notes, choses-in-action and services, except as hereafter provided.
- (d) If the return is made on an “accrual basis,” gross profit shall include:
 - (1) Commissions, fees and interest earned; plus
 - (2) The gross profit or loss from sales of merchandise, chattels, goods, wares, securities, notes, choses-in-action and services, except as hereinafter provided.
- (e) From gross profit there shall be subtracted allowable expense to arrive at the net profits subject to tax.
All ordinary and necessary expense of doing business, including reasonable compensation paid employees, shall be allowed, but no deduction may be claimed for “salary” or withdrawals of a proprietor or of the partners, members or other co-owners of an unincorporated business or enterprise.
- (f) If not claimed as part of the cost of goods sold or elsewhere in the return filed, there may be claimed and allowed a reasonable deduction for depreciation, depletion, obsolescence, losses resulting from theft or casualty not compensated for by insurance or otherwise, of property used in the trade or business, but the amount may not exceed that recognized for the purpose of the Federal income tax.
- (g) Bad debts in a reasonable amount may be allowed in the year ascertained worthless and charged off, but in no event shall the amount allowed exceed the amount recognized as a deduction for the purpose of the Federal income tax.
- (h) Only taxes directly connected with the taxpayer’s business may be claimed as a deduction. If for any reason the income from property is not subject to tax, then the tax on and other expenses of such property are not deductible. In any event, the following taxes are not deductible from income:
 - (1) The tax provided for in Chapter 183;

- (2) Any Federal taxes based upon income;
 - (3) Gifts, estate or inheritance taxes; and
 - (4) Taxes and/or special assessments for local benefits or improvements to property which tend to appreciate the value thereof.
- (i) Capital gains and losses (including gains or losses from the sale, exchange, or other disposition of depreciable business property, and real property used in the taxpayer's trade or business) shall not be taken into consideration in arriving at net profits earned.

If the taxpayer is a nonresident, only the amount of net profits applicable to the activities of the business in the Village shall be subject to tax. If the nonresident taxpayer's records do not disclose the actual net profits for the Byesville branch, office, store, or activity, separately, then the basis of allocation shall be disclosed in the return. If such basis of allocation is not deemed correct in view of all the known circumstances the Tax Administrator will make a reallocation based upon gross receipts or any other basis which shall, under the circumstances of the case, more accurately reflect the net profits.

- (j) In general, all business expense recognized and to the extent allowed as such for the purpose of determining Federal income tax will be recognized and allowed for in determining Byesville income tax under the provisions of Chapter 183. However, all expense connected with the acquisition or carrying of securities, the income from which is not recognized as taxable under Chapter 183, may not be deducted in determining taxable net profits hereunder.
- (k) In general, unearned income is not to be included in computing the tax levied hereunder. Income from intangibles by way of dividends, interest and the like, should not be included if the property from which such income is derived is subject to taxation under the intangible Personal Property Tax Laws of the State, or is specifically exempted from taxation under those laws.
- (l) Rentals received by the taxpayer are to be included only if and to the extent that the rental, ownership, management or operation of the real estate from which such rentals are derived (whether so rented, managed or operated by the taxpayer individually or through agents or other representatives) constitutes a business activity of the taxpayer in whole or in part.

Following are the circumstances under which, in any instance, the rental of any real property shall or shall not be deemed to be a business activity:

- (1) Where the gross monthly rental of any and all real properties, regardless of number and value, aggregates in excess of one hundred dollars (\$100.00) per month, it shall be prima-facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental property shall be subject to tax; provided that in case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds one hundred dollars (\$100.00) per month; provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in the crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds one hundred dollars (\$100.00) per month; and provided further that

the person who operates a rooming house shall be considered in business whether or not the gross income exceeds one hundred dollars (\$100.00) per month.

- (2) In determining the amount of gross monthly rental of any real property, periods during which (by reason of vacancy or any other cause) rentals are not received shall not be taken into consideration by the taxpayer.
- (3) Rentals received by a taxpayer engaged in the business of buying and selling real estate shall be considered as part of business income.
- (4) Real property, as the term is used in this resolution, shall include commercial property, residential property, farm property, and any and all other types of real estate.
- (5) In determining the taxable net income from rentals, the deductible expense shall be of the same nature, extent and amount as is allowed by the Internal Revenue Department for Federal income tax purposes.
- (6) Residents of the Village are subject to taxation upon net income from rentals (to the extent above specified) on all properties located in the Village, and on all properties located outside the Village, the net income of which is not subject to an income tax in such other community. In the case of residents of the Village if the net income of properties located outside the Village is subject to the income tax in another community, then such net income will not be subject to the income tax of the Village.
Nonresidents of the Village are subject to such taxation only if the real property is situated within the Village. Nonresidents, in determining whether gross monthly rentals exceed one hundred dollars (\$100.00) shall take into consideration only real estate situated within the Village.
- (m) Income from royalties or copyrights is not to be included.
(Res. 402. Passed 11-27-72.)
- (n) A taxpayer shall not be entitled to offset or deduct business losses or rental income losses against taxes withheld by an employer from the employee taxpayer's wages salary or other compensation when such taxes have been withheld and paid by the employer to the Village pursuant to Section 181.14. (Ord. 94-12. Passed 11-9-94.)
- (o) Income from royalties or copyrights is not to be included.

181.12 RECONCILIATION WITH FEDERAL RETURN.

- (a) In a form satisfactory to the Tax Administrator, there shall be submitted with each return filed by a taxpayer subject to the Federal Income Tax, a reconciliation between the amount shown in the return filed with the Tax Administrator and the income reported to the Federal Internal Revenue Department.
- (b) In the alternative, the taxpayer may attach the first page of the taxpayers Federal Income Tax return. After review, the Tax Administrator may request the taxpayers full Federal Income Tax return, including all schedules, to complete the reconciliation.
- (c) Refusal to provide said information to the Tax Administrator shall constitute a violation of Byesville Village Ordinance Section 183.99(5).
- (d) If, as a result of a change made in business income by the Federal Internal Revenue Department or by a judicial decision, an additional amount will result as owing to the Village, a report of such change shall be filed by the taxpayer within thirty days after receipt of the final notice of such change from the Federal authorities or after final decision of a court adjudicating any such Federal income tax liability. (Res. 402. Passed 11-27-72.)

181.13 RETURN AND PAYMENT OF TAX.

(a) On or before April 15th of every year, every taxpayer engaged in any business, the net profits of which are subject in whole or in part to the tax imposed by Chapter 183, shall make and file with the Tax Administrator a final return on a form furnished by or obtainable from the Tax Administrator. Thereafter, each such taxpayer shall, on or before April 15th of each subsequent year, make and file a final return with the Tax Administrator. Like returns shall also be filed at the same time and in the same manner by all persons whose qualifying wages, salaries, bonuses, incentive payments, commissions, fees and other compensation received during the preceding taxable year are subject to the tax imposed by Chapter 183. However, where an employee's entire earnings for the year are paid by an employer and the Byesville tax thereon has in each instance been withheld and deducted by the employer from the gross amount of the entire earnings of such employee taxpayer, and where the employer of such employee has filed a report or return in which such employee's entire and only earnings are reported to the Tax Administrator, and where such employee has no taxable income other than such earnings, it shall not be necessary for such employee to file a return for any taxable year in which such conditions have prevailed.

Any person who receives both compensation for services performed for an employer, in whatsoever form, and in addition receives income from any business activity or occupation not subject to withholding under Chapter 183, must file a declaration and a final return.

(b) In all returns filed hereunder there shall be set forth the aggregate amount of qualified wages, salaries, bonuses, incentive payments, commissions, fees and other compensation received and/or net profits earned (all as hereinbefore defined) by and during the preceding year and subject to such tax, together with such pertinent information as the Tax Administrator may require.

(c) If the return is made for a fiscal year or for any period other than a calendar year, the return shall be made within three and one-half months from the end of the fiscal year.

(d) The return shall also show the amount of the tax imposed by Chapter 183 on such earnings, or net profits, or both.

(e) The taxpayer making the return shall, at the time of filing, pay the Tax Administrator the amount of tax shown to be due and unpaid by the return. If, pursuant to the provisions of Section 181.19, the taxpayer has at the time of making such final return overpaid his tax, such taxpayer shall show the amount of overpayment and may in the return either:

- (1) Request a refund therefor, or
- (2) Request that the amount be credited against the amount which will be required to be paid by the taxpayer on the next succeeding installment of tax which may become due.

(f) Where any portion of the tax otherwise due has been paid by the taxpayer pursuant to the

provisions of Section 181.14 and 181.18, or where an income tax has been paid to another municipality, pursuant to Section 183.05, credit for the amount so paid shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing such final return.

- (g) Any taxpayer under this Section may file a written request for extension with the Tax Administrator. The taxpayer shall make the request by filing a copy of the taxpayer's request for a federal filing extension with the Village Clerk. The request for extension shall be filed not later than the last day for filing the Byesville Income Tax Return as prescribed by Ordinance. The Tax Administrator shall grant a request for extension for a period not less than the period of the federal extension request. The Tax Administrator may deny a taxpayer's request for extension if the taxpayer fails to timely file the request, fails to file a copy of the request for the federal extension, owes the Village of Byesville any delinquent income tax or any penalty, interest, assessment, or other charge for the late payment or nonpayment of income tax, or has failed to file any required income tax return, report, or other related document for a prior tax period. The granting of an extension for filing a Village of Byesville Income Tax Return does not extend the last date for paying the tax without penalty.
- (h) A taxpayer shall not be entitled to offset or deduct business losses or rental income losses against taxes withheld by an employer from the employee-taxpayer's wages, salary or other compensation when such taxes have been withheld and paid by the employer to the Village pursuant to Section 181.14. (Ord. 94.12. Passed 11-9-94.)
- (i) The Village of Byesville shall accept a generic form of any return, report, or document required to be filed if the generic form once completed and filed contains all of the information required to be submitted with the Village of Byesville prescribed returns, reports, or other documents, and if the taxpayer or return preparer filing the generic form otherwise complies with the rules or Ordinances of the Village of Byesville governing the filing of returns, reports, or documents. Determination as to whether a generic form meets the above criteria shall be in the sole discretion of the Byesville Tax Administrator. (Ord. 02-01. Passed 1-24-01.)
- (j) The Village of Byesville does not allow a net operating loss carry-back or carry-forward.

181.14 COLLECTION AT SOURCE.

(a) It is the duty of each employer (as hereinbefore defined) who employs one or more persons on a qualifying wage, salary, commission or other compensation basis, to deduct from compensation paid to any employee subject to Chapter 183, the tax of one percent of such salary, wage, bonus, incentive payment, commission or other compensation due by such employer to such employee. The tax shall be deducted by the employer from the gross amount of all qualifying wages, salaries, wages, bonuses, incentive payments, commissions or other form of compensation paid to all employees, whether residents or nonresidents of the Village, regardless of the place where the services are rendered. Employees whose employer or employers base office is located in the Village of Byesville shall not be granted a refund or credit for time spent outside of the Village while conducting business on behalf of their employer. (Res. 402. Passed 11-27-72; Ord. 90-9. Passed 9-26-90.)

(b) All employers who or which maintain an office or other place of business in the Village are required to make the collections and deductions specified in this section, regardless of the fact that the services on account of which any particular deduction is required as to residents of the Village were performed at a place of business of any such employer situated outside the Village.

(c) The mere fact that the tax is not withheld will not relieve the employee of the responsibility of filing a return and paying the tax on the compensation received.

(d) Commissions and fees paid to professional men, brokers and others who are independent contractors and not employees of the payor, are not subject to withholding or collection of the tax at the source. Such taxpayers must in all instances file returns and pay the tax pursuant to the provisions of Section 183.02. (See Sections 181.05 and 181.06.) (Res. 402. Passed 11-27-72.)

(e) In the case of employees who are nonresidents of the Village of Byesville, the amount to be deducted is one percent (1%) of the compensation paid to the employee. (Ord. 90-9. Passed 9-26-90.)

(e) An employer shall withhold the tax on the full amount of any advances made to an employee for commissions (whether by way of drawing account or otherwise, however, see subsection (g) hereof) where such advances are in excess of commissions earned.

(g) An employer required to withhold the tax on compensation paid to an employee shall, in determining the amount on which the tax is to be withheld, ignore any amount allowed and paid by the employer to the employee for expense necessarily and actually incurred by the employee in the actual performance or his services, provided, that such expense must be of the kind and in the amount recognized and allowed as deductible expense for Federal income tax purposes. (Res. 402. Passed 11-27-72.)

181.15 RETURNS OF TAX WITHHELD AND PAYMENT.

Each employer within the Village who employs one or more persons on a salary, wage, commission or other compensation basis shall deduct monthly, or more often than monthly, and at the time of the payment so such qualifying, wage, salary commission or other compensation, the tax of one percent of qualifying wages, salaries, commissions or other compensation due by the employer to the employee and shall make a return and pay to the Village Clerk the amount of taxes so deducted as follows:

For the three months ending March 31st, on or before April 30th;
 For the three months ending June 30th, on or before July 31st;
 For the three months ending September 30th, on or before October 31st;
 For the three months ending December 31st, on or before January 31st.

The reporting periods referred to in the preceding paragraphs are elastic to this extent: the employer will use the same quarterly accounting period for reporting taxes withheld under Chapter 183 as he uses in reporting quarterly taxes withheld to the Federal Government.

The return shall be on a form prescribed by and obtainable from the Tax Administrator or other acceptable generic form and shall be subject to the rules and regulations prescribed therefor by the Tax Administrator.

For adjustment of errors in returns of tax withheld by employers see Chapter 181.21.

Each employer doing business within the Village shall submit to the Tax Administrator accurate copies of Federal Form W-2 statements, 1099 statements, and payroll reconciliation statements for each of its employees who were employed at any time during the calendar year. The W-2 statement, 1099 statement, and payroll reconciliation statements for each employee shall be filed by the employer with the Village Tax Administrator on or before January 31, of each year, for each employee employed at any time during the previous calendar year.

All such statements shall contain an accurate statement of the current address of each employee. All employees of an employer doing business within the Village are required to notify the employer of any change of residence and the date thereof.

181.16 LIABILITY OF EMPLOYEE.

The failure of any employer, residing either within or outside the Village, to collect the tax and to make any return prescribed herein, shall not relieve the employee from the payment of such tax in compliance with these regulations respecting the making of returns and the payment of taxes. (Res. 402. Passed 11-27-72.)

181.17 STATUS AND LIABILITY OF EMPLOYERS.

Every employer is deemed to be a trustee of the Village in collecting and holding the tax required under Chapter 183 to be withheld. The funds so collected by such withholding are deemed to be trust funds until the same are paid to the Village.

Every employer required to deduct and withhold the tax at the source is liable directly to the Village for the payment of such tax , whether actually collected by such employer or not.
(Res. 402. Passed 11-27-72.)

181.18 DECLARATIONS.

(a) An employee whose entire wages, salaries or other compensation for any taxable year will be subjected to the withholding provisions under 181.14, whose tax will accordingly be withheld for his entire earnings for the year by his employer, and who during such taxable year expects to derive no other compensation or other income which is subject to tax under Chapter 183, need not file a declaration as provided in this section.

(b) "All other tax payers (as defined in Chapter 183 and in this Chapter) subject to the taxes imposed in Chapter 183.02 and every tax payer who anticipates any income or net profits not subject to total withholding as provided in subsection (a) hereof shall file with the Tax Administrator a declaration of his estimated tax as follows:

- (1) Not more than 22 ½% of the tax payer's estimated tax liability for the current year shall be required to have been remitted on or before the 30th day of April or the day on which the annual tax return for the prior year is to be filed disregarding any extension, as prescribed by ordinance.
- (2) Not more than 45% of the tax payer's estimated tax liability for the current year shall be required to have been remitted on or before the 31st day of July.
- (3) Not more than 67 ½% of the tax payer's estimated tax liability for the current year shall be required to have been remitted on or before the 31st day of October.
- (4) Not more than 90 ½% of the tax payer's estimated liability for the year referred

to in Paragraph B-1, 2, and 3 of this Section shall be required to have been remitted on or before the 31st day of January.

- (5) No declaration shall be required under this Section if the estimated tax to be paid is \$100.00 or less.
- (6) For taxpayers that are not individuals, such declarations of estimated tax to be paid the Municipality shall be accompanied by a payment of at least one fourth of the estimated tax and at least a similar amount shall be paid on or before the fifteenth (15th) day of the sixth, ninth and twelfth months after the beginning of the taxable year.

(c) The declarations so required shall be filed upon a form furnished by or obtainable from the Tax Administrator. Any taxpayer who has filed an estimate for Federal income tax purposes may, in making the declaration, required hereunder, simply state therein that the figures therein contained are the same figures used by the taxpayer in making the declaration of his estimate for the Federal income tax. However, in addition to such statement, any such taxpayer may, in such

declaration, modify and adjust such declared income so as to exclude therefrom income which is not subject to tax under Chapter 183.

(d) Any estimate filed hereunder may be amended by the filing of an amended estimate at the time prescribed for the payment of any installment of tax paid in accordance with Section 181.19. (Res. 402. Passed 11-27-72.)

181.19 PAYMENT OF TAX INSTALLMENTS.

(a) At the time of filing each declaration required by Chapter 181.18 each taxpayer shall pay to the Tax Administrator the amount of estimated annual tax as described in Chapter 181.18. Thereafter, on or before April 30th, July 31st, October 31st, and January 31st of each year during the time that Chapter 183 is in effect such taxpayer shall pay at least a similar amount. However, if such taxpayer shall, on or before any such payment date, file an amended declaration showing an increase or decrease of the estimated tax, the installments then and thereafter due shall be increased or diminished (as the case may be) in such manner that the balance of the estimated tax shall be fully paid on or before January 31st of the taxable year involved through the payment of quarterly installments in equal amounts during the quarterly periods remaining from and after the filing of any such amended declaration.

(b) Taxpayers who or which are permitted to make returns and pay their tax on a fiscal year basis (see Section 181.10) may make the quarterly payments on their declaration of estimated tax pursuant to Section 181.18(d).

(c) For final returns and final adjustment of tax due, see Section 181.13. (Res. 402 Passed 11-27-72)

181.20 RECORDS TO BE KEPT BY EMPLOYERS AND TAXPAYERS.

Employers and others subject to the tax under Chapter 183 are required to keep such records as will enable the filing of true and accurate returns, whether of taxes withheld at source or of taxes payable upon earnings or net profits, or both, and such records are to be preserved for five years to enable the Tax Administrator, or any agent or employee of the Village Clerk, to verify the correctness of the returns filed. (Res. 402. Passed 11-27-72.)

181.21 COLLECTION OF DEFICIENCIES; ALLOWANCE OF CREDIT FOR OVERPAYMENT.

(a) If, as a result of investigation conducted by the Tax Administrator, a return is found to be incorrect, the Tax Administrator is authorized to assess and collect any underpayment of tax withheld at source or any underpayment of tax owing by any taxpayer with respect to earnings or net profits, or both. If no return has been filed and a tax is found to be owing, the tax actually owing may be assessed and collected with or without the formality of obtaining a delinquent return from the employer or taxpayer .

(b) Should it be disclosed, either as a result of an investigation by the Tax Administrator or through the medium of the filing of a claim or petition for refund or credit, that an overpayment has been made, the Tax Administrator will refund such overpayment.

(c) The employer will in every instance be required to pay the full tax which should have been withheld, even though he may fail to withhold from the employee. If too much has been withheld the excess shall be refunded by the employer to the employee. While the withholding agent (employer) will be expected to maintain complete records of such adjustments with the employees, any such adjustments made during any month will not need to be reflected in the withholding return or disclosed by schedules or statements thereto attached.

(d) In those cases in which too much has been withheld by an employer from an employee and remitted to the Tax Administrator and there has been a termination of the employee-employer relationship, the taxpayer (employee) may obtain an adjustment by application to the Tax Administrator (Res. 402. Passed 11-27-72.)

(e) A taxpayer shall not be entitled to offset or deduct business losses or rental income losses against taxes withheld by an employer from the employee taxpayer's qualifying wages, salary or other compensation when such taxes have been withheld and paid by the employer to the Village pursuant to Section 181.14. (Ord. 94-12. Passed 11-9-94.)

181.22 COLLECTION OF UNPAID TAXES.

All taxes imposed by Chapter 183 remaining unpaid when the same have become due, together with all interest and penalties thereon, become a debt due the Village from the taxpayer, and are recoverable as other debts by suit instituted by the Village Solicitor.

Employers who or which, although obligated under Chapter 183 to withhold and remit to the Tax Administrator the taxes required to be withheld at the source (Section 181.14), fail to so withhold and/or remit, become liable to the Village in a civil action to enforce the payment of the debt created by such failure.

When a deficiency is determined to be due to the Village, action to collect the same shall be commenced within the time prescribed by Ohio R.C. 718.06. (Res. 402. Passed 11-27-72.)

181.23 IDENTIFICATION REQUIRED.

Agents and employees charged with the duty of inspection or auditing of records of employers and taxpayers will carry proper identification, which shall be subject to examination by any person whose records are sought to be examined. (Res. 402. Passed 11-27-72.)

181.24 INAPPLICABILITY.

This chapter is inapplicable to any person or corporation upon whom or which is beyond the legal power of Council to impose the tax; it is likewise inapplicable to any property, income or profits (or part thereof) which is beyond the legal power of Council to levy the tax.

(Res. 402. Passed 11-27-72.)

181.25 SPLIT PAYROLLS.

In the case of hourly employees, where a payroll continues past December 31, 1972 and such payroll does not end until a period in January, 1973, the payroll shall be considered a split-payroll, and as such will not be subject to withholding tax under Chapter 183 effective January 1, 1973.

Only the first full pay for hourly employees earned after January 1, 1973, and all payrolls thereafter, will become subject to withholding under Chapter 183.

All salaried employees paid on a calendar month will be subject to withholding under Chapter 183 as of January 1, 1973. (Res. 402. Passed 11-27-72.)

181.26 WITHHOLDING STATEMENTS. (REPEALED)

(EDITOR'S NOTE: Former Section 181.26 was repealed by Ordinance 92-06, passed April 8, 1992.)

181.27 VACATION PAY

Vacation pay paid in 1973 will not be subject to withholding deductions under Chapter 183. Vacation pay paid in 1974 and in all subsequent years will be subject to withholding deductions under Chapter 183. (Res. 402. Passed 11-27-72.)

181.28 REGISTRATION BY CONTRACTORS.

(a) Any contractor and/or subcontractor performing work or services within the corporate limits of the Village, or applying for a permit to do building, construction or reconstruction of any structure within the Village, shall, when applying for the building permit, or prior to performing work or services within the Village, register his business name, current mailing address for the business, business tax I.D. number, the person or persons to whom correspondence shall be directed, and the names, addresses, and social security numbers of all persons employed by the contractor and/or subcontractor with regard to the work being performed within the Village, with the Village Clerk and Tax Administrator for the Village. The contractor and/or subcontractor shall also indicate the estimated times and dates during which work shall be performed within the Village.

(b) The Village Building Committee shall not approve and the Village Clerk shall not issue any building permit until the contractor and/or subcontractor has provided the information mandated in subsection (a). The Village Clerk shall note upon the building permit or certificate of registration that the Income Tax Department has been advised as to the required information.

(c) The Village Clerk shall note upon the contractor's and/or subcontractor's application for a building permit that the contractor and/or subcontractor has registered with the Byesville Income Tax Department in accordance with the rules and regulations of the Income Tax Department, and shall maintain such information on file. If a building permit is not required, the Clerk shall issue a certificate of registration to the contractor.

(d) All contractors and/or subcontractors and employees of the same shall comply with all relevant provisions of Chapter 181 and 183.

(e) Any person, firm or corporation, whether contractor, subcontractor or journeyman, performing any work or services within the Village without having first secured a building permit or certificate of registration to do so in accordance with the requirements of this chapter, or whose certificate or building permit has been revoked under the proceedings as provided in this chapter, shall be fined not more than one hundred dollars (\$100.00) for each offense. Each day of operation without a certificate or building permit as herein prescribed shall constitute a separate offense.

(f) The Mayor shall have the authority to revoke any building permit or certificate of registration issued to a contractor and/or subcontractor herein, if he determines that the contractor and/or subcontractor has not complied with the requirements of this section. The Mayor's decision may be appealed in writing to the Village Building Committee no later than ten days from the date of the Mayor's decision to revoke. (Ord. 95-05. Passed 7-12-95.)

