

TITLE NINE - Taxation
 Chap. 181. Income Tax.
 Chap. 183. Admissions Tax.

CHAPTER 181
 Income Tax

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CROSS REFERENCES

- Power to levy - see Ohio Const. Art. XII, Sec. 8
 Payroll deductions - see Ohio R. C. 9.42
 Municipal income taxes - see Ohio R. C. Ch. 718
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181.01 PURPOSE.

To provide funds for the purposes of general Municipal operations, maintenance, new equipment, extension and enlargement of Municipal services and facilities, and capital improvements of the Village there is hereby levied a tax on salaries, wages, commissions and other compensation, and on net profits as hereinafter provided.
 (Ord. 272. Passed 7-15-74.)

181.02 DEFINITIONS.

(a) As used in this chapter, the following words shall have the meaning ascribed to them in this section, except as and if the context clearly indicates or requires a different meaning.

- (1) "Association" means a partnership, limited partnership or any other form of unincorporated enterprise, owned by two or more persons.
- (2) "Board of Review" means the Board created by and constituted as provided for in Section 181.12.

- (3) "Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity.
- (4) "Corporation" means a corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory or foreign country or dependency.
- (5) "Employee" means one who works for wages, salary, commission or other types of compensation in the service of an employer.
- (6) "Employer" means an individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission or other compensation basis.
- (7) "Fiscal year" means an accounting period of twelve months ending on any day other than December 31.
- (8) "Gross receipts" means total income of taxpayers from whatever source derived.
- (9) "Municipality" means the Village of Woodsfield, Ohio.
- (10) "Net profits" means the net gain from all operations including those pertaining to capital gains and losses of a business, profession or enterprise after provision for all ordinary and necessary expense, except taxes imposed by this chapter, and federal and other taxes based on income, paid or accrued in accordance with the accounting system used by the taxpayer for federal income tax purposes, and, in the case of an association, without deduction of salaries paid to partners or other owners.
- (11) "Nonresident" means a person whether an individual, association, corporation or other entity, domiciled outside the Village.
- (12) "Person" means every natural person, partnership, fiduciary, association, corporation or other entity. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to any association shall include the partners or members thereof, and as applied to corporations, the officers thereof.
- (13) "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 employees, regularly in attendance.
- (14) "Resident" means a person, whether an individual, association, corporation, or other entity, domiciled in the Village.
- (15) "Tax year" means the calendar year, or the fiscal year upon the basis of which net profits are to be computed under this chapter and, in the case of a return for a fractional part of a year, the period for which such return is required to be made.
- (16) "Tax Commissioner" means the Tax Commissioner or the person executing the duties of the aforesaid Commissioner.
- (17) "Taxpayer" means a person, whether an individual, partnership, association, corporation or other entity, required by this chapter to file a return or pay a tax.
- (18) The singular shall include the plural, and the masculine shall include the feminine and the neuter. (Ord. 272. Passed 7-15-74.)

181.03 IMPOSITION OF TAX.

(a) Subject to provisions of Section 181.15, an annual tax, for the purpose specified in Section 181.01, is hereby levied on and after October 1, 1975, at the rate of one percent (1%) per annum upon the following: (Ord. 288. Passed 9-22-75.)

- (1) On all salaries, wages, commissions and other compensation earned by residents during the effective period of this chapter.
- (2) On all salaries, wages, commissions and other compensation earned by non-residents for work done or service performed in the Municipality during the effective period of this chapter.
- (3) A. On the portion attributable to the Municipality of the net profits earned during the effective period of this chapter of all resident associations, unincorporated businesses, professions or other entities, derived from sales made, work done or services performed or rendered, or business or other activities conducted in the Municipality.
B. On a resident partner's or owner's share of the net profits earned during the effective period of this chapter of a resident association or other unincorporated entity not attributable to the Municipality and not levied against such association or other unincorporated entity.
- (4) A. On the portion attributable to the Municipality of the net profits, earned during the effective period of this chapter of all nonresident associations, unincorporated businesses, professions or other entities, derived from sales made, work done or services performed or rendered or business or other activities conducted in the Municipality, whether or not such association or other unincorporated entity has an office or place of business in the Municipality.
B. On a resident partner's or owner's share of the net profits earned during the effective period of this chapter of a nonresident association or other unincorporated entity not attributable to the Municipality, and not levied against such association or other unincorporated entity.
- (5) On the net profits earned during the effective period of this chapter of all corporations derived from sales made, work done or services performed or rendered, and business or other activities conducted in the Municipality whether or not such corporations have an office or place of business in the Municipality.

(b) Where a person conducts a business both within and outside the Municipality, the portion of the entire net profits of such business to be allocated as having been made within the Municipality may be determined from the records of such business, if such business has bona fide records which disclose with reasonable accuracy what portion of its net profits is attributable to that part of its activities conducted within the Municipality or at the option of the taxpayer may be determined by the following formula, which shall be used if taxpayer has no bona fide records showing net profits from Woodsfield business activities, subject, however, to the provisions of this subparagraph.

- (1) Multiply the entire net profits of the business by a business allocation percentage to be determined by:
 - A. Ascertaining the percentage which the average net book value of the real and tangible personal property owned or used in the business and situated within the Municipality, during the period covered by the return,

is of the average net book value of all the real and tangible personal property owned or used in the business, wherever situated, during such period.

- B. Ascertaining the percentage which the gross receipts of the business from sales made and services performed in the Municipality, during the period covered by the return, are of the total gross receipts from all sales and services, wherever made or performed, during such period.
 - C. Ascertaining the percentage which the total wages, salaries, commissions and other compensation paid, during the period covered by the return, to employees for services performed in the Municipality, is of the total wages, salaries, commissions and other compensation paid during such period to all employees within and outside the Municipality.
 - D. Adding together the percentages determined in accordance with paragraphs A., B. and C. hereof or such of the aforesaid percentages as are applicable to the particular taxpayer and dividing the total so obtained by the number of percentages used in deriving such total.
 - 1. A factor is applicable even though it may be allocable entirely in or outside the Municipality.
 - 2. Provided, however, that if after consultation with the Tax Commissioner a just and equitable result cannot be obtained under the formula provided for herein, the Board of Review, upon application of the taxpayer or the Tax Commissioner, shall, under uniform regulations adopted by the Board, have the authority to substitute other factors or methods calculated to effect a fair and proper allocation.
- (c) (1) The portion of a net operating loss sustained in any taxable year, beginning with the year 1974 allocable to the Municipality, may be applied against the portion of the profit of succeeding tax years, allocable to the Municipality, until exhausted, but in no event for more than the five taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.
- (2) The portion of a net operating loss sustained shall be allocated to the Municipality in the same manner as provided herein for allocating net profits to the Municipality.
- (3) The Tax Commissioner shall provide by rules and regulations the manner in which such net operating loss carry-forward shall be determined.
- (d) (1) Filing of consolidated returns may be permitted or required in accordance with rules and regulations prescribed by the Tax Commissioner.
- (2) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates, or some other method, the Tax Commissioner shall require such information, in addition to the return hereinafter provided for, as he may deem necessary to ascertain whether net profits are properly allocated to the Municipality. If the Tax Commissioner finds net profits are not properly allocated to the Municipality by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates, or some other method, he may require the filing of a consolidated return or adjust such transactions so as to produce a fair and proper allocation of net profits to the Municipality. (Ord. 272. Passed 7-15-74.)

(e) The tax provided for herein shall not be levied on the following:

- (1) Alimony as defined by the Internal Revenue Service Code;
 - (2) Military pay or allowances of the members of the armed forces of the United States;
 - (3) Welfare payments, pensions, unemployment compensation, supplemental unemployment benefits or similar payments, disability benefits received from private industry or local, State, or federal governments;
 - (4) The proceeds of judgments or the settlement of claims for personal injury or property damage; the proceeds of sick, accident or liability insurance policies;
 - (5) Gains from the sale of capital assets as defined in the Internal Revenue Code; gains from involuntary conversions or the cancellation of indebtedness;
 - (6) Interest on the obligations of federal, State, Municipal or political subdivisions;
 - (7) Earnings and income of all persons under the age of sixteen whether they are residents or nonresidents;
 - (8) The net profits of any civic, charitable, religious, fraternal or other organization specified in Ohio R. C. 718.01, except to the extent such net profits are exempted under such section;
 - (9) Interest paid on the deposits held by commercial banks, savings and loan associations, or similar institutions; or
 - (10) Dividends, whether designated as ordinary income or capital gains, paid by domestic or foreign corporations.
- (Ord. 274. Passed 2-17-75.)

181.04 EFFECTIVE PERIOD.

The tax imposed by this chapter shall be levied, collected and paid with respect to all income and net profits subject to the tax, earned on or after October 1, 1974.
(Ord. 272. Passed 7-15-74.)

181.05 RETURN AND PAYMENT OF TAX.

(a) Each person who engaged in business, or whose salary, wages, commissions, or other compensation are subject to the tax imposed by this chapter shall, whether or not a tax be due thereon, make and file, on or before April 30 in each year, beginning with the year 1975 a return with the Tax Commissioner. A taxpayer on a fiscal year accounting basis for federal income tax purposes shall, beginning with his first fiscal year, any part of which falls within the effective period of this chapter, file his return within four months from the end of such fiscal year or period. The Tax Commissioner is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of tax deducted by such employer or employers from the salaries, wages, commissions or other compensation of an employee, and paid by him or them to the Tax Commissioner shall be accepted as the return required of any employee whose sole income, subject to tax under this chapter, is such salary, wages, commissions or other compensation.

(b) The return shall be filed with the Tax Commissioner on a form or forms furnished by or obtainable upon request from the Tax Commissioner setting forth:

- (1) The aggregate amounts of salaries, wages, commissions and other compensation earned, and gross income from any business, profession or other activity, less allowable expenses incurred in the acquisition of such gross

- income, earned during the preceding year and subject to such tax;
- (2) The amount of the tax imposed by this chapter on such earnings and profits; and
 - (3) Such other pertinent statements, information returns or other information as the Tax Commissioner may require, including a statement that the figures used in the return are the figures used in the return for federal income tax, adjusted to set forth only such income as is taxable under the provisions of this chapter.

(c) The Tax Commissioner may extend the time for filing of the annual return upon the request of the taxpayer for a period of not to exceed six months, or one month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the federal income tax return. The Tax Commissioner may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due. No penalty or interest shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended.

- (d)
 - (1) The taxpayer making a return shall at the time of the filing thereof, pay to the Tax Commissioner the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due shall have been deducted at the source, pursuant to the provisions of Section 181.06; or where any portion of such tax shall have been paid by the taxpayer, pursuant to the provisions of Section 181.07; or where an income tax, creditable against the Woodsfield tax pursuant to Section 181.14, has been paid to another municipality, 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 return.
 - (2) A taxpayer who has overpaid the amount of tax to which the Municipality is entitled under the provisions of this chapter may have such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such overpayment, or part thereof, shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded.
- (e)
 - (1) Where necessary an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and limitations contained in Sections 181.11 and 181.14. Such amended returns shall be on a form obtainable on request from the Tax Commissioner.
 - (2) Within three months from the final determination of any federal tax liability affecting the taxpayer's tax liability, such taxpayer shall make and file an amended Woodsfield return showing income subject to the Municipality tax based upon such final determination of federal tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment.
(Ord. 272. Passed 7-15-74.)

181.06 COLLECTION AT SOURCE.

(a) Each employer within, or doing business within, the Municipality, who employs one or more persons on a salary, wage, commission or other compensation basis shall deduct at the time of the payment of such salaries, wages, commissions or other compensation, the tax of one percent (1%) of the gross salaries, wages, commissions or other compensation due by such employer to each employee and shall, on or before the last day of April, July, October and January of each year, after the effective date of this chapter, make a return and pay to the Tax Commissioner the amount of taxes so deducted during the preceding calendar quarter. Such return shall be on a form or forms prescribed by or acceptable to the Tax Commissioner and shall be subject to the rules and regulations prescribed therefor by the Tax Commissioner.

(b) Each employer in collecting such tax shall be deemed to hold the same, until payment is made by such employer to the Municipality, as a trustee for the benefit of the Municipality, and any such tax collected by such employer from his employees shall, until the same is paid to the Municipality, be deemed a trust fund in the hands of such employer. Each employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such tax, in fact, has been withheld.

(c) It shall be the responsibility, jointly and severally, of the president and treasurer of each corporation required to withhold the tax from wages of its employees under this section, to see that all such taxes so withheld are paid to the Municipality in accordance with the provisions of this section. In the event taxes withheld by a corporation from the salaries of its employees are not paid to the Municipality in accordance with the provisions of this section, the president and treasurer of such corporation shall each be criminally liable under the provisions of Section 181.99.

(d) On or before April 30 of each year, each employer shall file a withholding return, on a form or forms prescribed by and obtainable from the Tax Commissioner, setting forth the names and addresses of all employees from whose compensation the tax was withheld during the preceding calendar year, and the amount of tax withheld from the listed employees and such other information as may be required by the rules and regulations adopted by the Tax Commissioner.

(e) Provided, however, that no person shall be required to withhold the tax on the wages or other compensation paid domestic servants employed exclusively in or about such person's residence. However, such domestic servants shall be responsible for filing and paying their own returns and taxes.

(Ord. 288. Passed 9-22-75.)

181.07 DECLARATIONS.

(a) Every person who anticipates any taxable income which is not subject to Section 181.06, or who engages in any business, profession, enterprise or activity shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon, if any.

- (b) (1) Beginning with the year 1974; the first declaration hereunder shall be filed on or before January 31, 1975, of such year or within four months of the date the taxpayer first becomes subject to the provisions of this section; in 1975 and succeeding years, such declaration shall be filed on or before April 30 of each year during the life of the chapter, or within four months of the date the taxpayer first becomes subject to the provisions of this section.
- (2) Those taxpayers reporting on a fiscal year basis shall file a declaration within four months after the start of each fiscal year or period.
- (c) (1) Such declaration shall be filed upon a form furnished by or obtainable from the Tax Commissioner. Credit shall be taken in such declaration for the income tax to be withheld from any portion of such income and for income taxes to be paid to another taxing municipality for which credit is allowed against Woodsfield tax under Section 181.14.
- (2) Except as hereinafter specified, a declaration of estimated tax to be paid the Municipality shall be accompanied by a payment of at least one-fourth of the estimated tax, less credit for taxes withheld or paid to another municipality, and at least a similar amount shall be paid on or before the last day of the seventh, tenth and thirteenth months after the beginning of the tax year; provided, however, that the first and final payment of such estimated tax for the applicable portion of the calendar year 1974 is payable on or before the last day of January, 1975.
- (3) A declaration may be amended at any time, provided, however that in case an amended declaration is filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

(d) An amended declaration must be filed on or before January 31, of any year, or in the case of a taxpayer on a fiscal year accounting basis, on or before the date fixed by regulation of the Tax Commissioner, if it appears that the original declaration made for such year underestimated the taxpayer's income by thirty percent (30%) or more. At such time a payment which, together with prior payments, is sufficient to pay taxpayer's entire estimated liability, shall be made. If upon the filing of the return, on or before January 31, or the date fixed by regulation, whichever is applicable, the difference between seventy percent (70%) of the taxpayer's tax liability and the amount of estimated tax he actually paid on or before January 31, or the date fixed by regulation whichever is applicable, shall be subject to the interest and penalty provisions of Section 181.10.

(e) On or before the last day of the fourth month of the calendar or fiscal year following that for which the declaration was filed, an annual return shall be filed and any balance which may be due the Municipality shall be paid therewith in accordance with the provisions of Section 181.05. (Ord. 272. Passed 7-15-74.)

181.08 DUTIES OF THE TAX COMMISSIONER.

(a) It shall be the duty of the Tax Commissioner to collect and receive the tax imposed by this chapter in the manner prescribed therein, and to keep an accurate record thereof, and to report all moneys so received.

(b) It shall be the duty of the Tax Commissioner to enforce payment of all income taxes owing the Municipality, to keep accurate records for a minimum of five years, showing the amount due from each taxpayer required to file a declaration or make any return, including a return of taxes withheld, and to show the dates and amount of payments thereof.

(c) The Tax Commissioner is hereby charged with the enforcement of the provisions of this chapter, and is hereby empowered, subject to the approval of the Board of Review to adopt and promulgate and to enforce rules and regulations authorized or required by this chapter, relating to any matter or thing pertaining to the collection and payment of taxes and the administration and enforcement of the provisions of this chapter, including provisions for the re-examination and correction of returns.

(d) In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Tax Commissioner may determine the amount of tax appearing to be due the Municipality from the taxpayer and may send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.

(e) Subject to the consent of the Board of Review or pursuant to regulation approved by the Board of Review, the Tax Commissioner shall have the power to compromise any liability imposed by this chapter. (Ord. 272. Passed 7-15-74.)

181.09 INVESTIGATIVE POWERS OF THE TAX COMMISSIONER.

(a) The Tax Commissioner, or any of his authorized agents, is hereby authorized to examine the books, papers, records, and federal income tax returns of any employer, or taxpayer, or any person subject to, or whom the Tax Commissioner believes is subject to the provisions of this chapter, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax or withholdings due under this chapter. Every such employer, supposed employer, taxpayer, or supposed taxpayer is hereby directed and required to furnish, upon written request of the Tax Commissioner, or his duly authorized agent or employee, the means, facilities, and opportunity for making such examinations and investigations as are hereby authorized.

(b) The Tax Commissioner is hereby authorized to order any person, presumed to have knowledge of the facts, to appear at the office of the Tax Commissioner and to examine such person, under oath, concerning any income which was or should have been returned for taxation, or withheld, or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and federal income tax returns, and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.

(c) The refusal to produce books, papers, records and federal income tax returns, or the refusal to submit to such examination by any employer or person subject, or presumed to be subject, to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax, or the failure of any person to comply with the provisions of this section or with an order or subpoena of the Tax Commissioner authorized

hereby shall be deemed a violation of this chapter punishable as provided in Section 181.99.

(d) Every taxpayer shall retain all records necessary to compute his tax liability for a period of five years from the date his return is filed, or the taxes required to be withheld are paid.

(e) Any information gained as a result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential, and no disclosure thereof shall be made except to Municipal, County, State, or federal taxing agencies, or, except for official purposes, or except in accordance with proper judicial order. Any person divulging such information in violation of this section shall be fined not more than five hundred dollars (\$500.00) for the first offense and fined not more than five thousand dollars (\$5,000) and imprisoned not more than six months, or both, for each subsequent offense. Each disclosure shall constitute a separate offense. In addition to such penalty, any employee of the Municipality who violates the provisions of this section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal. (Ord. 272. Passed 7-15-74.)

181.10 INTEREST AND PENALTIES.

(a) All taxes imposed and moneys withheld or required to be withheld by employers under the provisions of this chapter, remaining unpaid after they become due, shall bear interest at the rate of one percent (1%) per month.

(b) In addition to interest as provided in subsection (a) hereof, penalties for failure to pay taxes and to withhold and remit taxes pursuant to the provisions of this chapter are hereby imposed as follows:

- (1) In the case of taxpayers failing to pay the full amount of tax due, a penalty of the higher of:
 - A. Fifteen dollars (\$15.00); or
 - B. Two percent (2%) per month or fraction thereof, of the amount of the unpaid tax, if the tax is paid during the first six months after such tax became due; a penalty of three percent (3%) per month, or fraction thereof, of the unpaid tax, if such tax is paid between the seventh and twelfth month after such tax became due; and a penalty of four percent (4%) per month, or fraction thereof, of the amount of the unpaid tax, if such tax is paid later than twelve months after it became due. The percentages herein specified when used shall apply from the first month of delinquency.
- (2) In the case of employers who fail to withhold and remit to the Tax Commissioner the taxes to be withheld from employees, a penalty of the higher of:
 - A. Twenty dollars (\$20.00); or
 - B. Two percent (2%) per month or fraction thereof, of the unpaid withholding, if paid during the first three months after it was due; a penalty of four percent (4%) per month, or fraction thereof, of the unpaid withholding, if paid during the fourth to sixth month, inclusive, after it was due; and a penalty of five percent (5%) per month, or fraction thereof, of the unpaid withholding, if paid later than six months after it was due. (Ord. 759-87. Passed 11-2-87.)

(c) A penalty shall not be assessed on an additional assessment made by the Tax Commissioner when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Tax Commissioner; and provided further that, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, providing an amended return is filed and the additional tax is paid within three months after final determination of the federal tax liability.

(d) Upon an appeal from the refusal of the Tax Commissioner to recommend abatement of penalty and interest, the Board of Review may abate such penalty or interest, or both. (Ord. 272. Passed 7-15-74.)

181.11 COLLECTION OF UNPAID TAXES; REFUNDS.

(a) All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit as other debts of like amount are recoverable. No additional assessment shall be made after three years from the time of payment of any tax due hereunder; provided, however, there shall be no period of limitation on an additional assessment in a case of a return that omits gross income in excess of twenty-five percent (25%) of that required to be reported or in the case of filing a false or fraudulent return with intent to evade the tax, or in the case of failure to file a return. In those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitations the period within which an additional assessment may be made by the Tax Commissioner shall be extended one year from the time of the final determination of the federal tax liability.

(b) Taxes erroneously paid shall not be refunded unless a claim for refund is made within three years from the date on which such payment was made or the return was due, or within three months after final determination of the federal tax liability, whichever is later. (Ord. 272. Passed 7-15-74.)

181.12 BOARD OF REVIEW.

(a) A Board of Review consisting of three persons, appointed by the Mayor, with the consent of Council, is hereby created. Board members shall receive such compensation as Council may determine.

(b) A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. All hearings by the Board shall be conducted privately unless the taxpayer requests a public hearing and the provisions of Section 181.09 with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as may be heard before the Board on appeal.

(c) Any person dissatisfied with any ruling or decision of the Tax Commissioner which is made under the authority conferred by this chapter may appeal therefrom to the Board of Review within thirty days from the announcement of such ruling or decision by the Tax Commissioner, and the Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof. (Ord. 272. Passed 7-15-74.)

181.13 ALLOCATION OF FUNDS.

The funds collected under the provisions of this chapter shall be deposited in the Village Income Tax Receipt Fund and such funds shall be disbursed monthly in the following order:

- (a) Such part thereof as shall be necessary to defray all costs of collecting the taxes and the cost of administering and enforcing the provisions hereof.
- (b) The balance of such funds available shall be disbursed for the following purposes:

<u>Percentage</u>	<u>Purpose</u>
40	For street maintenance and repair, and upgrading of streets and equipment.
10	For police protection and safety.
7.5	For recreation and recreation facilities.
35	Unencumbered and subject to appropriation and expenditure by Council for any lawful purpose for which moneys from the General Fund may properly be expended.
2.5	For improvement and upgrading of the Fire Department.
5	Building Fund.

(Ord. 500-85. Passed 4-1-85.)

181.14 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(a) Where a resident of the Municipality is subject to a municipal income tax in another municipality he shall not pay a total municipal income tax on the same income greater than the tax imposed at the higher rate.

(b) Every individual taxpayer who resides in the Municipality and who receives salaries, wages, commissions or other compensation or net profits from sales made, work done, or services performed or rendered outside of the Municipality; if it be made to appear that he has paid a municipal income tax on such income, taxable under this chapter, to another municipality shall be allowed a credit against the tax imposed by this chapter in the amount of the tax so paid by him or in his behalf to such other municipality. The credit shall not exceed the tax assessed by this chapter on such income earned in such other municipality or municipalities where such tax is paid.

(c) Notwithstanding the provisions contained in Section 181.11, or any other provisions inconsistent herewith, a claim for refund or credit under this section shall be made in such manner as the Tax Commissioner may by regulation provide. No such claim for refund or credit shall be allowed unless made on or before the date of filing the taxpayer's final return unless such taxpayer's employer files with the Tax Commissioner a list showing the tax withheld from such taxpayer's wages, salaries, or commissions for other municipalities.

(d) The Tax Commissioner is hereby authorized to provide by regulation that a resident, working in another municipality imposing a tax on earned income shall not be required to file a declaration under Section 181.05 or return under Section 181.07, if the administrator

of the income tax of such other municipality advises the Tax Commissioner that a tax of one percent (1 %) or greater is being deducted from the wages of such resident and is being paid to such other municipality and if the wages or other compensation subject to such withholding are the resident's only income taxable under this chapter.

(Ord. 272. Passed 7-15-74.)

181.15 SAVING CLAUSE.

This chapter shall not apply to any person, firm, or corporation, or to any property as to whom or which, it is beyond the power of Council to impose the tax herein provided for. Any sentence, clause, section or part of this chapter or any tax against or exception granted any individual or any of the several groups of persons, or forms of income specified herein is found to be unconstitutional or illegal or invalid, such unconstitutionally, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, or part thereof, not been included therein.

(Ord. 272. Passed 7-15-74.)

181.99 PENALTY.

(a) Any person who:

- (1) Fails, neglects, or refuses to make any return or declaration required by this chapter; or
- (2) Makes an incomplete, false or fraudulent return; or
- (3) Fails, neglects, or refuses to pay the tax, penalties or interest imposed by this chapter; or
- (4) Fails, neglects, or refuses to withhold the tax from his employees and remit such withholding tax to the Tax Commissioner; or
- (5) Refuses to permit the Tax Commissioner or any duly authorized agent or employee to examine his or his employer's books, records, papers, and federal income tax returns; or
- (6) Fails to appear before the Tax Commissioner and to produce his or his employer's books, records, papers or federal income tax returns upon order or subpoena of the Tax Commissioner; or
- (7) Refuses to disclose to the Tax Commissioner any information with respect to such person's or such person's employer's income or net profits; or
- (8) Fails to comply with the provisions of this chapter or any order or subpoena of the Tax Commissioner; or
- (9) Fails, neglects, or refuses to make any payment on the estimated tax for any year as required by Section 181.07; or
- (10) Fails, as president or treasurer of a corporation, to cause the tax withheld from the wages of the employees of such corporation pursuant to this chapter to be paid to the Municipality in accordance with the provisions of Section 181.06; or
- (11) Attempts to do anything whatever to avoid the payment of the whole or any part of the tax, penalties, or interest imposed by this chapter; shall be guilty of a misdemeanor and shall be fined not more than one hundred dollars (\$100.00) for the first offense, and not more than five hundred dollars (\$500.00), or imprisoned not more than six months, or both, for each subsequent offense.

(b) All criminal prosecutions under this section and all civil actions must be commenced within the time limits set forth in Ohio R.C. 718.06.

(c) The failure of any employer, taxpayer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, return or declaration, from filing such form, or from paying the tax.

(d) The term "person" as used in this section shall, in addition to the meaning prescribed in Section 181.02, include in the case of an association or corporation not having any partner, member or officer within the Municipality, any employee or agent of such association or corporation who can be found within the corporate limits of the Municipality.