

# **Income Tax Ordinance**

**Village of Woodlawn, Ohio**

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## **CROSS REFERENCES**

Power to levy income tax - see Ohio Const., Art. XII, Secs. 3, 5, Art. XVIII, Sec. 3  
Board of Review generally - see CHTR. Sec. 6.05  
Payroll deductions - see Ohio R.C. 9.42  
Municipal income taxes - see Ohio R.C. Ch. 718  
Landlord to furnish information re tenants - see ADM. 237.06  
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Admission Tax - see B.R. & T. Ch. 880

## § 882.01 PURPOSE; LEVY OF TAX.

To provide funds for Village purposes there is hereby levied a tax on qualifying wages, commissions and other compensation and on net profits and other taxable income as hereinafter provided.

(Ord. XX-2007. Passed XX-XX-XX)

## § 882.02 DEFINITIONS.

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

(a) **“ADJUSTED FEDERAL TAXABLE INCOME”**. A C corporation’s Federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, but including subsequent adjustments from required additions and deductions. Pass-through entities must compute adjusted Federal taxable income as if the pass-through entity was a C corporation. This definition does not apply to any taxpayer required to file a return under Ohio Revised Code Section 5745.03 or to the net profit from a sole proprietorship.

(b) **“ASSOCIATION”**. A partnership, limited partnership, S corporation or any other form of unincorporated enterprise, owned by one (1) or more persons.

(c) **“BOARD OF REVIEW”**. The Board established by and constituted as provided in Section 882.25.

(d) **“BUSINESS”**. 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, including but not limited to the renting or leasing of property, real, personal or mixed.

(e) **“CAPITAL ASSETS; CAPITAL GAIN OR LOSS”**. “Capital asset” has the meaning as specifically defined by Section 1221 of the Internal Revenue Code, and a “capital gain or loss” means the gain or loss from the sale or exchange of a capital asset.

(f) **“CORPORATION”**. A corporation or joint stock association organized under the laws of the United States, the State of Ohio or any other state, territory, foreign country or dependency.

(g) **“DOMICILE”**. A principal residence that the taxpayer intends to use for an indefinite time and to which whenever he is absent he intends to return. A taxpayer has only one domicile even though he may have more than one residence.

(h) **“EMPLOYEE”**. One who works for wages, salary, commission or another type of compensation in the service of an employer.

(i) **“EMPLOYER”**. 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 basis of compensation.

(j) **“FISCAL YEAR”**. An accounting period of twelve months ending on any day other than December 31.

- (k) **“FORM 2106”**. Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
- (l) **“GENERIC FORM”**. An electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability or for filing a refund claim that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation’s tax on income. Any municipality that requires taxpayers to file income tax returns, reports, or other documents shall accept for filing a generic form of such a return, report, or document if the generic form, once completed and filed, contains all of the information required to be submitted with the municipality’s prescribed returns, reports, or documents.
- (m) **“GROSS RECEIPTS”**. The total income of taxpayers from whatever ~~any~~ source derived.
- (n) **“INCOME FROM A PASS-THROUGH ENTITY”**. Partnership income of partners, membership interest of members of a limited liability company, distributive shares of shareholders of an S corporation, or other distributive or proportionate ownership shares of income from other pass-through entities.
- (o) **“INTANGIBLE INCOME”**. Income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, trade names, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. “Intangible income” does not include prizes, awards, or other income associated with any lottery winnings or other similar games of chance.
- (p) **“INTERNAL REVENUE CODE”**. The Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.
- (q) **“INTERNET”**. The international computer network of both Federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork known as the world wide web.
- (r) **“JOINT ECONOMIC DEVELOPMENT DISTRICT”**. Districts created under the Ohio Revised Code Sections 715.70 through 715.83, as amended from time to time.
- (s) **“LIMITED LIABILITY COMPANY”**. A limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.
- (t) **“MUNICIPALITY”**. Village of Woodlawn, Ohio.
- (u) **“NET PROFIT”**. Net profit for a taxpayer, other than an individual, means adjusted Federal taxable income and net profit for a taxpayer who is an individual means the individual’s profit, other than amounts described in Section 882.07, required to be reported on Schedule C, Schedule E, or Schedule F.
- (v) **“NONQUALIFIED DEFERRED COMPENSATION PLAN”**. A compensation plan described in Section 3121(v)(2)(C) of the Internal Revenue Code.
- (w) **“NONRESIDENT”**. An individual domiciled outside the Village.
- (x) **“NONRESIDENT INCORPORATED BUSINESS ENTITY”**. An incorporated business entity not having an office or place of business within the Village.
- (y) **“NONRESIDENT UNINCORPORATED BUSINESS ENTITY”**. An unincorporated business entity not having an office or place of business within the Village.
- (z) **“OTHER PAYER”**. Any person, other than an individual’s employer or the employer’s agent,

that pays an individual any amount included in the Federal gross income of the individual.

(aa) **“OWNER”**. A partner of a partnership, a member of a limited liability company, a shareholder of an S corporation, or other person with an ownership interest in a pass-through entity.

(bb) **“OWNER’S PROPORTIONATE SHARE”**. With respect to each owner of a pass-through entity, means the ratio of (a) the owner’s income from the pass-through entity that is subject to taxation by the municipal corporation, to (b) the total income from that entity of all owners whose income from the entity is subject to taxation by that municipal corporation.

(cc) **“PASS-THROUGH ENTITY”**. A partnership, limited liability company, S corporation, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code.

(dd) **“PERSON”**. Includes individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities, and any other entity.

(ee) **“PLACE OF BUSINESS”**. 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 or her regular employees regularly in attendance.

(ff) **“PRINCIPAL PLACE OF BUSINESS”**. In the case of an employer having headquarters’ activities at a place of business within a taxing municipality, the place of business at which the headquarters is situated. In the case of any employer not having its headquarters’ activities at a place of business within a taxing municipality, the term means the largest place of business located in a taxing municipality.

(gg) **“QUALIFIED PLAN”**. A retirement plan satisfying the requirements under Section 401 of the Internal Revenue Code as amended.

(hh) **“QUALIFYING WAGES”**. Wages, as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted in accordance with Section 718.03(A) of the Ohio Revised Code.

(ii) **“RESIDENT”**. A person domiciled in the Village.

(jj) **“RESIDENT INCORPORATED BUSINESS ENTITY”**. An incorporated business entity whose office, place of operations or business situs is within the Village.

(kk) **“RESIDENT UNINCORPORATED BUSINESS ENTITY”**. An unincorporated business entity having an office or place of business within the Village.

(ll) **“RETURN PREPARER”**. Any person other than a taxpayer that is authorized by a taxpayer to complete or file an income tax return, report, or other document for or on behalf of the taxpayer.

(mm) **“SCHEDULE C”**. Internal Revenue Service Schedule C filed by a taxpayer pursuant to the Internal Revenue Code.

(nn) **“SCHEDULE E”**. Internal Revenue Service Schedule E filed by a taxpayer pursuant to the Internal Revenue Code.

(oo) **“SCHEDULE F”**. Internal Revenue Service Schedule F filed by a taxpayer pursuant to the Internal Revenue Code.

(pp) **“S CORPORATION”**. A corporation that has made an election under subchapter S of Chapter 1 of subtitle A of the Internal Revenue Code for its taxable year.

(qq) **"TAX ADMINISTRATOR"**. The Tax Administrator of the Village so designated and appointed by the Finance Director.

(rr) **"TAXABLE INCOME"**. Qualifying 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.

(ss) **"TAXABLE YEAR"**. The calendar year, or the fiscal year upon the basis of which the 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.

(tt) **"TAXING MUNICIPALITY"**. A municipality levying a tax on income earned by nonresidents working within such municipality or on income earned by its residents.

(uu) **"TAXPAYER"**. A person subject to a tax on income levied by a municipal corporation. "Taxpayer" does not include any person that is a disregarded entity or a qualifying subchapter S subsidiary for Federal income tax purposes, but "taxpayer" includes any other person who owns the disregarded entity or qualifying subchapter S subsidiary.

(vv) **"VILLAGE"**. The Village of Woodlawn, Ohio.

The singular shall include the plural, the masculine shall include the feminine and the neuter, and all periods set forth shall be inclusive of the first and last mentioned dates.

### **§ 882.03 IMPOSITION OF TAX.**

**Basis of Imposition.** An annual tax for the purposes specified in Section 882.01 is hereby levied on and after April 1, 2001, at the rate of two percent (2%) per annum upon the following:

(a) On all qualifying wages, commissions, other compensation, and other taxable income earned or received by residents of the Village;

(b) On all qualifying wages, commissions, other compensation, and other taxable income earned or received by nonresidents of the Village for work done or services performed or rendered in the Village;

(c) On the portion attributable to the Village of the net profits earned by all resident unincorporated businesses, professions or other activities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the Village;

(d) On the portion of the distributive share of the net profits earned during the effective period of this chapter by a resident partner or owner of a resident unincorporated business entity not attributable to the Village and not levied against such unincorporated business entity;

(e) On the portion attributable to the Village of the net profits earned during the effective period of this chapter by all nonresident unincorporated businesses, professions or other activities, derived from sales made, work done, services performed or rendered and business and other activities conducted in the Village, whether or not such person, unincorporated business entity, profession or other entity has an office or place of business in the Village;

(f) On the portion attributable to the Village of the net profits earned during the effective period of this chapter by all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in the Village, whether or not such corporations have an office or place of business in the Village.  
(Ord. 23-1985, passed 5-20-1985)

(g) On all income received as gambling winnings as reported on Internal Revenue Service Form W-

2G, Form 5754 and or any other form required by the Internal Revenue Service that reports winnings from gambling, prizes and lottery winnings.

#### **§ 882.04 DETERMINATION OF TAX.**

(a) **Business Both In and Outside the Village Boundaries.** This section does not apply to taxpayers that are subject to and required to file reports under Chapter 5745 of the Ohio Revised Code. Except as otherwise provided in subsection (4) hereof, net profit from a business or profession conducted both within and without the boundaries of a municipal corporation shall be considered as having a taxable situs in such municipal corporation for purposes of municipal income taxation in the same proportion as the average ratio of the following:

(b) Multiply the entire net profits of the business by a business apportionment percentage formula to be determined by:

(1) The average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in such municipal corporation during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

As used in the preceding paragraph, real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;

(2) Gross receipts of the business or profession from sales made and services performed in the Village, during the taxable period to gross receipts of the business or profession during the same period from all sales and services, wherever made or performed;

(3) Wages, salaries, and other compensation paid during the taxable period to persons employed in the business or profession for services in such municipal corporation to wages, salaries, and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed, excluding compensation that is not taxable by the municipal corporation under Section 718.011 of the Ohio Revised Code;

(4) Adding together the percentages determined in accordance with paragraphs (b)(1) to (3) 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.

A factor is applicable even though it may be allocable entirely in or outside the Village.

(c) Provided however, that in the event ~~if~~ a just and equitable result cannot be obtained under the business apportionment percentage formula provided for in subsection (a) hereof, the Board of Review, upon application of the taxpayer or the Tax Administrator, may, under uniform Regulations adopted by the Board, substitute other factors or methods calculated to effect a fair and proper apportionment.

(d) As used in division (a) of this section, "sales made in a municipal corporation" means:

(1) All sales of tangible personal property delivered within such municipal corporation regardless of where title passes if shipped or delivered from a stock of goods within such municipal corporation;

(2) All sales of tangible personal property delivered within such municipal corporation regardless of where title passes even though transported from a point outside such municipal corporation if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such municipal corporation and the sales result from such solicitation or promotion;

(3) All sales of tangible personal property shipped from a place within such municipal corporation to purchasers outside such municipal corporation regardless of where title passes if the

taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

#### **§ 882.05 NET OPERATING LOSS (NOL) CARRY-FORWARD.**

(a) The portion of a net operating loss, sustained in any taxable year apportioned to the Village may be applied against the portion of the profit of succeeding taxable years apportioned to the Village until exhausted, but in no event for more than three (3) 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.

(b) The portion of net operating loss sustained shall be apportioned to the Village in the same manner as provided in this chapter for apportioning net profits to the Village.

(c) The Tax Administrator shall provide, by Rules and Regulations, the manner in which such net operating loss carry-forward shall be determined.  
(Ord. 23-1985, passed 5-20-1985)

(d) The net operating loss of a taxpayer that loses its legal identity, by any means such as merger or consolidation, shall not be allowed as a carry forward loss deduction to the surviving or new taxpayer.

(e) The net operating loss sustained by a business or profession is not deductible from employee earnings, but may be carried forward as provided in subsection (a). However, if a taxpayer is engaged in two or more taxable business activities to be included in the same return, the net loss of one unincorporated business activity (except any portion of a loss reportable for municipal income tax purposes to another municipality) may be used to offset the profits of another for purposes of arriving at overall net profits.

#### **§ 882.06 CONSOLIDATED RETURNS.**

(a) Filing of consolidated returns may be permitted or required in accordance with Rules and Regulations prescribed by the Tax Administrator.

(b) 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 Administrator 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 Village. If the Tax Administrator finds net profits are not properly allocated to the Village 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 Village.

#### **§ 882.07 EXCEPTIONS.**

The provisions of the chapter shall not be construed as levying a tax upon the following:

(a) Proceeds from welfare benefits, unemployment insurance benefits, pensions, social security benefits, and qualified retirement plans as defined by the Internal Revenue Service.

(b) Proceeds of insurance, annuities, Workers' Compensation insurance, permanent disability benefits, compensation for damages for personal injury and like reimbursements, not including damages for loss of profits and wages.

(c) Dues, contributions and similar payments received by charitable, religious, educational organizations, or labor unions, trade or professional associations, lodges and similar organizations.

(d) Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations and income of a decedent's estate during the period of administration (except such income from the operation of a business).

(e) Alimony.

(f) Compensation for damage to property by way of insurance or otherwise.

(g) Interest and dividends from intangible property.

(h) Military pay or allowances of members of the Armed Forces of the United States and of members of their reserve components, including the Ohio National Guard (Ohio Revised Code 718.01).

(i) Income of any charitable, educational, fraternal or other type of nonprofit association or organization enumerated in Ohio Revised Code 718.01 to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.

(j) Any association or organization falling in the category listed in the preceding paragraph receiving income from non-exempt real estate, tangible or intangible personal property, or business activities of a type ordinarily conducted for profit by taxpayers operating for profit shall not be excluded hereunder.

(k) In the event any association or organization receives taxable income as provided in the preceding paragraph from real or personal property ownership or income producing business located both within and without the corporate limits of the Village, it shall calculate its income apportioned to the Village under the method or methods provided above.

(l) If exempt for Federal income tax purposes, fellowship and scholarship grants are excluded from Village income tax.

(m) The rental value of a home furnished to a minister of the gospel as part of his compensation, or the rental allowance paid to a minister of the gospel as part of his compensation, to the extent used by him to rent or provide a home pursuant to Section 107 of the Internal Revenue Code.

(n) Compensation paid under Section 3501.28 of the Ohio Revised Code to a person serving as a precinct official, to the extent that such compensation does not exceed one thousand dollars (\$1,000) annually. Such compensation in excess of one thousand dollars may be subjected to taxation. The payer of such compensation is not required to withhold Village tax from that compensation.

(o) Compensation paid to an employee of a transit authority, regional transit authority, or a regional transit commission created under Chapter 306 of the Ohio Revised Code for operating a transit bus or other motor vehicle for the authority or commission in or through the Village, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such tax by reason of residence or domicile in the Village, or the headquarter of the authority or commission is located within the Village.

(p) The Village shall not tax the compensation paid to a nonresident individual for personal services performed by the individual in the Village on twelve (12) or fewer days in a calendar year unless one of the following applies:

(1) The individual is an employee of another person, the principal place of business of the individual's employer is located in another municipality in Ohio that imposes a tax applying to compensation paid to the individual for services paid on those days; and the individual is not liable to that other municipality for tax on the compensation paid for such services.

(2) The individual is a professional entertainer or professional athlete, the promoter of a

professional entertainment or sports event, or an employee of such promoter, all as may be reasonably defined by the Village.

(q) The income of a public utility, when that public utility is subject to the tax levied under Section 5727.24 or 5727.30 of the Ohio Revised Code, except a municipal corporation may tax the following, subject to Chapter 5745. of the Ohio Revised Code.

- (1) The income of an electric company or combined company;
- (2) The income of a telephone company.

As used in division (q) of this section, “combined company”, “electric company”, and “telephone company” have the same meanings as in Section 5727.01 of the Ohio Revised Code.

(r) Generally the above noted items in this section are the only forms of income not subject to the tax. Any other income, benefits, or other forms of compensation shall be taxable.

### **§ 882.08 RETURN AND PAYMENT OF TAX.**

(a) **Dates and Exemptions.** Each person who is engaged in business or other activity or whose qualifying wages, commissions, other compensation, and other taxable income is subject to the tax imposed by this chapter shall, whether or not a tax is due thereon, make and file a return on or before April 15 of the year following the effective date of this chapter, and on or before April 15 of each year thereafter with the Tax Administrator. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed on or before the fifteenth (15<sup>th</sup>) day of the fourth (4<sup>th</sup>) month following the end of such fiscal year or period. The Tax Administrator is hereby authorized to provide, by regulation, that the return of an employer or employers, showing the amount of Village 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 Administrator, may be accepted as the return required of any employee whose sole income, subject to tax under this chapter, is such qualifying wages, commissions, other compensation, and other taxable income.

(Ord. XX, 2007, passed XX-XX-07)

(b) A husband and wife may file either separate returns or a joint return for municipal purposes, even though one of the spouses has neither taxable income nor deductions included on the Village return regardless of whether their Federal and state returns were filed separately or jointly. If a joint Village return is made, the tax shall be computed on the aggregate taxable income and the liability with respect to the tax shall be joint and several.

(c) The return shall be filed with the Tax Administrator on a form or forms furnished by or obtainable upon request from the Tax Administrator; or on a generic form, if the generic form, when completed and filed, contains all of the information required to be submitted with the Village’s prescribed return and, if the taxpayer or return preparer filing the generic form otherwise complies with the Tax Code governing the filing of returns.

### **§ 882.09 FORM AND CONTENT OF RETURN.**

The return for the tax levied by this chapter shall be filed with the Tax Administrator on a form furnished by, or obtainable upon request from, the Tax Administrator, setting forth:

(a) The aggregate amounts of qualifying wages, commissions and other compensation earned, received, apportioned or set aside, other income defined by statute as taxable, 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; and

(b) The amount of the tax levied by this chapter on such earnings and profits; and

(c) Such other pertinent statements, information returns, copies of Federal or State tax returns and/or schedules, or other information as the Tax Administrator 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 this chapter.  
(Ord. 23-1985, passed 5-20-1985)

#### **§ 882.10 EXTENSIONS.**

(a) Any taxpayer that has requested an extension for filing a Federal income tax return may request an extension for the filing of a Village Income Tax Return by filing a copy of the taxpayer's Federal extension request with the Village Tax Division. Any taxpayer not required to file a Federal income tax return may request an extension for filing a Municipal Income Tax return in writing. The request for extension must be filed on or before the original due date for the annual return. If the request is granted, the extended due date of the Municipal Income Tax Return shall be the last day of the month following the month to which the due date of the Federal income tax return has been extended.

(b) The Tax Administrator may deny a taxpayer's request for extension if the taxpayer:

- (1) fails to timely file the request; or
- (2) fails to file a copy of the Federal extension request (if applicable); or
- (3) owes the Village any delinquent income tax, penalty, interest, assessment or other charge for the late payment or nonpayment of income tax; or
- (4) has failed to file any required income tax return, report, or other related document for a prior tax period.

(c) The granting of an extension for filing a Village income tax return does not extend the due date as provided in this section for payment of the tax; hence, penalty and interest may apply to any unpaid tax during the period of extension at the rate set out by Section 882.20. No penalty shall be assessed in those cases in which the return is filed and the final tax paid within the extension period provided all other filing and payment requirements of the Tax Code have been met. Any extension by the Tax Administrator shall be granted upon the condition that declaration filing and payment requirements have been fulfilled; however, if, upon further examination it then becomes evident that declaration filing and payment requirements have not been fulfilled, penalty and interest may be assessed in full and in the same manner as though no extension had been granted.

#### **§ 882.11 PAYMENT WITH RETURNS.**

(a) The taxpayer making a return shall, at the time of the filing thereof, pay to the Tax Administrator the amount of taxes shown as due. However, credit shall be allowed for:

- (1) any portion of the tax so due which shall have been deducted at the source pursuant to the provisions of Section 882.13; and
- (2) any portion of said tax which shall have been paid by the taxpayer pursuant to the provisions of Section 882.10; and
- (3) credit to the extent allowed by Section 882.23 for tax paid to another municipality.

(b) A taxpayer who has overpaid the amount of tax to which the Village 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.

## **§ 882.12. AMENDED RETURNS.**

(a) Where necessary, an amended return shall 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, limitations, or both, contained in §§ 882.21 through 882.23. The Tax Administrator shall provide by regulation the format in which such amended return shall be filed. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

(b) Within three (3) months from the final determination of any Federal tax liability affecting the taxpayer's Village tax liability, such taxpayer shall make and file an amended Village return showing income subject to the Village 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. 23-1985, passed 5-20-1985)

## **§ 882.13 COLLECTION OF TAX AT THE SOURCE.**

(a) **Withholding by Employer.** Each employer within or doing business in the Village who employs one or more persons on a salary, wage, commission, or other compensation basis shall deduct when such salary, wage, commission or other compensation is paid, allocated or set aside, the tax of two percent (2%) on the qualifying wages due by such employer to each such employee and shall, on or before the fifteenth (15<sup>th</sup>) day of the month following such withholding, make a return and payment by electronic funds transfer to the Tax Administrator the amount of taxes so deducted. The Village shall adopt Regulations governing the payment of withheld taxes by electronic funds transfer. The Regulations shall govern acceptable modes of electronic funds transfer, the content and format of electronic funds transfers, the coordination of payment by electronic funds transfer and the filing of associated tax reports and returns, and any other matter that facilitates payment by electronic funds transfer. Upon the written request of a taxpayer, the Tax Administrator shall implement means of acknowledging receipt of payments made by electronic funds transfer.

(1) Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in fact been withheld. Nothing in this section prohibits an employer from withholding tax on a basis greater than qualifying wages.

(b) Notwithstanding the provisions of paragraph (a) hereof, if such employer within or doing business within the Village who or which employs a Village resident in another taxing municipality requiring such employer to deduct its tax from all employees engaged therein, such employer shall withhold for and remit to the Village only the difference, if any, between the tax on such Village resident required to be withheld by such other taxing municipality and the tax imposed by this ordinance; or shall withhold Village tax on 100% of the income subject to Village tax if the Village resident/employee is employed at a location where a municipal tax is not imposed

(c) Each such employer shall, on or before the last day of the month following the close of each calendar quarter, make a return and remit the tax hereby required to be withheld to the Administrator. However, any employer who, in a prior year, deducted tax in the amount of three thousand six hundred dollars (\$3,600.00) or deducted three hundred dollars (\$300.00) per month in the current calendar year, is required to make a turn and remit the tax withheld on or before the fifteenth (15<sup>th</sup>) day of the month following the close of the preceding month to the Administrator. Such return shall be on a form or forms prescribed by or acceptable to the Administrator and shall be subject to the Rules and Regulations prescribed therefore by the administrator. Such employer shall be liable for the payment of taxes hereby required to be deducted and withheld, whether or not such taxes have in fact been so deducted and withheld.

(d) An employer is not required to make any withholding with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of the corporation with respect to whose stock the option has been issued.

(e) An employee is not relieved from liability for a tax by the failure of the employer to withhold the tax as required by a municipal corporation or by the employer's exemption from the requirement to withhold the tax.

(f) The failure of an employer to remit to the municipal corporation the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer in connection with the failure to remit the tax withheld.

(g) Employer Considered as Trustee. Each employer in collecting such tax shall be deemed to hold the same, until payment is made by such employer to the Village, as a trustee for the benefit of the Village, and any such tax collected by such employer from his employees shall, until the same is paid to the Village, 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.

(h) Corporate Officers' Personal Liability. Any person who is required to withhold tax from qualifying wages shall pay all such tax to the Village in accordance with the provisions of this section. In the event taxes withheld from the qualifying wages of employees are not paid to the Village in accordance with the provisions of this section, all officers, members, managers, employees, and trustees having control or supervision of or charged with the responsibility of filing the return and making payment are jointly and severally personally liable for the tax not returned or paid to the Village as well as any related interest and penalties, and are also liable under the provisions of Section 882.22 hereof. The dissolution, termination, or bankruptcy of a corporation, limited liability company, or business trust does not discharge an officer's, member's, manager's, employee's, or trustee's liability for a failure of the corporation, limited liability company, or business trust to file returns or pay said taxes.

(i) Withholding Return; List of Employees. Each employer shall file a withholding tax reconciliation showing the sum total of all compensation paid all employees, the portion of which, (if any) was not subject to withholding along with an explanation for same, and the portion of which was subject to withholding, together with the amount of such withholdings remitted. Such return shall include information concerning each employee from whom the Village tax was withheld, showing the name, address, zip code and social security number of each such employee, the total amount of compensation paid during the year and the amount of Village tax withheld. If the total tax withheld from any employee included tax withheld and remitted to another municipality, the amount of same shall be separately shown on the return of information to the Village concerning each employee. The withholding tax reconciliation shall be filed by each employer on or before February 28 following the end of such calendar year.

(j) In addition to the wage reporting requirements of this section, any person required by the Internal Revenue Service to report on Form 1099-Misc. payments to individuals not treated as employees for services performed shall also report such payments to the Village when the services were performed in the Village. The information may be submitted on a listing, and shall include the name, address and social security number (or Federal identification number), and the amount of the payments made. Federal Form(s) 1099 may be submitted in lieu of such listing. The information shall be filed annually on or before February 28 following the end of such calendar year.

(k) Domestic Servants. No person shall be required to withhold the tax on the qualifying wages, commissions, other compensation, and other taxable income 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.

## **§ 882.14 DECLARATIONS.**

**Requirement for Filing.** Every person who anticipates any taxable income which is not subject to § 882.13 or who engages in any business, profession, enterprise or activity resulting in income subject to the tax imposed by this chapter, 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. Provided, however, if a person's income is wholly from qualifying wages from which the tax will be held and remitted to this Village in accordance with Section 882.13, such person need not file a declaration. (Ord. 23-1985, passed 5-20-1985)

#### **§ 882.15 FILING OF DECLARATION.**

(a) The declaration required by § 882.14 shall be filed on or before April 15 of each year, during the effective period of this chapter, or within four (4) months after either the start of the taxpayer's fiscal year or when the taxpayer becomes subject to tax for the first time.

#### **§ 882.16 FORM OF DECLARATION.**

(a) The declaration of income not collected at the source, as required by § 882.14, shall be filed on a form furnished by or obtainable from the Tax Administrator, provided, however, that credit shall be taken for the Village tax to be withheld from any portion of such income. In accordance with § 882.23, credit may be taken for tax to be paid or to be withheld and remitted to another taxing municipality or county.

(Ord. 23-1985, passed 5-20-1985)

(b) The declaration of estimated tax to be paid to the Village shall be accompanied by a payment of at least one-fourth (1/4) of the estimated annual tax, less credit for taxes withheld or paid to another municipality or county, 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 taxable year. However, in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

(Ord. 23-1985, passed 5-20-1985)

(c) **Amended Declaration.** A declaration may be amended at any time. In the event that an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

#### **§ 882.17 ANNUAL RETURNS REQUIRED.**

On or before the fifteenth (15<sup>th</sup>) day of the fourth month of the calendar or fiscal year following that for which a declaration was filed, an annual return shall be filed, and any balance which may be due the Village shall be paid therewith in accordance with § 882.11.

#### **§ 882.18 APPOINTMENT AND DUTIES OF TAX ADMINISTRATOR.**

(a) There is hereby created a department to be known as the Income Tax Division. Such division shall be administered by a person who shall be titled "Tax Administrator".

(b) It shall be the duty of the Tax Administrator 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 monies so received.

(c) It shall be the duty of the Tax Administrator to enforce payment of all income taxes owing the Village, to keep accurate records for a minimum of six (6) 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 date and amounts of payments thereof.

(d) The Tax Administrator is hereby charged with the enforcement of the provisions of this chapter, including the interpretation and enforcement of the Rules and Regulations and is hereby empowered to enforce the Tax Ordinance and the 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.

(e) 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 Administrator may determine the amount of tax appearing to be due the Village 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.

(f) Upon the demonstration and documentation of good cause, the Tax Administrator shall have the power to compromise penalty and interest liabilities imposed by this chapter, consistent with this chapter and the Rules and Regulations. In no case shall the Tax Administrator possess the authority to abate or compromise a tax liability.

(g) It shall be the duty of the Tax Administrator to monitor the application of this chapter, and to report to both the Board of Review and Council any recommendations for additions, deletions, or adjustments.

#### **§ 882.19 INVESTIGATIVE POWERS OF TAX ADMINISTRATOR; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.**

(a) The Tax Administrator, 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 Administrator 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 Administrator, or his duly authorized agent or employee, the means, facilities and opportunities for making such examinations and investigations as are hereby authorized.

(b) The Tax Administrator is hereby authorized to order any person, presumed to have knowledge of the facts, to appear at the office of the Tax Administrator 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 or 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 Administrator authorized hereby, shall be deemed a violation of this chapter punishable as provided in § 882.22.

(d) Every taxpayer shall retain all records necessary to compute his tax liability for a period of six (6) 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 returns, investigations, hearings, or verifications required or authorized by this chapter shall be confidential and no person shall disclose such information except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of the municipal corporation as authorized by this chapter. The Tax Administrator of the Village may furnish copies of returns filed under this chapter to the Internal Revenue Service and to the State Tax Commissioner.

(f) Any person divulging such information in violation of this section shall be guilty of a misdemeanor of the first degree and shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months, or both, for each offense. In addition to the above penalty, any employee of the Village who violates the provisions of this section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

(g) Notwithstanding any termination of the tax imposed by this chapter, the Tax Administrator or the individual appointed to complete his duties shall have all of the powers given the Tax Administrator in subsections (a), (b), and (c) hereof during the period in which this chapter was in effect against any person or entity which has not fully satisfied his or its tax liability under the provisions of this chapter.

#### **§ 882.20 INTEREST AND PENALTIES.**

(a) All taxes imposed and monies 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-half percent (1/2%) per month.

(b) In addition to interest as provided in subsection (a) hereof, penalties based on unpaid taxes are hereby imposed as follows:

(1) In the case of taxpayers failing to pay the full amount of tax due, a penalty of one-half percent (1/2%) per month, or fraction thereof, of the amount of the unpaid tax, if the tax is paid during the first year after such tax became due; a penalty of one percent per month, or fraction thereof, of the unpaid tax, if such tax is paid during the second year after such tax became due; and a penalty of two percent (2%) per month, or fraction thereof, of the amount of the unpaid tax, if such tax is paid later than two years after it became due. Notwithstanding the foregoing, no penalty assessed under this subsection shall be less than ten dollars (\$10.00).

(2) In the case of employers who fail to withhold and remit to the Tax Administrator the taxes to be withheld from employees, a penalty of one percent per month, or fraction thereof, of the unpaid withholding, if paid during the second to sixth months, inclusive, after it was due; a penalty of two percent per month, or fraction thereof, of the unpaid withholding, if paid during the seventh to twelfth months, inclusive, after it was due; and a penalty of four percent per month, or fraction thereof, of the unpaid withholding, if paid later than one year after it was due. Notwithstanding the foregoing, no penalty assessed under this subsection shall be less than fifteen dollars (\$15.00).

(c) A penalty shall not be assessed on an additional tax assessment made by the Tax Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Tax Administrator, provided that in the absence of fraud, neither a penalty nor interest shall be assessed on any additional tax assessment against a taxpayer by the Tax Administrator resulting from a Federal tax audit, and provided, further, that an amended return is filed and the additional tax is paid within three months after a final determination of the Federal tax liability.  
(Ord. 23-1985, passed 5-20-1985)

#### **§ 882.21 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.**

(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 under this chapter, provided that 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, 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 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 Administrator shall be extended one (1) year from the time of the final determination of the Federal tax liability.

(Ord. 23-1985, passed 5-20-1985)

(b) Taxes erroneously paid under this chapter shall not be refunded unless a claim for refund is made within three (3) years from the date on which such payment was made or the return was due, or within three months after the final determination of the Federal tax liability, whichever is later.

(Ord. 23-1985, passed 5-20-1985)

(c) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment, except that if any overpayment is refunded within ninety (90) days after the final filing date of the annual return or ninety (90) days after the complete return is filed, whichever is later. For purposes of computing the payment of interest on overpayments, no amount of tax for any taxable year shall be treated as having been paid before the date on which the tax return for that year was due without regard to any extension of time for filing that return. The interest shall be paid at the rate of interest prescribed by Ohio Revised Code 5703.47.

### **§ 882.22 VIOLATIONS AND PENALTIES.**

(a) Any person who shall:

(1) Fail, neglect or refuse to make any return or declaration required by this chapter; or

(2) Make any incomplete, false or fraudulent return; or

(3) Fail, neglect or refuse to pay the tax, penalties, or interest imposed by this chapter; or

(4) Fail, neglect or refuse to withhold the tax from his employees or remit such withholding tax to the Tax Administrator; or

(5) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his or his employer's books, records, papers and Federal Income Tax Returns relating to the income or net profits of a taxpayer; or

(6) Fail to appear before the Tax Administrator and to produce his or his employer's books, records, papers or Federal Income Tax Returns relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator; or

(7) Refuse to disclose to the Tax Administrator any information with respect to such person's or such person's employer's income or net profits; or

(8) Fail to comply with the provisions of this chapter or any order or subpoena of the Tax Administrator; or

(9) Fail, neglect or refuse to make any payment on the estimated tax for any year as required by this chapter; or

(10) Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter.

(b) Whoever violates or fails to comply with any of the provisions of this chapter, for which no penalty is otherwise provided, is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty (60) days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(c) If any business violates this section, any employee of said business having control or supervision of or charged with the responsibility of complying with this section, or any owner, director, officer, manager, member or trustee who is responsible for the execution of the business' fiscal responsibilities pursuant to this section, shall also be personally liable for the violation and subject to the penalty provided herein.

(d) **Statute of Limitations: Interest on Late Refunds.** Civil actions to recover Village income taxes and penalties and interest on Village income taxes shall be brought within three (3) years after the tax was due or the return was filed, whichever is later.

(e) Prosecutions for an offense made punishable under this chapter shall be commenced within three (3) years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five percent (25%) or more of income required to be reported, prosecutions may be commenced within six (6) years after the commission of the offense.  
(Ohio Revised Code 718.06)

(f) 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.

(g) The term "person" as used in this section shall, in addition to the meaning prescribed in Section 882.02, include in the case of an association or corporation not having any partner, member or officer within the Village, any employee or agent of such association or corporation who can be found within the corporate limits of the Village.

### **§ 882.23 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY OR COUNTY.**

(a) Where a resident of the Village is subject to a municipal income tax in another municipality or county 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 Village and who receives salaries, wages, commissions or other compensation or net profits from sales made, work done or services performed or rendered outside the Village, if it is made to appear that a municipal income tax has been paid on such income to another municipality, he shall claim a credit against the tax imposed by this chapter of the amount of the tax so paid by him or on his behalf to such other municipality or county. The credit shall not exceed the tax assessed by this chapter on such income earned in such other municipality or county where such tax is paid.

(c) A claim for a refund or credit under this section shall be made in such a manner as the Tax Administrator may, by regulation, provide. No such claim for a refund or credit shall be allowed unless made on or before the date of filing the taxpayer's final return, and unless such taxpayer's employer files with the Tax Administrator a list showing the income tax withheld from such taxpayer's wages, salaries or commissions for other municipalities or counties.

(d) The Tax Administrator shall provide by regulation that a resident working in another municipality or county imposing a tax on earned income shall not be required to file a declaration or return under this chapter if such other municipality or county certifies to the Tax Administrator that a tax of two percent (2%) is being deducted from the wages of such resident and is being paid to such other municipality or county, and if the wages or other compensation subject to such withholding are such resident's only income taxable under this chapter.

(Ord. 25-1993, passed 9-16-1993; Am. Ord. 51, passed 12-13-1999)

#### **§ 882.24 DISBURSEMENT OF FUNDS.**

The funds collected under this chapter shall be placed in the Income Tax Fund and shall be applied for the following purposes and in the following order:

(a) Such part thereof as shall be necessary to defray all cost of collecting the taxes levied by this chapter and the cost of administering and enforcing this chapter;

(b) Such part thereof, to be determined later, as is necessary for the purpose of paying any refunds payable under this chapter; and

(c) The balance of the funds so collected to be used for such specific purposes as Council may appropriate moneys for from this Fund, including, without limitation, the appropriation of funds for general Municipal operations and debt retirement; extension, enlargement or improvement of Municipal services and facilities; street improvement and repair; and permanent improvements.

(Ord. 23-1985, passed 5-20-1985)

#### **§ 882.25 BOARD OF REVIEW.**

(a) An Income Tax Board of Review, consisting of three (3) members appointed by the Council for a term of three years each on a staggered term basis, shall have the powers conferred upon it by Council. Any person dissatisfied with any rule or decision of the Tax Administrator may appeal to the Board pursuant to rules established by Council.

(b) Whenever the Tax Administrator issues a decision regarding an income tax obligation that is subject to appeal as provided in this section, or in an ordinance or regulation of the Village, the Tax Administrator shall notify the taxpayer at the same time of the taxpayer's right to appeal the decision and of the manner in which the taxpayer may appeal the decision.

(c) 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 § 882.19(e) shall apply to such matters as may be heard before the Board. Hearings requested by a taxpayer before the Board are not meetings of a public body subject to Section 121.22 of the Ohio Revised Code.

(Ord. 23-1985, passed 5-20-1985)

(d) Any person who is aggrieved by a decision by the Tax Administrator and who has filed with the Village the required returns or other documents pertaining to the municipal income tax obligation at issue in the decision may appeal the decision to the Board of Review by filing a request with the Board. The request shall be in writing, shall state with particularity why the decision should be deemed incorrect or unlawful, and shall be filed within thirty (30) days after the Tax Administrator has issued the decision.

(e) The imposition of penalty and interest as prescribed in the codified ordinance of the Village is not a sole basis for an appeal.

(f) The Board of Review shall schedule a hearing within forty-five (45) days after receiving the request, unless the taxpayer waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the Board and may be represented by an attorney at law, certified public accountant or other representative.

(g) The Board may affirm, reverse, or modify the Tax Administrator's decision or any part of that decision. The Board shall issue a decision on the appeal within ninety (90) days after the Board's final hearing on the appeal, and send notice of its final decision by ordinary mail to all of the parties to the appeal within fifteen (15) days after issuing the decision. The taxpayer or the Tax Administrator may appeal the Board's decision as provided in Section 5717.011 of the Ohio Revised Code.

**§ 882.26 SAVING CLAUSE.**

This chapter shall not apply to any person, firm or corporation, or to any property upon whom or which it is beyond the power of Council to impose the tax provided for in this chapter. If any sentence, clause, section or part of this chapter, any tax against or exception granted any person or any form of income specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, 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 other 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 herein.  
(Ord. 23-1985, passed 5-20-1985)