

TITLE SEVEN - Taxation

Chap. 181. Income Tax.

Chap. 183. Income Tax Rules and Regulations.

CHAPTER 181 Income Tax

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CROSS REFERENCES

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

181.01 PURPOSE.

To provide funds for the purposes of capital improvements, general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities of the Village, there shall be and is hereby levied a tax on salaries, wages, commissions and other compensation, and on net profits as hereinafter provided.
(Ord. 87-9. Passed 11-16-87.)

181.02 DEFINITIONS.

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. The singular includes the plural, and the masculine includes the feminine and the neuter.

- (a) "Administrator" means the Tax Administrator.
- (b) "Board of Tax Appeals" means the Board created by and constituted as provided in Section 181.13 herein.
- (c) "Business" or "direct account" means an enterprise, profession, undertaking or other activity of any nature conducted for profit, whether by an individual, partnership, limited partnership, corporation or any other entity, including but not limited to the leasing of property, real, personal or mixed.
- (d) "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.
- (e) "Employee" means one who works for wages, salary, commission or other type of compensation in the service of an employer.
- (f) "Employer" means an individual, partnership, association, corporation, governmental body, unit or agency or any other entity, whether or not organized for profit, having a place of business or doing business within the Village and businesses performing services for the City and who or that employs one or more persons on a salary, wage, commission or other compensation basis.
- (g) "Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31.
- (h) "Gross receipts" means the total income from any source whatsoever required to be included in the return.
- (i) "Net profits" means the net gain from the operation of a business, profession, enterprise or other activity, excluding capital gains and losses, after provision for all ordinary, reasonable and necessary expenses, paid or accrued in accordance with the accounting system used by the taxpayer for Federal income tax purposes, without deduction of taxes imposed by this chapter, Federal, State and other taxes based on income exclusive of the amount of Ohio Franchise Tax computed on the net worth basis; and in the case of a partnership, without deduction of salaries paid to partners and other owners and otherwise adjusted to the requirements of this chapter.
- (j) "Nonresident" means any individual who is domiciled outside this Village.
- (k) "Nonresident unincorporated business entity" means an unincorporated business entity not having a place of business within the Village.
- (l) "Other activity" means any undertaking, not otherwise specifically defined herein, which is normally entered into for profit, including, but not limited to, rental of real and personal property and a business conducted by a trust or guardianship estate.
- (m) "Partnership" includes all partnerships or limited partnerships or any other form of unincorporated enterprise owned by two or more persons.
- (n) "Person" means every natural person, partnership, fiduciary, association or corporation. Whenever used in any section prescribing and imposing a penalty, the term "person" includes an officer or employee of a corporation, or a member or employee of an association, who, as such officer, employee or member is under a duty to perform the act in respect of which the violation occurs.

- (o) "Place of business" means any bona fide office (other than a mere statutory office), factory, warehouse or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his regular employees regularly in attendance.
- (p) "Property" means the rights and interests which an individual or business (one) has in anything subject to ownership, whether that thing be movable or immovable, tangible or intangible, visible or invisible.
- (q) "Resident" means an individual domiciled in this Village.
- (r) "Resident unincorporated business entity" means an unincorporated business entity having a place of business within the Village or doing business for the Village.
- (s) "Sole proprietorship" means a business entity that is owned entirely by one individual.
- (t) "Taxable income" means gross wages, salaries, deferred compensation, employer financed wage continuation plans for unemployment, disability and sick pay benefits, and other compensation paid by an employer or employers before any deductions, other than ordinary and necessary business expenses in the same manner as provided by the Internal Revenue Code, and/or net profits herein defined.
- (u) "Taxable year" means 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. Unless approved by the Administrator, the taxable year of a wage earner shall be a calendar year.
- (v) "Taxpayer" means an individual or an officer of any unincorporated enterprise, any corporation or any other entity, required hereunder to file a return or pay a tax.
- (w) "Unincorporated business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual (sole proprietor) or partnership.
(Ord. 87-9. Passed 11-16-87.)

181.03 IMPOSITION OF DIRECT TAX.

Subject to the provisions of Section 181.16, an annual tax for the purposes specified in Section 181.01 shall be imposed on and after April 1, 1987, at the rate of one-half percent (1/2) per annum on taxable income as specified in Article III, paragraph A.1 of the Income Tax Rules and Regulations. (Ord. 87-9. Passed 11-16-87.)

181.04 IMPOSITION OF WITHHOLDING TAX.

Subject to the provisions of Section 181.16, each employer shall, at the time of payment of any taxable income specified in Article III, paragraph B, of the Income Tax Rules and Regulations, deduct the tax of one-half percent (1/2%) commencing April 1, 1987, of the gross taxable income due by such employer to his employees who are subject to the provisions of this chapter. Each employer shall make returns and pay to the Tax Administrator the tax withheld in accordance with Article III, paragraph B.1 of the Income Tax Rules and Regulations.
(Ord. 87-9. Passed 11-16-87.)

181.05 EFFECTIVE PERIOD.

(a) Such tax shall be levied, collected and paid with respect to the salaries, wages, commissions, and other compensation received and shall be levied with respect to the net profits of businesses, professions or other activities earned and accrued or received commencing April 1, 1987.

(b) Where the fiscal year of the business, profession or other activity differs from the calendar year, the tax shall be applied to that part of the annual net profits for the fiscal year as shall be earned and accrued or received on and after April 1, 1987.
(Ord. 87-9. Passed 11-16-87.)

181.06 RETURN AND PAYMENT OF TAX.

(a) Each person who engages in business or other activity or whose salary, wage, commission, or other compensation 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 30 of the year following the effective date of this chapter, and on or before April 30 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four months from the end of such fiscal year or period. The Administrator 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 Administrator may be accepted as the return required of any employee whose sole income, subject to tax under this chapter, is such salaries, wages, commissions or other compensation.

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

- (1) The aggregate amounts of salaries, wages, commissions and other compensation received by him and gross income from 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
- (2) The amounts 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 Administrator may require.

(c) The Administrator may extend the time for filing of the annual return upon the request of the taxpayer one month beyond any extension granted by the Internal Revenue Service for the filing of the Federal income tax return. The Administrator 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.

- (d) (1) 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 thereon, provided, however, that credit shall be allowed for:
 - A. Any portion of the tax so due which shall have been deducted at the source pursuant to the provisions of Section 181.04; and

- B Any portion of such tax which shall have been paid by the taxpayer pursuant to the provisions of Section 181.07; and
 - C. Credit to the extent allowed by Section 181.15 for tax paid to another municipality.
- (2) Subject to the limitations contained in Section 181.11, any 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.
- (e) (1) 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 and/or limitations contained in Section 181.11. Such amended returns shall be on a form obtainable from the Tax Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return without the approval of the Administrator.
- (2) Within three 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.

(f) Information returns, schedules and statements required to support tax returns which are incomplete without such information shall be filed within the time limits set forth for the filing of the tax returns and the failure to file such information returns, schedule and statements shall be deemed to be a violation of this chapter.

(Ord. 87-9. Passed 11-16-87.)

181.07 DECLARATIONS.

(a) Every person who anticipates the receipt of any taxable income which is not subject to Section 181.04, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 181.03, shall file a declaration setting forth such person's estimated taxable income together with any estimated tax due thereon, if any; provided, however, if a person's income is wholly from wages from which the tax shall be withheld and remitted to the Village in accordance with Section 181.04, such person need not file a declaration.

- (b) (1) Such declaration shall be filed on or before April 30 of each year during the life of this chapter, or within four months after the date the taxpayer becomes subject to the provisions of this chapter.
- (2) Those taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year or period.

- (c)
 - (1) Such declaration shall be filed upon a form furnished by or obtainable upon request from the Tax Administrator, provided, however, that credit shall be taken for the Village tax to be withheld from any portion of such income to determine the estimated tax due. In accordance with the provisions of Section 181.15, credit may be taken for tax to be paid or to be withheld and remitted to another taxing municipality.
 - (2) The original declaration (or any subsequent amendment thereof) may be amended at any time.
 - (3) An amended declaration shall be filed on or before January 31 of the following year, or, in the case of a taxpayer on a fiscal year, on or before the date fixed by regulation of the Administrator if it appears that the original declaration made for such taxable 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 the taxpayer's entire estimated liability shall be made. If upon the filing of the return required by this chapter, it appears that the taxpayer did not pay seventy percent (70%) of his tax liability as shown on such return, on or before January 31 or the date fixed by regulations, whichever is applicable, the difference between seventy percent (70%) of such taxpayer's tax liability and the amount of estimated tax 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.
 - (d)
 - (1) Such declaration of net estimated tax to be paid the Village shall be accompanied by a payment of a least one-fourth of the estimated annual tax, less credit, 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.
 - (2) However, the last quarterly payment of estimated tax need not be made if the taxpayer files his final return and pays the balance of the tax due thereon within forty-five days following the end of his taxable year.
 - (e) On or before the last day of the fourth month of the calendar or fiscal year following that for which such declaration or amended 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 the provisions of Section 181.06.
(Ord. 87-9. Passed 11-16-87.)

181.08 DUTIES AND POWERS OF THE ADMINISTRATOR.

- (a)
 - (1) It shall be the duty of the Administrator of Taxation to receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers, to keep an accurate record thereof and to report daily all moneys so received.
 - (2) It shall be the duty of the Administrator to enforce payment of all taxes owing the Village, to keep accurate record, for a minimum of five year showing the amount due from each taxpayer required to file a declaration and/or make any return, including taxes withheld, and to show the dates and amount of payments thereof.

(b) The Administrator is hereby charged with the enforcement of the provisions of this chapter, and is hereby empowered, subject to the approval of the Village Council by motion, to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and administration and enforcement of the provisions of this chapter, including provisions for the reexamination and correction of returns.

(c) In any case where a taxpayer or employer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Administrator may assess the amount of tax appearing to be due, together with interest and penalties thereon, if any, as specified in Article VI. C of the Income Tax Rules and Regulations.

(d) The position of Tax Administrator shall not be part of the duties of the Village Clerk; however, the Village Clerk may be employed by the Village Council as Tax Administrator and hold both positions concurrently.
(Ord. 87-9. Passed 11-16-87.)

181.09 INVESTIGATIVE POWERS OF ADMINISTRATOR; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.

(a) The Administrator or any authorized employee is hereby authorized to examine the books, papers, records and copies of Federal income tax returns of any employer or of any taxpayer or person subject to, or whom the 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 due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer, is hereby directed and required to furnish within ten days following a written request by the Administrator, or any duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

(b) The Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before him and may examine such person, under oath, concerning any income which was or should have been returned for taxation or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and copies of 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 copies of 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 Section 181.12.

(d) Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential, except for official purposes, or except when ordered by a court of competent jurisdiction. Any person divulging such information in violation of this chapter, shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine or penalty of not more than one thousand dollars (\$1,000) or imprisoned for not more than six (6) months, or both. Each disclosure shall constitute a separate offense.

In addition to the above penalty, any employee of the Village who violates the provisions of this chapter relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

(e) Every taxpayer shall retain all records necessary to compute his tax liability for a period of five (5) years from the date his return is filed, or the withholding taxes are paid.

(f) Every owner of one or more rental units and every owner or operator of a mobile home park is hereby directed to furnish to the Tax Administrator a semi-annual roster of the names of all the persons residing in such rental unit or mobile home park and shall also file a statement of any changes in the roster at the end of each month. The semi-annual statement provided for herein shall be filed with the Tax Administrator on or before January 31 and July 31. (Ord. 87-9. Passed 11-16-87.)

181.10 INTEREST AND PENALTIES.

(a) All taxes imposed and all moneys withheld or required to be withheld by employers under the provisions of this chapter and remaining unpaid after they become due shall bear interest as specified by Article III, B., 2., a.(3) of the Income Tax Rules and Regulations.

(b) In addition to interest as provided in subsection (a) hereof, penalties are hereby imposed as specified by Article III, A., 2., a., (8) and Article III, B., 2., a., (3) of the Income Tax Rules and Regulations.
(Ord. 87-9. Passed 11-16-87.)

181.11 COLLECTION OF UNPAID TAXES; REFUND 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. Except in the case of fraud, omission of twenty-five percent (25%) of income subject to this tax, or failure to file a return, an additional assessment shall not be made after three years from the time the return was due or filed whichever is later, provided, however, 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 Administrator shall be 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 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.

(c) Additional amounts of less than two dollars (\$2.00) shall not be refunded or assessed unless such assessment results from income which the taxpayer has failed to report. (Ord. 87-9. Passed 11-16-87.)

181.12 CRIMINAL 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) Knowingly fail or refuse to pay the tax, penalties or interest imposed by this chapter; or
- (4) Knowingly fail or refuse to withhold the tax from his employees or remit such withholding to the Tax Administrator; or
- (5) Refuse to permit the Administrator or any duly authorized agent or employee to examine his or his employer's books, records, papers and copies of Federal income tax returns relating to the income or net profits of a taxpayer; or
- (6) Fail to appear before the Administrator and to produce his or his employer's books, records, papers or copies of Federal income tax returns relating to the income or net profits of a taxpayer under order of subpoena of the Tax Administrator; or
- (7) Refuse to disclose to the Administrator or any duly authorized agent or employee any information with respect to the income or net profits of a taxpayer; or
- (8) Fail to comply with the provisions of this chapter or any order or subpoena of the Tax Administrator; or
- (9) Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by the chapter shall be guilty of a misdemeanor and fined not more than one thousand dollars (\$1,000.00) or imprisoned not more than six (6) months, or both, for each offense.

- (b) (1) Any person subject to the provisions of Section 181.01 through 181.18 inclusive, who has failed to file or has filed an incorrect return or has failed to pay the full amount of tax due, shall not be deemed to have committed an offense punishable under the provisions of this section until the assessment issued against him under the provisions of Section 181.08, has become due and payable.
- (2) Any person who has filed a return under the provisions of Sections 181.01 through 181.18 inclusive, indicating the amount of tax due, and has failed to pay such tax, together with any penalties or interest that may have accrued thereon, shall not be deemed to have committed an offense for having knowingly failed to pay the tax, penalties or interest due as provided in subsection (a)(3) hereof, until the date of the filing of such return.

(c) The term "person" as used in this section includes, in addition to the meaning prescribed in Section 181.02, 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.

(d) All prosecutions under this section must be commenced within five (5) years from the time of the offense complained of except in the case of failure to file a return or in the case of filing a false or fraudulent return, or failure to pay the tax due, in which event the limitation of time within which prosecution must be commenced shall be ten (10) years from the date the return was due or the date the false or fraudulent return was filed or the tax was due, whichever is later.

(e) 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 forms or from paying the tax.
(Ord. 87-9. Passed 11-16-87.)

181.13 BOARD OF TAX APPEALS.

(a) A chairman and two other residents of the Village shall constitute the Board of Tax Appeals. Members of the Board shall be appointed by the Village Council for four-year terms commencing April 1, 1987. 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. Any hearing by the Board may be conducted privately 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.

(b) The Board shall hear and pass on appeals from any ruling or decision of the Administrator, and, at the request of the taxpayer or Administrator, is empowered to substitute alternate methods of allocation.

(c) Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this chapter may appeal therefrom to the Board within thirty (30) days from the announcement of such ruling or decision by the Administrator, and the Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof.
(Ord. 87-9. Passed 11-16-87.)

181.14 ALLOCATION OF FUNDS.

The funds collected under the provisions of this chapter shall be allocated in such manner as prescribed by Ordinances adopted by the Village Council.
(Ord. 87-9. Passed 11-16-87.)

181.15 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(a) Where a resident of the Village of Jamestown 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 highest rate to which he is subject.

(b) Every individual taxpayer who resides in the Village of Jamestown who receives net profits, salaries, wages, commissions or other personal service compensation for work done or services performed or rendered outside of the Village of Jamestown, if it be made to appear that he has paid a municipal income tax on the same income taxable under this chapter to another municipality, shall be allowed a credit against the tax imposed by this chapter of the amount 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) A claim for refund or credit under this section shall be made in such manner as the Administrator may by regulation provide.
(Ord. 87-9. Passed 11-16-87.)

181.16 SAVING CLAUSE.

This chapter shall not apply to any person, firm, corporation or income, as to whom, or as to which it is beyond the power of the Village Council to impose the tax herein provided for. If any sentence, clause, section or part of this chapter, or any tax against any individual or any of the several groups 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 the Village Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.
(Ord. 87-9. Passed 11-16-87.)

181.17 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

(a) This chapter shall continue effective insofar as the levy of taxes and the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, until all of such taxes levied hereunder are fully paid and any and all suits and prosecutions for the collection of such taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Sections 181.11 and 181.12.

(b) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Sections 181.05 and 181.06 as though the same were continuing.
(Ord. 87-9. Passed 11-16-87.)

181.18 DEPARTMENT OF TAXATION.

There is hereby established the Department of Taxation, to be administered by the Tax Administrator under the authority and rules as set out in this chapter.
(Ord. 87-9. Passed 11-16-87.)

181.19 INCOME TAX FUND.

There is hereby established the Income Tax Fund of the Village of Jamestown, Ohio. All moneys received from the Village Income Tax Levy imposed by Ordinance Number 87-6 of the Village of Jamestown, Ohio, shall be deposited in the said separate Income Tax Fund. The Income Tax Fund shall be opened by the Tax Administrator and only moneys from said Village Income Tax Levy shall be deposited in said fund. Costs of administration and expenses incurred in the administration and collection of the income tax of the Village shall be paid from the Income Tax Fund. Distribution of the balance of the income tax proceeds shall be subject to the direction by ordinance of the Village Council.

(Ord. 87-9. Passed 11-16-87.)

181.20 RULES AND REGULATIONS.

The provisions of the rules and regulations referred to in this chapter, known officially as the Income Tax Rules and Regulations, dated March 23, 1987, are hereby approved and adopted and incorporated herein by reference and made a part of this chapter along with any supplements or amendments thereto hereafter approved by the Village Council by motion. The Administrator is directed to carry out the administration of his/her office in conformity with the provisions of this chapter and the Income Tax Rules and Regulations.

(Ord. 87-9. Passed 11-16-87.)

CHAPTER 183
Income Tax Rules And Regulations

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to another municipality.</p> <p>183.11 Saving clause.</p> <p>183.12 Collection of tax after
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183.01 PURPOSE.

The tax is levied to provide funds for the purpose of general municipal operations and permanent improvements.
 (Ord. 87-9. Passed 11-16-87.)

183.02 DEFINITIONS.

As used in these Rules and Regulations, 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.

- (a) "Administrator" means the Tax Administrator as defined in the Jamestown Codified Ordinances.
- (b) "Board of Tax Appeals" means the Board created by and constituted as provided in Ordinance 87-1.
- (c) "Business" or "Direct Account" means an enterprise, profession, undertaking or other activity of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, limited partnership, corporation or any other entity, including but not limited to the leasing of property, real, personal or mixed.

- (d) "Business Allocation" as used in these Regulations means the portion of net profits to be allocated to the Village of Jamestown as having been made in the Village of Jamestown or while working for the Village of Jamestown, either under separate accounting method, or under the three (3) factor formula of property, payroll, and sales, provided for in Section 183.03 of these Regulations.
- (e) "Village" means the Village of Jamestown.
- (f) "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.
- (g) "Employee" means one who works for wages, salary, commission or other type of compensation in the service of an employer.
- (h) "Employer" means an individual, partnership, corporation, governmental body, unit or agency or any other entity, whether or not organized for profit, having a place of business or doing business within the Village and businesses performing services for the Village of Jamestown and who or that employs one or more persons on a salary, wage, commission or other compensation basis.
- (i) "Fiscal Year" means an accounting period of twelve months or less ending on any day other than December 31.
- (j) "Gross Receipts" means the total income from any source whatsoever required to be included in the return.
- (k) "Month" means the first thirty (30) days of any calendar month, beginning on day one (1) through day thirty (30), except in the case of February which shall end March 1 or March 2, dependent upon leap year.
- (l) "Net Profits" means the net gain from the operation of a business, professional enterprise or other activity, excluding capital gains and losses, after provision for all ordinary, reasonable and necessary expenses, paid or accrued in accordance with the accounting system used by the taxpayer for Federal income tax purposes, without deduction of taxes imposed by this chapter, federal, state, and other taxes based on income exclusive of the amount of Ohio franchise tax computed on the net worth basis; and in the case of a partnership, without deduction of salaries paid to partners, and other owners, and otherwise adjusted to the requirements of the Chapter 181.
- (m) "Non-resident" means any individual who is domiciled outside the Village.
- (n) "Non-resident Unincorporated Business Entity" means an unincorporated business entity not having a place of business within the Village.
- (o) "Other Activity" means any undertaking, not otherwise specifically defined herein, which is normally entered into for profit, including, but not limited to, rental of real and personal property and a business conducted by a trust or guardianship estate. (Ord. 87-9. Passed 11-16-87.)
- (p) "Partnership" means all partnerships, limited partnerships or any other form of unincorporated enterprise owned by two or more persons.
(Ord. 7-00. Passed 12-18-00.)
- (q) "Person" means every natural person, partnership, fiduciary, or corporation. Whenever used in any section prescribing and imposing a penalty, the term "person" includes an officer or employee of a corporation, or a member or employee of an association, who, as such officer, employee or member is under a duty to perform the act in respect of which the violation occurs.

- (r) "Place of Business" means any bona fide office (other than a mere statutory office), factory, warehouse or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his regular employees regularly in attendance.
- (s) "Property" means the rights and interest which an individual or business has in anything subject to ownership, whether that thing be movable or immovable, tangible or intangible, visible or invisible.
- (t) "Resident" means an individual domiciled, in this Village.
- (u) "Resident Unincorporated Business Entity" means an unincorporated business entity having a place of business within the Village or doing business with the Village.
- (v) "Sole Proprietorship" means a business entity that is owned entirely by one individual.
- (w) "Taxable Income" means gross wages, salaries, deferred compensation, employer financed wage continuation plans for unemployment, disability and sick pay benefits, and other compensation paid by an employer or employers before any deductions, other than ordinary and necessary business expenses in the same manner as provided by the Internal Revenue Code, and/or net profits herein defined.
- (x) "Taxpayer" means an individual or an officer of any unincorporated enterprise, any corporation, or any other entity, required hereunder to file a return or pay a tax.
- (y) "Unincorporated Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual (sole-proprietor) or partnership.
(Ord. 87-9. Passed 11-16-87.)

183.03 IMPOSITION OF TAX.

183.03.01 BASES FOR DIRECT FILING.

(a) General Requirements. Commencing March 24, 1987, an annual tax of one-half percent (1/2%) is imposed on all salaries, wages, commissions and other compensation of individuals and on the net profits of businesses received or accrued during the effective period of Chapter 181.

(b) Individuals.

- (1) Residents. For the purpose of determining the tax on the earnings of resident taxpayers taxed under Ordinance 87-6, the source of the earnings and the place or places in or at which the services were rendered, are immaterial. All such earnings as listed and defined in Section 183.03.10(d), or filed as ordinary income on Federal form 1040 or 1040A and adjusted to the requirements of the Chapter 181, wherever earned or paid are taxable.
- (2) Non-Residents. In the case of individuals who are not residents of the Village of Jamestown, the tax is imposed under Ordinance 87-6 on all ordinary income as filed on Federal form 1040 or 1040A and adjusted to the requirements of Chapter 181, received or accrued for work done or services performed or rendered in or for the Village of Jamestown. The location of the place from which payment is made is immaterial. The items subject to the tax are listed and defined in Section 183.03.10(d) and include the net profits of any business. For the methods of computing the extent of such work or services performed within or for the Village of Jamestown, in cases involving compensation for personal services partly or within or for and partly without the Village, see Section 183.03.04 of these Regulations.

(c) Types of Businesses.(1) Sole proprietorship.

- A. Residents. In the case of residents' ownership of unincorporated businesses, professions, enterprises, undertakings or other entities conducted, operated, engaged in, prosecuted or carried on, irrespective of whether such taxpayers have an office or place of business in the Village of Jamestown, the tax is imposed on the net profits wherever earned, accrued or received during the effective period of Chapter 181.
- B. Non-Residents. In the case of non-residents' ownership of unincorporated businesses, professions, enterprises, undertakings, or other activities conducted, operated, engaged in, prosecuted or carried on within or for the Village of Jamestown, the tax is imposed on the net profits earned, accrued or received during the effective period of Chapter 181, attributable to this Municipality, under the formula or separate accounting method provided for in Section 183.03.04.

(2) Partnerships. The imposition of the tax on unincorporated business entities owned by two or more persons is upon the partners' distributive shares of the net profits attributable to the Village of Jamestown, from business conducted, operated, engaged in, prosecuted or carried on within or for the Village of Jamestown, earned, accrued or received during the effective period of Chapter 181. Resident partners or part owners shall disregard the methods of allocation provided for in these Regulations and pay the tax on their entire distributive shares of the net profits thereof.(3) Corporations. In the case of corporations, whether domestic or foreign and whether or not such corporations have an office or place of business in the Village of Jamestown, the tax is imposed on the net profits earned and received or accrued during the effective period of Chapter 181, attributable to the Village of Jamestown under the formula or separate accounting method provided for in Section 183.03.04 of these Regulations.

- A. Corporations which are required by the provisions of Section 5727.38 to 5727.41, inclusive, of the Revised Code of Ohio, to pay an excise tax in any taxable year as defined by Chapter 181, may exclude that part of their gross receipts upon which the excise tax is paid. In such case, expenses incurred in the production of such gross receipts shall not be deducted in computing net profits subject to the tax imposed by Chapter 181.
- B. "Tax Option" corporations filing form 1120S with the Internal Revenue Service will file as separate business entities, in the same manner as prescribed for regular corporations.

(4) Amplification. In amplification of the definition contained in Section 183.02 of these Regulations, but not in limitation thereof, the following additional information respecting net business profits is furnished.

- A. Net Profits as used in Chapter 181 and these regulations means net profits derived from any business, profession or other activity or undertaking carried on for profit or normally carried on for profit. Net profits as disclosed on any return filed pursuant to the provisions of Chapter 181 shall be computed by the same accounting method used in reporting net income to the Federal Internal Revenue Service (providing such method does not conflict with any provisions of Chapter 181). Net profits, shown on returns filed pursuant to Chapter 181 must be reconciled with the income reported to the Federal Internal Revenue Service.
- B. Gross Receipts.
1. Gross Receipts shall include, but not be limited to, income in the form of commissions, fees, rentals from real and tangible personal property, and other compensation for work or services performed or rendered as well as income from sales of stock in trade.
 2. From gross receipts there shall be deducted allowable expense to arrive at the net profit subject to tax.
- C. Expenses. All ordinary, reasonable and necessary expenses of doing business, including reasonable compensation paid employees, shall be allowed, but no deduction may be claimed for salary or withdrawal of a proprietor or of the partners, members, or other owners of an unincorporated business or enterprise.
1. If not claimed as part of the cost of goods sold or elsewhere in the return filed, there may be claimed and allowed a reasonable deduction for depreciation, depletion, obsolescence, losses resulting from theft used in the trade or business. However, the amount may not exceed that recognized for the purpose of the Federal income tax. Provided, however, that loss on the sale, exchange or other disposition of real estate, used in the taxpayer's business shall not be allowed as a deductible expense.
 2. Current amortization of emergency facilities under the provisions of the Internal Revenue Code, if recognized as such for Federal income tax purposes, may be included as an expense deduction.
 3. Where depreciable property is voluntarily destroyed, only the cost of such demolition and undepreciated balance thereof will be allowed as an expense in the year of such demolition, to the extent allowable for Federal income tax purposes.
 4. Bad debts in a reasonable amount may be allowed in the year ascertained worthless and charged off or (if the reserve method is used), a reasonable addition to the reserve may be claimed, but in no event shall the amount exceed the amount allowable for Federal income tax purposes.

5. Only taxes directly connected with the business may be claimed as a deduction. If for any reason the income from property is not subject to the tax, then taxes on, and other expenses of the property are not deductible. In any event the following taxes are not deductible from income: (1) the tax under Chapter 181; (2) or other taxes based upon income, exclusive of the amount of Ohio franchise tax computed on the net worth basis; (3) gift, estate or inheritance taxes; and (4) taxes for local benefits or improvements to property which tend to appreciate the value of the property.
6. In general, non-taxable income and expenses incurred in connection with it are not to be considered in determining net profits. Income from intangibles, by way of dividends, interest and the like, shall not be included if such income is subject to taxation under the intangible personal property laws of the State of Ohio or is specifically exempt from taxation under the law.
(Ord. 87-9. Passed 11-16-87.)
7. Expenses as itemized and deductible from gross income on Federal Schedule A will not be allowed as expenses on Form R except expenses allowable on Form 2106.
(Ord. 7-00. Passed 12-18-00.)
8. Contributions are deductible by corporations only in an amount not exceeding five percent (5%) of the income subject to the tax imposed by this chapter. Contributions in excess of the five percent (5%) limit may not be carried forward or backward to a different taxable year.
9. Capital gains and losses from a sale, exchange or other disposition of capital assets shall not be taken into consideration in arriving at net profits earned.
10. Losses sustained on a sale or other disposition of tangible personal property used in business are deductible to the extent of the undepreciated value. Any amount received on a sale or other disposition of tangible property used in business, in excess of book value, shall be treated as taxable income under Chapter 181 to the extent of depreciation allowable after October 1, 1967 (from Federal form #4797). The balance shall be treated as capital gain.

- i. Definition of "Property Used in the Trade or Business" means, for purposes of this section, property used in the trade or business of a character which is subject to the allowance for depreciation and real property used in the trade or business, held for more than twelve months, which is not: (1) Property of a kind which would properly be includible in the inventory of the taxpayer if on hand at the close of the taxable year; (2) Property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business; or (3) A copyright, a literary, musical, or artistic composition, or similar property held by the taxpayer.
- (5) Rentals from real property.
- A. Rentals received by the taxpayer are to be included to the extent that the rental, ownership, management or operation of the real estate to which such rentals are derived (whether so rented, managed or operated by the taxpayer individually or through agents or other representatives) constitutes a business activity of the taxpayer whether in whole or in part.
 - B. Where the gross monthly rental of any real properties, regardless of number and value, aggregate in excess of one hundred dollars (\$100.00) per month, it shall be prima facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental properties is a business activity of such taxpayer, and the net income of such rental properties shall be subject to tax; provided that in case of commercial property the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds \$100.00 per month; provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in the crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds \$100.00 per month; and provided further that the person who operates a rooming house of five or more rooms rented shall be considered in business whether or not the gross income exceeds \$100.00 per month;
 - C. In determining the amount of gross monthly rental of any real property, periods during which (by reason of vacancy or any other cause) rentals are not received shall not be taken into consideration by the taxpayer.
 - D. Rentals received by a taxpayer engaged in the business of buying and selling real estate shall be considered as part of business income.

- E. Real property, as the term is used in this regulation, shall include commercial property, residential property, farm property and any and all other types of real estate.
 - F. In determining the taxable income from rentals, the deductible expenses shall be of the same nature, extent and amount as are allowed by the Internal Revenue Service for federal income tax purposes.
 - G. Residents of this Village are subject to taxation upon the net income from rentals (to the extent above specified), regardless of the location of the real property owned.
 - H. Non-Residents of this Village are subject to such taxation only if the real property is situated within the Village of Jamestown. Non-residents, in determining whether gross monthly rentals exceed one hundred dollars (\$100.00), shall take into consideration only real estate situated within this Village.
 - I. Corporations owning or managing real estate are taxable only on that portion of income derived from property located within the Village of Jamestown.
- (6) Patents and copyrights. Income from patents or copyrights is not to be included in net profits subject to the tax if the income from such patents or copyrights is subject to the State Intangible Tax. Conversely, such a state intangible tax is not deductible in determining municipal tax. Such items shall be clearly disclosed on an attachment which also includes a copy of the state intangible tax form to be filed with the municipal tax return.
- (7) Operating losses.
- A. The net loss from an unincorporated business activity, real estate investments and partnerships may not be used to offset salaries, wages, commissions or other compensation. However, if a taxpayer is engaged in two or more such taxable activities to be included in the same return, the net loss of one unincorporated activity (except any portion of a loss separately reportable for municipal tax purposes to another taxing entity) may be used to offset the profits of another for purposes of arriving at overall net profits.
 - B. Losses are deductible only in the taxable period in which they are incurred.
- (8) Exceptions. The following shall not be considered taxable:
- A. Poor relief, Federal and State unemployment insurance benefits, old age pensions or similar payments received from local, state or federal governments or charitable or religious organizations.
 - B. Proceeds of insurance paid by reason of the death of the insured, annuities, Worker's Compensation insurance, social security benefits, pensions, compensation for damages for personal injuries and like reimbursement, not including damages for loss of profits.

- C. Compensation for damage to property by way of insurance or otherwise.
- D. Interest and dividends from intangible property as listed by individuals on IRS form #1040, Schedule B.
- E. Military pay and allowances received as a member of the armed forces of the United States. In the case of members of the National Guard, Air National Guard, Organized Reserves and Air Reserves, this exception shall apply only to their drill and flight pay.
- F. Personal earnings of all persons under eighteen years of age.
- G. Any charitable, educational, fraternal or other type of non-profit association or organization enumerated in Section 718.01 of the Revised Code of Ohio which is exempt from payment of real estate taxes is exempt from payment of the tax imposed by Chapter 181.
 - 1. Listed in the preceding paragraph not exempt from the payment of real estate taxes is required to file declarations and final returns and remit the taxes levied under Chapter 181 on all business activities of a type ordinarily conducted for profit by taxpayers operating for profit.
 - 2. Where such non-profit association or organization conducts income producing business both within and without the corporate limits, it shall calculate its profits allocable to the Village of Jamestown under the methods provided in Section 183.03.04 of these Regulations.
- H. Any organization listed in the preceding paragraph not exempt from the payment of salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the States or their political subdivisions to impose net income taxes on income derived from interstate commerce.
(Ord. 87-9. Passed 11-16-87; Ord. 7-00. Passed 12-18-00.)
- I. Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the Constitution of the State of Ohio or any act of the Ohio General Assembly limiting the power of the Village to impose net income taxes.
(Ord. 87-9. Passed 11-16-87.)
- J. On and after January 2001, compensation paid to an individual for personal services performed within the municipal corporation twelve (12) or fewer days in the calendar year.
(Ord. 7-00. Passed 12-18-00.)

183.03.02 PROCEDURE FOR DIRECT FILING; IDENTIFICATION AND FILING INDIVIDUAL RETURNS AND NET PROFIT RETURNS.

(a) Resident Individuals. All resident individuals shall, as they establish residency within the Village of Jamestown, complete a Questionnaire, Form JIT 4001 in its entirety, for the purpose of determining their tax liability, and the tax liability of persons residing within the household. Form JIT 4001 is available upon request from the Tax Administrator, and shall be completed and returned to that office within 30 days of occupancy within the Village. All resident individuals, regardless of the length of their residency within the Village of Jamestown, shall complete Questionnaires upon the request of the Tax Administrator and return same within fifteen (15) working days. Should the resident fail to return the complete Questionnaire within the specified time, a second notice will be sent. If no response is received to the second notice, an account will be activated and all residents known to reside at that address will be required to file a Jamestown Village income tax return, whether or not a direct liability to the Village exists.

(b) Non-resident Individuals. Non-resident individuals working within the corporate limits of the Village of Jamestown or for the Village of Jamestown, and on whose salary, wages, commissions or any other compensation constituting taxable incomes under this chapter, the employer is not required to withhold Jamestown Village income tax, and shall advise the Tax Administrator of their direct liability within 30 days of such employment. A Questionnaire (Form JIT 4000 or JIT 4001) obtainable from the Tax Administrator shall be completed and returned within fifteen (15) working days following the employment notification (above).

(c) Business Entities. Except as provided herein, it is the duty of each business entity doing business within the Village of Jamestown to identify their business with the Tax Administrator within fifteen (15) working days of establishing their business, through the completion of a Questionnaire, Form JIT 4000.

183.03.03 DATE AND REQUIREMENT FOR FILING DIRECT RETURNS.

(a) On or before April 30 of the year following the effective date of Chapter 181 and each year thereafter, every person and business entity subject to the provisions of Section 183.03.01 of the Regulations shall, except as provided, make and file with the Tax Administrator a return on Form # JIT 2003, obtainable upon request from the Village of Jamestown Tax Administrator, whether or not a tax be due.

(b) If the return is made for a fiscal year or any period less than a year, the return shall be made within four (4) months from the end of such fiscal year or other period.

(c) Every person subject to the provisions of Section 183.03.01 of these regulations shall, except as hereinafter provided, file a return setting forth the aggregate amount of income taxable under Chapter 181 earned and accrued or received for the period covered by the return and such other pertinent facts and information in detail as listed on Form JTR. Any taxpayer having taxable income from more than one source is required to file only one (1) Form JTR return.

(d) Where an employee's entire earnings for the tax period are paid by an employer or employers, and the one-half percent ($\frac{1}{2}\%$) tax thereon has in each instance been deducted and withheld by the employer or employers, from the gross amount of the entire earnings of such employee taxpayer, and where the employer of such employee has filed a report or return in which such employee's entire and only earnings are reported to the Administrator, and where such employee has no taxable income other than such earnings, such employee need not file a return unless requested to do so by the Tax Administrator.

(e) A husband and wife are encouraged to file a joint return.

(f) The fact that any taxpayer is not required to file a Federal tax return does not relieve him from filing a Village of Jamestown tax return.

183.03.04 ALLOCATION OF BUSINESS PROFITS.

A request to change the method of allocation must be made in writing before the end of the taxable year.

(a) Separate Accounting Method.

- (1) The net profits allocable to the Village of Jamestown from business conducted within or for the Village of Jamestown by corporations or unincorporated entities (whether resident or non-resident) may be determined from the records of the taxpayer if taxpayer has bona fide records which disclose with reasonable accuracy what portion of his net profits is attributable to that part of his activities conducted within or for the Village of Jamestown.
- (2) If the books and records of the taxpayer are used as the basis for apportioning net profits rather than the business allocation formula (explained below), a statement must accompany the return explaining the manner of which such apportionment is made, in sufficient detail to enable the Administrator to determine whether the net profits attributable to the Village of Jamestown are apportioned with reasonable accuracy.
- (3) In determining the income allocable to the Village of Jamestown from the books and records of a taxpayer, an adjustment may be made for the contribution made to the production of such income by headquarters activities of the taxpayer, whether such headquarters is within or without the Village of Jamestown.

(b) Business Allocation Percentage Method.

- (1) STEP 1. Ascertain the percentage which the average net book value of real and tangible personal property, including leasehold improvements, owned or used in the business and situated within the Village of Jamestown is of the average net book value of all real and tangible personal property, including leasehold improvements, owned or used in the business wherever situated, during the period covered by the return.
 - A. The percentage of taxpayer's real and tangible personal property within the Village of Jamestown is determined by dividing the average net book value of such property within the Village of Jamestown (without deduction of any incumbrances) by the average net book value of all such property within and without the Village of Jamestown. In determining such percentage, property rented to the taxpayer as well as real and tangible personal property owned by the taxpayer must be considered.
 1. The net book value of real and tangible personal property rented by the taxpayer shall be determined by multiplying the gross annual rents payable by eight (8).
 2. Gross rents means the actual sum of money or other consideration payable, directly or indirectly, by the taxpayer for the use or possession of property and includes (1) any amount payable for the use or possession of real and tangible personal property or any part thereof, whether designated as a fixed sum of money or as a percentage of sales profits or otherwise; and (2) any amount payable as additional rent or in lieu of rent such as interest, taxes, insurance, repairs, or other amounts required to be paid by the terms of a lease or other arrangement.

- (2) STEP 2. Ascertain the percentage which the total wages, salaries, commissions and other compensation of employees within the Village of Jamestown is of the total wages, salaries, commissions and other compensation of all the taxpayer's employees within and without the Village of Jamestown during the period covered by the return.
- A. Salaries and reasonable compensation paid owners or credited to the account of owners or partners during the period covered by the return are considered wages for the purpose of this computation.
 - B. Wages, salaries, and other compensation shall be computed on the cash or accrual basis in accordance with the method of accounting used in the computation of the entire net income of the taxpayer.
 - C. In the case of an employee who performs services both within and without the Village of Jamestown, the amount treated as compensation for services performed within the Village shall be deemed to be:
 - 1. In the case of an employee whose compensation depends on other results achieved, the proportion of the total compensation received by him for the business attributable to his efforts within the Village of Jamestown.
 - 2. In the case of an employee whose compensation depends on other results achieved, the proportion of the total compensation received which the value of his services within the Village of Jamestown bears to the value of all his services; and,
 - 3. In the case of an employee compensated on a time basis, the proportion of the total amount received by him which his working time within the Village of Jamestown is of his total working time.
- (3) STEP 3: Ascertain the percentage which the gross receipts of the taxpayer derived from sales made and services rendered in the Village of Jamestown is of the total gross receipts wherever derived during the period covered by the return.
- A. The following sales shall be considered the Village of Jamestown's sales:
 - 1. All sales made through retail stores located within the Village of Jamestown to purchases within or without the Village of Jamestown except such of said sales to purchasers outside the Village of Jamestown that are directly attributable to regular solicitations made outside the Village of Jamestown personally by taxpayer's employees.
 - 2. All sales of tangible personal property delivered to purchasers within the Village of Jamestown if shipped or delivered from an office store, warehouse, factory, or place of storage within the Village of Jamestown.

3. All sales of tangible personal property delivered to purchasers within the Village of Jamestown even though transported from a point outside the Village of Jamestown if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the Village of Jamestown and the sale is directly or indirectly the result of such solicitation.
 4. All sales of tangible personal property shipped from an office, store, warehouse, factory or place of storage within the Village of Jamestown to purchasers outside the Village of Jamestown if the taxpayer is not, through its own employees regularly engaged in the solicitation or promotion of sales at the places of delivery.
 5. Charges for work done or services performed incident to a sale, whether or not included in the price of the property shall be considered gross receipts from such sale.
- B. In the application of the foregoing subparagraphs a carrier shall be considered the agent of the seller regardless of the FOB point or other conditions of the sale; and the place at which orders are accepted or contracts legally consummated shall be immaterial. Solicitation of customers outside the Village of Jamestown by mail or phone from an office, or place of business within the Village of Jamestown shall not be considered a solicitation of sales outside the Village of Jamestown.
- (4) STEP 4: Add the percentages determined in accordance with Steps 1, 2 and 3 or such of the aforesaid percentages as may be applicable to the particular taxpayer's business and divide the total so obtained by the number of percentages used in ascertaining the total. The result so obtained is the business allocation percentage. In determining the average percentage, a factor shall not be excluded from the computation merely because the factor is found to be allocable entirely outside the Village of Jamestown. A factor is excluded only when it does not exist anywhere.
 - (5) STEP 5: The business allocation percentage determined in Step 4 above shall be applied to the entire taxable net profits of the taxpayer wherever derived to determine the net profits allocable to the Village of Jamestown.
- (c) Substitute Method.
- (1) In the event a fair and equitable result cannot be obtained under the formula, the Administrator, upon application of the taxpayer, may substitute other factors in the formula or prescribe other methods of allocating net income calculated to effect a fair and proper allocation.
 - (2) Application to the Administrator to substitute other factors in the formula or to use a different method to allocate net profits must be made in writing before the end of the taxable year. The application shall state the specific grounds on which the substitution of factors or use of a different method is requested and the relief sought to be obtained. No specific form need be followed in making such application. Once a taxpayer has filed under a substitute method, he must continue to so file until given permission to change by the Administrator.

183.03.05 CONSOLIDATED RETURNS.

(a) Consolidated returns may be filed by a group of corporations who are affiliated through stock ownership provided such group files consolidated returns for Federal income tax purposes. For a subsidiary corporation to be included in a consolidated return, eighty percent (80%) of its stock must be owned by the other members of the affiliated group. A consolidated return must include all companies which are so affiliated.

(b) Once a consolidated return has been filed for any taxable year, the consolidated group must continue to file consolidated returns in subsequent years unless:

- (1) Permission in writing is granted by the Administrator to file separate returns.
- (2) A new corporation other than a corporation created or organized by a member of the group has become a member of the group during the taxable year.
- (3) A corporation member of the group is sold or exchanged. Liquidating a corporation or merging one of the corporations of the group into another will not qualify the group for filing separate returns.

(c) If a corporation becomes the member of the group during the taxable year, the consolidated return must include the income for the entire taxable year of the common parent corporation and any subsidiaries which were members of the group for the entire year, plus the income of each subsidiary which becomes a member of the group during the year for the period beginning with the date it became a member of the affiliated group. For the period prior to the time any subsidiary became a member of the group, separate returns must be filed for that subsidiary. When a subsidiary ceases to be a member of the affiliated group, the consolidated return must include the income of such subsidiary for the period during which it was a member of the group, but for the period after it ceases to be a member, separate returns must be filed. If a corporation has been a member of the affiliated group for less than one (1) month of the taxable year of the group, it may be considered as not being part of the group. Similarly, a subsidiary may be considered as being a member of the affiliated group during the entire taxable year of the group if the period during which it was not a member of the group does not exceed one (1) month. If a subsidiary is a member of the consolidated group for only part of a taxable year, the income considered to be earned in such fractional part of the year shall be that portion of the net income for the entire year which the number of days it was a member of the group bears to the total number of days in the taxable year.

(d) In determining the allocation fraction where a corporation becomes a member of the group or ceases to be a member of the group during the taxable year, the property factor (Step 1 of the formula) shall be determined on the basis of the average net book value of the property during the period such corporation was a member of the group. The rental portion of the factor, however, shall be computed at eight (8) times the annual rent. The gross receipts and wage factors shall be based on the actual figures.

(e) All subsidiary corporations must agree in writing to the filing of the consolidated return as they will be liable for the tax as well as the parent corporation.

(f) In consolidating the net income, the taxable income of each corporation shall be computed in accordance with the provisions governing the taxable income of separate corporations except that there shall be eliminated unrealized profits and losses in transactions between members of the affiliated group.

(g) In determining expenses that are not allowable because they are allowable to non-taxable income, such calculations shall be based on the consolidated net income. As an example, inter-company dividends which are eliminated in the consolidation shall not be taken into consideration in determining non-taxable income.

183.03.06 OTHER INFORMATION REQUIRED TO RECONCILE WITH FEDERAL RETURNS.

(a) Resident individual taxpayers who file Form 1040 or Form 1040A with the Internal Revenue Service, must include with their JITR, copies of the following Federal Schedules as filed with their Federal returns:

- (1) All W-2 Wage Information forms;
- (2) Schedule C - Profit or (Loss) from Business or profession;
- (3) Form 4797 - Supplemental Schedule of Gains and Losses (Recovery of Depreciation - ordinary income only);
- (4) Schedule E - Supplemental Income Schedule;
- (5) Schedule F - Farm Income and Expenses;
- (6) Form 2106 - Employee Business Expenses;
- (7) Schedule K-1 (Form 1065) - Partner's Share of Income, Credits and Deductions, etc.;
- (8) Form 1099 - Non-Employee Compensation.
(Ord. 87-9. Passed 11-16-87.)
- (9) Schedule A. (Ord. 7-00. Passed 12-18-00.)

(b) Non-resident individual taxpayers who file Form 1040 or Form 1040A with the Internal Revenue Service must include with their Form R, any of the above mentioned Federal schedules that apply to income earned or accrued within or from the Village of Jamestown, whether or not that income is taxable under Chapter 181 in whole or in part.

(c) Trustees of active trusts are required to file returns and pay the tax on the taxable income thereof. Federal Form 1041 (U.S. Fiduciary Income Tax Return) must be included with Form JITR.

(d) Partnerships.

- (1) All resident partnerships will file an informational return. A complete Federal Form 1065 (U.S. Partnership Return of Income) must be included with the Village Form JITR. Payment of any tax due thereon may be made by the partnership as an entity, or by the individual partners; however, the election of the method of payment must be made at the time the partnership first establishes a business activity within or for the Village of Jamestown as required under Section 183.03.02(a) of these Regulations. A request to change the method of payment must be in writing to the Administrator prior to the end of the tax year for which the change is requested, for his/her approval or disapproval.

- (2) Non-Resident partnerships having net profits attributable to the Village of Jamestown will file an informational return as stated above and adjusted to the requirements of the Chapter 181, but shall pay the tax due as an entity.
- (3) In the case of a resident individual partner or part owner of a non-resident business, his partner's distributive share of net profits is reported with his individual return as listed in subsection (a) hereof.

(e) Corporations will include with the filing of Form R, a copy of Federal Form 1120 (U.S. Corporation Income Tax Return) or 1120S (U.S. Small Business Corporation Income Tax Return), including Form 4797 (Supplemental Schedule of Gains and Losses), when applicable. In addition, when deducting that portion of the Ohio Corporation Franchise Tax based on net worth, a copy of the Ohio Corporation Franchise Tax Return (Form FT 1120) must be included to substantiate the deduction.

(f) A Jamestown Village Income Tax Return (JITR) shall not be considered as filed until it is received complete with all the above listed applicable Federal Schedules by the Tax Administrator. All incomplete returns shall be returned to the taxpayer within five (5) working days of their receipt within the tax office. It shall be the responsibility of the taxpayer to file the completed return by the due date as specified in Section 183.03.03.

(g) Where figures of total income, total deductions, and net profits are included, as shown by a Federal return, any items of income which are not subject to the Village of Jamestown tax and unallowable expenses shall be eliminated in determining net income subject to the Jamestown tax. In the absence of records showing the actual allowable expenses, such expenses shall be determined in accordance with Section 183.03.01(c)(4)C.7. of these Regulations.

(h) If a change in Federal income tax liability, made by the Internal Revenue Service, or by a judicial decision, results in an additional amount of tax payable to the Village of Jamestown, a report of such change shall be filed on JITR as an amended return by the taxpayer within three (3) months after receipt of the final notice from the Federal Internal Revenue Service or final Court decision.

(i) If a change in Federal income tax liability results in a reduction of taxes owed and paid to the Village of Jamestown, a claim for refund shall be filed on Form JITR as an amended return with the Tax Administrator as prescribed in Section 183.08(b)(1) of these Regulations. (Ord. 87-9. Passed 11-16-87.)

(j) Itemized deductions from Federal Schedule A are not allowed in the determination of taxable income under this chapter except for Form 2106 expenses. (Ord. 7-00. Passed 12-18-00.)

183.03.07 EXTENSIONS.

(a) Upon receiving a copy of the taxpayer's request for a Federal filing extension on or before the date for filing the return, and for good cause shown, the Administrator may extend the time for filing such return for a period of not longer than one (1) month beyond any extension granted by the Federal Internal Revenue Service. No penalty shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended, providing all other filing and payment requirements of Chapter 181 have been met.

(Ord. 87-9. Passed 11-16-87; Ord. 7-00. Passed 12-18-00.)

(b) Information returns, schedules, and statements needed to support tax returns are to be filed within the time limits set forth for filing the tax returns.

(Ord. 87-9. Passed 11-16-87.)

(c) The request for extension of time to file will be denied if the taxpayer:

- (1) Fails to timely file the request;
- (2) Fails to file a copy of the request for the Federal extension;
- (3) Owes delinquent income tax or any penalty, interest, assessment or other charge for the late payment or nonpayment of income tax;
- (4) Fails to file any required income tax return, report or other related document for a prior tax period. (Ord. 7-00. Passed 12-18-00.)

183.03.08 PAYMENT WITH RETURN.

(a) The taxpayer making a return shall, at the time of the filing thereof, pay to the Tax Administrator of the Village of Jamestown 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 183.03.10 of these Regulations, or where any portion of said tax shall have been paid by the taxpayer pursuant to the provisions of Section 183.05 of these Regulations or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with Section 183.10 hereof, shall be deducted from the amount shown to be due. Only the balance, if any, shall be due and payable at the time of filing said return.

(b) A taxpayer who has overpaid the amount of tax to which the Village of Jamestown is entitled under the provisions of the Chapter 181 may have such overpayment applied against any subsequent liability, 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 two dollars (\$2.00) shall be collected or refunded.

183.03.09 INTEREST AND PENALTIES FOR LATE FILING AND PAYMENT OF DIRECT TAX LIABILITY IN ACCORDANCE WITH ORDINANCE 87-1.

(a) Interest. Except as provided in subsections (c) and (d) below, all taxes imposed under the provisions of Chapter 181 and remaining unpaid after they have become due shall bear interest, in addition to the amount of the unpaid taxes and penalties and interest, at the rate of one and one-half percent (1-1/2%) per month or fraction thereof, compounded monthly.

(b) Penalties. In addition to interest as provided in subsection (a) hereof, penalties based on the unfiled and unpaid tax are hereby imposed as follows:

- (1) For failure to file Village Form R, together with all appropriate supporting Federal schedules, when due: Five percent (5%) per month, not to exceed Twenty-five percent (25%) of the unpaid taxes due.
- (2) For failure to file a Village Form R informational return, together with all appropriate supporting Federal schedules and information required by Section 183.03.06(e) of these Regulations when due: Ten Dollars (\$10.00).

- (3) For failure to pay the unpaid balance of taxes due: Five percent (5%), or one and one-half percent (1-1/2%) per month, whichever is greater.
 - (4) Except in the case of fraud, the penalty shall not exceed fifty percent (50%) of the unpaid tax.
- (c) Exceptions.
- (1) No penalty shall be assessed on additional taxes found on audit to be due when a return was timely filed in good faith and the tax paid thereon within fifteen (15) days from the date the taxpayer was notified of such findings.
 - (2) In the absence of fraud neither penalty nor interest shall be assessed on any additional taxes resulting from a Federal audit for Federal income tax purposes provided an amended return is filed and the additional tax paid within three (3) months after final determination of the Federal tax liability.
- (d) Minimum Assessment. Penalty and interest charges shall not be levied when the total of such charges amounts to less than two dollars (\$2.00). Additional penalty and/or interest calculated monthly on the balance due will not be levied when the total of such additional charges amounts to less than two dollars (\$2.00).
- (e) Effect on Extensions.
- (1) No penalty will be assessed on a return where a balance due is paid within the extended period for filing that return when such extension was authorized by the Administrator as provided in Section 183.03.07 of these Regulations.
 - (2) Penalty will be assessed from the date the return was due as provided in Chapter 181 when the return is not filed within the extended period referred to above.
 - (3) Interest as provided in Section 183.03.09(a) of these Regulations will be assessed on returns not filed within the due dates provided in Chapter 181, even though the time for filing the return has been extended.

183.03.10 BASES FOR FILING WITHHOLDING FOR WAGES AND SALARIES.

(a) General Requirements. An annual tax of one-half percent is imposed on all salaries, wages, commissions and other compensation, whether based upon hourly, daily, weekly, semi-monthly, annual, unit of production or piece work rates, received during the effective period of Chapter 181.

- (1) Residents. For the purpose of determining the tax on the earnings of resident taxpayers taxed under Ordinance 87-6 the source of the earnings and the place or places in or at which the services were rendered, are immaterial. All such earnings wherever earned or paid are taxable.
- (2) Non-residents. Non-residents are taxable on any compensation, as specified in Section 183.03.10 of these Regulations, earned in or from the Village of Jamestown. (Ord. 87-9. Passed 11-16-87.)

(b) Duty of Withholding. Except as otherwise provided herein, it is the duty of each employer within or doing business within or for the Village of Jamestown, who employs one or more persons whether as an employee, officer, director or otherwise, to deduct each time any compensation is paid, the tax of one-half percent (.5%) in accordance with Chapter 181 (unless the total amount of tax required to be withheld on account of all employees, by nonresident employers, is less than one hundred fifty dollars (\$150.00) for a calendar year). Every employer required to deduct and withhold the tax at the source is liable directly to this Village for payment of such tax whether actually collected from such employee or not.
(Ord. 87-9. Passed 11-16-87; Ord. 7-00. Passed 12-18-00.)

(c) Every employer is deemed to be a trustee for the Village in collecting and holding the tax required under Chapter 181 to be withheld and the funds so collected by such withholding are deemed to be trust funds.

(d) Taxable Income. The following are items which are subject to the tax imposed by Chapter 181:

- (1) Salaries, wages, bonuses and incentive payments received by an individual whether directly or through an agent and whether in cash or in property for services rendered during the tax period as:
 - A. An officer, director or employee of a business, including charitable and other non-profit organizations;
 - B. An official or employee (whether elected, appointed or commissioned) of the United States Government or of a corporation created and owned or controlled by the United States Government or any of its agencies; or of the State of Ohio or any of its political subdivisions or agencies thereof; or any foreign country or dependency in accordance with Federal tax interpretations and accounting methods, when applicable.
- (2) Commissions received by a taxpayer whether directly or through an agent and whether in cash or in property for services rendered during the effective period of Chapter 181, regardless of how computed or wheresoever paid.
 - A. If amounts received as a drawing account exceed the commissions earned and the excess is not subject to the demand of the employer for repayment, the tax is payable on the amounts received as a drawing account.
 - B. Amounts received from an employer for expenses and used as such by the individual receiving them, are not deemed to be compensation if the employer deducts such expenses or advances as such from his gross income for the purpose of determining his net profits taxable under Federal law, and the employee is not required to include such receipts as income on his Federal income tax return.
 - C. If commissions are included in the net earnings of the business enterprise of which the individual receiving such commission is owner or part owner and therefore subject to the tax under Section 183.03.01(c) of these Regulations, they shall not be taxed under Section 183.03.01(b).
- (3) Fees, unless such fees are properly included as part of the net profits of a business owned or partly owned by said individual and such net profits are subject to the tax under Section 183.03.01(c) of these Regulations.
- (4) Other compensation, including tips, bonuses or gifts of any type in connection with services rendered.
- (5) Fringe benefit payments. Payments made to employees by an employer as vacation wages are taxable. Payments to an employee by an employer under a wage continuation plan whether directly or through a third party, during periods of unemployment, disability or sickness are taxable.

- (6) Accrued benefits made to employees by an employer and paid by the employer to the employee upon retirement or termination of employment, such as accrued sick pay, accrued vacation pay, accrued annual leave, and longevity pay are deemed to be taxable.
- (7) All deferred compensation, including payroll deductions for a tax deferred annuity, shall be included in the gross income the year in which it is earned.
- (8) Where compensation is paid or received in property, its fair market value, at the time of receipt, shall be subject to the withholding tax. Board, lodging and similar items received by an employee in lieu of additional cash compensation shall be included in earnings at their fair market value.

183.03.11 PROCEDURE FOR FILING WITHHOLDING FOR WAGES AND SALARIES.

- (a) Identification and filing for withholding of employees' income.

- (1) Responsibility for identification.

- A. Except as otherwise provided herein, it is the duty of each employer doing business within or doing business with the Village of Jamestown, who employs one (1) or more persons whether as an employee, officer, director or otherwise, to identify their business with the Tax Administrator within fifteen (15) working days of establishing their business within or for the Village, through completion of a questionnaire, Form JIT 4000.
 - B. Upon receipt of the questionnaire from the Village, the questionnaire must be completed and returned within fifteen (15) working days, to the Tax Administrator.

- (2) Filing for withholdings.

- A. The deductions from salaries, wages, and other compensation required to be made by employers are to begin with the compensation earned on and after the effective date of Chapter 181.
 - B. The employer (in addition to any return required to be filed with respect to his own earnings or net profits) shall, on or before the thirtieth (30th) day of the month next following each withholding period, make a return and pay, to the Tax Administrator, the full amount of the tax so deducted or withheld with respect to compensation paid all of his employees subject to the tax under Chapter 181. Withholding periods shall be determined as follows:
 - 1. When the average monthly withholding is five hundred dollars (\$500.00) or more, the withholding return shall be filed and paid on a monthly basis.
 - 2. When the average monthly withholding is less than five hundred dollars (\$500.00), the withholding return may be filed and paid on a quarterly basis.
 - C. The withholding return required to be filed under subsection (a)(2)B. hereof shall be made on Form JW-1 furnished or obtainable on request from the Tax Administrator, and remitted on the thirtieth (30th) day of the month following the close of the withholding period.

- (3) Interest and penalties for late filing and payment of taxes withheld, in accordance with Chapter 181.
- A. Except as provided in subsection (a)(3)C. hereof, all monies withheld, or required to be withheld, by employers under the provisions of Chapter 181 and remaining unpaid after they have become due shall bear interest, in addition to the amount of the unpaid withholdings and unpaid penalties and interest, at the rate of one and one-half percent (1-1/2 %) per month, or fraction thereof, compounded monthly.
- B. Penalties.
1. For failure to file Form JW-1 showing taxes withheld from employees, a penalty of five percent (5%) per month or fraction thereof, shall be assessed on the tax due.
2. In addition, for failure to remit the taxes withheld from employees, a penalty of five percent (5%) per month or fraction thereof, shall be assessed on the tax due.
- C. Exceptions. No penalty shall be assessed on additional taxes found to be due on audit of the year end reconciliation (JW-3) with actual W-2 information, when a return was timely filed in good faith and tax paid thereon within the prescribed time.
- D. All payments received will be credited to the oldest tax liability due. Penalty and interest for each period will be credited after the tax for the period is satisfied.
- E. Minimum assessment. Penalty and interest charges shall not be levied when the total of such charges amounts to less than Two Dollars (\$2.00). Additional penalty and/or interest calculated monthly on the balance due will not be levied when the total of such additional charges amounts to less than two dollars (\$2.00).
- (4) Annual reconciliation.
- A. On or before the 31st day of January, following any calendar year in which such deductions have been made by any employer, such employer shall file with the Tax Administrator, an information return for each employee from whom this Village's income tax has been withheld, showing the name, address, and social security number of the employee, the total amount of compensation paid during the year and the amount of this Village's income tax withheld from such employee.
- B. The gross compensation to be reported for each employee shall be for the full twelve (12) calendar months of the year or such portion thereof as the employee reported on was employed.
- C. In addition to such information returns, and at the time the same are filed, such employer shall file with the Tax Administrator, a reconciliation of returns (Form JW-3) to enable the Tax Administrator to reconcile the sum total of compensation paid and the taxes withheld as disclosed by information return W-2, or list of employees, and prior returns and remittances made pursuant to Chapter 181 and these Regulations.

- (5) Fractional parts of a cent. In deducting and withholding the tax at the source and in payment of any tax due under Chapter 181, a fractional part of a cent shall be disregarded unless it amounts to one-half ($\frac{1}{2}$) cent or more, in which case it shall be increased to one (1) cent.

(b) Refunds and Adjustments.

- (1) If more than the amount of tax required to be deducted by Chapter 181 is withheld from an employee's pay, such excess may be refunded by the employer or the Tax Administrator, depending upon the circumstances and the time when the over-withholding is determined as follows:
- A. If the over-withholding is discovered in the same period, the employer shall make the necessary adjustment directly with the employee and the amount to be reported on the return as withheld shall be the correct amount.
 - B. If the over-withholding is discovered in a subsequent period of the calendar year, the employer may make proper adjustment with the employee. In such case, the return for the period in which the adjustment is made shall indicate the total amount actually withheld on Line 4 of Form JW-1, the amount of the adjustment deducted therefrom on Line 6, and the corrected amount reported on Line 7 of the return.
 - C. If the over-withholding is discovered in the following year, the employer should notify the Tax Administrator of such over-withholding and the circumstances thereof. Upon proper verification on JIT-5, the Administrator shall refund to the employee the amount of such excess withholding.
- (2) Former employees.
- A. In case too much has been withheld from an employee who is no longer employed by the employer, the employer shall notify the Tax Administrator of the amount and circumstances of such over-withholding in writing, and the Administrator shall then refund to the employee the amount of such excess withholding; or
 - B. If the error is discovered by the employee, such employee shall file a claim on refund Form JIT 5, with and obtainable from the Tax Administrator, and the Administrator shall refund to the employee the amount of such excess withholding.
- (3) Non-residents employed outside the Village. Where an employer has withheld the tax from all wages of a non-resident of this Village, and such non-resident has been employed outside this Village (and not on a job contracted from the Village) for all or part of the time, such employee shall file a claim on refund Form JIT-5 with the Tax Administrator covering such erroneous withholding and the Administrator shall, upon verification thereof by the employer, refund to the employee the amount of such excess withholding. See limitation for refunds, Section 183.08(b)(1).
- (4) Limitations. Where the total amount due or refund claimed for a tax year is less than two dollars (\$2.00), such amount shall not be collected or refunded.

(c) Insufficient Withholding. If less than the amount of tax required to be deducted is withheld from an employee, such deficiency shall be withheld from subsequent wages. However, if the employee-employer relationship has terminated, the employer shall notify the Tax Administrator of such deficiency and the reason therefor. (Refer to Section 183.03.10(b).)

(d) Exceptions.

- (1) An employer whose records show that an employee is a non-resident of the Village of Jamestown and has no knowledge to the contrary, shall be relieved of the responsibility of withholding the tax on personal service compensation paid to such employee for services rendered or work done outside the Village of Jamestown by such employee; provided, however, that such employer must withhold the tax on all personal service compensation paid such employee after the Administrator, or any duly authorized employee notifies said employer in writing that such employee is a resident of the Village of Jamestown. All employees are required to notify the employer of any change of residence and the date thereof.
- (2) A Jamestown employer required to withhold the tax from a Jamestown resident for work done or services performed in another municipality, shall be relieved from the requirement of withholding the Village of Jamestown tax from such Jamestown resident, except where the rate of tax for such other municipality is less than the rate of tax imposed by the Jamestown Income Tax Chapter 181. In such case, the employer shall withhold and remit the difference to the Tax Administrator.
- (3) 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, but such employees shall be subject to all the requirements of Chapter 181.
(Ord. 87-9. Passed 11-16-87.)

183.04 EFFECTIVE PERIOD.

(a) The tax imposed by Chapter 181 shall be levied, collected and paid with respect to salaries, wages, bonuses, incentive payments, commissions, fees, and other compensation received during the effective period of Chapter 181.

(b) The tax imposed by Chapter 181, with respect to net profits of trades, businesses, professions, enterprises, undertakings and other activities is on the net profits earned and accrued or received during the effective period of the Chapter 181.

- (1) Where the fiscal year of the taxpayer differs from the calendar year, the tax shall be applied to that part of the annual net profits for the fiscal year as shall be earned and accrued or received on and after March 24, 1987, to the close of the taxpayer's fiscal year.
(Ord. 87-9. Passed 11-16-87.)

183.05 DECLARATIONS.**(a) Bases.****(1) Requirement of filing.**

- A. A declaration of estimated tax shall be filed with the Tax Administrator by every taxpayer who may reasonably be expected to have taxable income, the tax on which is not or will not be withheld by an employer or employers. Where required, such declaration shall be filed within four (4) months after the beginning of the taxable year.
- B. A taxpayer's final return for the preceding year may be used as a basis for computing his declaration of estimated tax for the current year. In the event a taxpayer has not previously been required to file a return, a declaration of estimated tax on anticipated income shall be filed in good faith.
- C. A declaration of estimated tax which is less than seventy percent (70%) of the tax due as shown on the final return after subtracting any credit for tax withheld, for the Village of Jamestown and/or any other taxing municipality (not to exceed the current Village of Jamestown tax rate), shall not be considered filed in good faith.

(b) Procedure.**(1) Date of filing.**

- A. A person or other entity conducting a business not previously subject to the tax, or whose employer does not withhold the tax, shall file a declaration of estimated tax within four (4) months after the date he becomes subject to the tax.
- B. Those taxpayers having a fiscal year or period differing from the calendar year shall file a declaration within four (4) months after the start of each fiscal year or period.

(2) Form for filing.

- A. Such declaration shall be filed upon Form JIT 2100 furnished or obtainable upon request from the Tax Administrator.
- B. The original estimate of tax liability or any subsequent amendment thereof may be increased or decreased by filing an amended declaration on or before any quarterly payment date as set forth in subsection (b)(4). Such amendment may be made on the regular declaration form or on the front of any quarterly payment form JQ-1.

- (3) An amended declaration must be filed on or before January 31 of the following year, or in the case of a taxpayer on a fiscal year, on or before the last day of the 13th month following the beginning of such fiscal year, if it appears that the original declaration made for such taxable 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 the taxpayer's entire estimated liability shall be made. If, upon the filing of the return required by Ordinance 87-1, it appears that the taxpayer did not pay seventy percent (70%) of his tax liability, as shown on said return, the difference between seventy percent (70%) of said taxpayer's tax liability and the amount of estimated tax actually paid on or before the above mentioned date, shall be subject to the interest and penalty provisions of subsection (b)(5) hereof.

- (4) Dates of payments.
 - A. The estimated tax may be paid in full with the declaration or in equal installments on or before the last day of the fourth, seventh, tenth and thirteenth month after the beginning of the taxable year.
 - B. The declaration must be accompanied by at least one installment of the estimated tax shown due thereon.
 - C. In the event an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments over the remaining payment dates.
- (5) Penalty for underpayment of estimated taxes. On the excess of seventy percent (70%) of the actual tax over the amount paid on declaration of estimated tax where a declaration has not been filed and paid estimating a tax liability in the same or greater amount than paid the previous year, or where a final return has not been filed and the total paid on or before the end of the month following the close of the taxable year; ten percent (10%) of the difference between seventy percent (70%) of the total tax for the year and the amount paid by declaration.
- (6) Final returns required. The filing of a declaration does not relieve the taxpayer of the necessity of filing a final return even though there is no change in the declared tax liability. A final return must be filed to obtain a refund of any overpayment of over two dollars (\$2.00).
(Ord. 87-9. Passed 11-16-87.)

183.06 DUTIES AND POWERS OF THE TAX ADMINISTRATOR.

- (a) Collection of Tax and Retention of Records.
 - (1) It shall be the duty of the Administrator to receive the tax imposed by Chapter 181 in the manner prescribed therein from the taxpayers; to keep an accurate record and to report daily all monies so received.
 - (2) It shall be the duty of the Administrator to enforce payment of all taxes owing the Village of Jamestown, to keep accurate records for a minimum of five (5) years showing the amount due from each taxpayer required to file a declaration and/or make any return, including taxes withheld, and to show the dates and amounts of payments thereof.
- (b) Enforcement Provisions.
 - (1) The Administrator is charged with the administration and enforcement of the provisions of Chapter 181 and is, subject to the approval of the Village Council by motion, empowered to adopt, promulgate, and enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of Chapter 181. The Administrator has the authority to correct or adjust any return submitted, when a correction or adjustment is necessary to accomplish the intent of Chapter 181.
 - (2) Any taxpayer or employer desiring a special ruling on any matter pertaining to Chapter 181 or these Rules and Regulations, should submit to the Administrator in writing, all the facts involved for a final ruling.

- (3) These Regulations, together with all amendments and supplements hereto and all changes herein, will be on file with the Administrator, and will be open to public inspection.

(c) Estimation of Tax by the Administrator.

(1) General provisions.

- A. If the Administrator determines that any taxpayer subject to the provisions of Chapter 181 has a tax liability for which he has filed no return or has filed an incorrect return and has failed to pay the full amount of tax due, the Administrator shall issue a proposed assessment showing the amount of tax due, together with any penalty and interest that may have accrued thereon.
1. Such proposed assessment shall be served upon the taxpayer in person or by mailing to his last known address. Proof of mailing furnished by the U.S. Post Office shall be presumptive proof of receipt thereof by the addressee.
 2. A taxpayer may, within fifteen (15) days after the date of the proposed assessment was served or mailed, file a written protest with the Administrator. Within fifteen (15) days after receipt of the protest, the Administrator shall give the protestant an opportunity to be heard; provided further that the Administrator may extend the date of the hearing for good cause shown. After the hearing the Administrator shall withdraw the assessment or he shall adjust or reaffirm the assessment and it shall then become final. If no protest is filed as herein provided, such proposed assessment shall become final fifteen (15) days after being served.
- B. After a proposed assessment becomes final, notice of such final assessment shall be issued and shall be served in the same manner as a proposed assessment.
1. A taxpayer shall have fifteen (15) days after the date the final assessment was served or mailed within which to file written notice of appeal with the Board of Tax Appeals. Such written notice of appeal shall be filed in a sealed envelope plainly marked "Appeal to Board of Tax Appeals" and mailed or delivered to the Village Clerk who shall, within five (5) days after receipt thereof, deliver such appeal to the Chairman of the Board of Tax Appeals or, if the Chairman is not available, to the Vice-Chairman.
 2. The Board of Tax Appeals, upon receipt of a notice of appeal, shall within fifteen (15) days notify the Administrator thereof, who shall forward within fifteen (15) days to the Board, a certified transcript of all actions taken by him with respect to said final assessment. Such transcript shall be open to inspection by the appellant and his counsel.

3. Any taxpayer against whom a final assessment has been issued and who has filed a notice of appeal shall be granted a hearing by the Board of Tax Appeals. At such hearing the appellant and the Administrator shall be given opportunity to present evidence relating to the said final assessment. After the conclusion of such hearing, the Board of Tax Appeals shall affirm, reverse or modify the said final assessment and shall furnish a copy of its decision in respect thereof to the appellant and the Administrator. The appellant's copy of said decision shall be served upon him in the same manner as herein provided for the serving of assessments.
 - C. When any taxpayer subject to the provisions of Chapter 181 has filed a return indicating the amount of tax due and has failed to pay said tax to the Tax Administrator as required by the Chapter 181, the Administrator need not issue an assessment but may proceed under the provisions of Ordinance 87-1 for the collection of such assessment.
- (2) Provisions affecting employers.
- A. If the Administrator determines that an employer subject to the provisions of Chapter 181 has failed to file a return for tax withheld and/or has failed to pay to the Tax Administrator the full amount of said taxes, the Administrator shall issue a proposed assessment showing the amount of tax due, together with any penalties and interest that may have accrued thereon and the provisions of subsection (c)(1)A. and B. hereof shall then apply.
 - B. If the Administrator determines that an employer subject to Chapter 181 has failed to withhold tax, the Administrator shall issue a proposed assessment showing the amount of tax due, together with any penalties and interest that may have accrued thereon and the provisions of subsection (c)(1)A. and B. hereof shall then apply.
 - C. When an employer subject to the provisions of Chapter 181 has filed a return indicating the amount of tax withheld and has failed to pay said tax to the Administrator as required by Chapter 181, the Administrator may proceed under the provisions of Chapter 181 and need not issue an assessment as provided in subsection (c)(1)A. and B. hereof.
- (Ord. 87-9. Passed 11-16-87.)

183.07 EXAMINATION OF BOOKS AND RECORDS, INFORMATION SO OBTAINED CONFIDENTIAL: PENALTY.**(a) Investigations by the Administrator.**

- (1) The Administrator, or any duly authorized employee, is empowered to examine the books, papers, records and copies of Federal Income Tax returns of any employer, taxpayer or person subject to Chapter 181, or whom the Administrator believes is subject to the provisions of Chapter 181, for the purpose of verifying the accuracy of any return made; or, if no return was made, to ascertain the tax due under Chapter 181.
- (2) An employer or taxpayer shall furnish, within ten (10) days following a written request by the Administrator, or any duly authorized employee, the means, facilities and opportunity for making examinations and investigations authorized by Chapter 181.

(b) Subpoena of Records and Persons.

- (1) The Administrator or any person acting in his/her capacity, is authorized to examine any person, under oath, concerning any income which was, or should have been, returned for taxation, or any transaction tending to affect such income. The Administrator may compel the production of books, papers and records and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of the facts concerning any supposed income or supposed transaction of the taxpayer.
- (2) The Administrator's order to examine any document mentioned in the preceding paragraph shall state whether the examination is to be at the office of the taxpayer or at the office of the Tax Administrator.
- (3) The Administrator may order the appearance before him/her or any duly authorized employee, of any party whom the Administrator believes to have any knowledge of a taxpayer's income or withholdings, or any information pertaining to the taxpayers under investigation, whether or not the individual so ordered has actual custody of the records of the taxpayer being investigated. The Administrator is specifically authorized to order the appearance of the local manager or representative of any taxpayer.
- (4) Persons required to attend any hearings shall be notified not less than ten (10) days prior to the time of the hearing. The notice shall show the time and place of the hearing and what books, papers or records the witness is to make available at such hearing.
- (5) The notice shall be served by the Administrator or any duly authorized agent, by delivering it to the person named in the notice, or by mailing it to the person by certified mail, return receipt requested, addressed to his usual or last known place of business or residence.

(c) Penalty for Non-compliance. Refusal by any employer, supposed employer, taxpayer, or supposed taxpayer, or the refusal of any such person to appear before the Administrator or any duly authorized employee to submit to such examination and to produce the records requested, constitutes a misdemeanor punishable by fine or imprisonment, or both, as prescribed by Chapter 181.

(d) Confidential Nature of Examinations. Any information gained as a result of any returns, investigations, verifications or hearings before the Administrator, required by Chapter 181 or authorized by these Rules and Regulations shall be confidential and/or no disclosure thereof shall be made except for official purposes or as ordered by a court of competent jurisdiction. Any person divulging such information shall be guilty of a misdemeanor punishable by a maximum fine of one thousand dollars (\$1,000) or imprisonment for not more than six (6) months or both. In addition to the above penalty, any employee of the Village of Jamestown who violates the provisions of Chapter 181 relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

(e) Retention of Records. All employers and taxpayers are required to keep such records as will enable the filing of true and accurate returns whether of taxes withheld at the source or of taxes payable upon earnings or net profits, or both. Such records shall be preserved for a period of not less than five (5) years from the date the final return is filed and paid or the withholding taxes are paid.

(f) Every owner of one or more rental units and every owner or operator of a mobile home park shall furnish to the Tax Administrator, a semiannual roster of the names and addresses of all persons residing in such rental unit(s) or mobile home park and shall also file a statement of any changes in the roster at the end of each month. The semiannual statement provided for under Chapter 181 shall be filed with the Tax Administrator on or before January 31 and July 31 of each year. (Ord. 87-9. Passed 11-16-87.)

183.08 COLLECTION OF UNPAID TAXES AND REFUND OF OVERPAYMENTS.

(a) Unpaid Sums; Civil Suit.

- (1) In addition to any criminal penalties which may be imposed pursuant to the Ohio Revised Code, all taxes imposed by Ordinance 87-6 shall be collectible, together with any interest and penalties thereon, by civil suit. Employers who are required under Chapter 181 to withhold and remit taxes required to be withheld at the source, and who fail to withhold and/or remit, become liable to the Village in a civil suit to enforce the payment of the deficiency created by such failure.
- (2) No additional assessment shall be made by the Administrator after three (3) years from the time the return was due or filed, whichever is later. Provided, however, there shall be no period of limitation on such additional assessments in the case of a return that omits a substantial portion of income or tax due, or filing a false or fraudulent return to evade payment of the tax, or failure to file a return. Failure to report twenty-five percent (25%) or more of gross income or tax due shall be considered a substantial omission.
- (3) 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 assessment may be made by the Administrator is extended to one (1) year from the time of final determination of Federal tax liability.

(b) Refunds and Overpayments.

- (1) Taxes erroneously paid shall not be refunded unless a claim for relief is made within three (3) years from the date on which such payment was made, or the return was due, or three (3) months after the determination of the Federal tax liability.
- (2) No refund shall be made to any taxpayer until he has complied with all provisions of Chapter 181 and has furnished all information required by the Administrator.
- (3) Overpayments will be either refunded or credited to the taxpayer's current year's liability at his option. Where no election has been made by the taxpayer, overpayments of any year's taxes shall be applied as follows:
 - A. To taxes owed for any previous years in the order in which such taxes become due.
 - B. To his current estimated tax liability.

(c) Limitations. Where the total amount due or refund claimed for a tax year is less than two dollars (\$2.00), such amount shall not be collected or refunded.
(Ord. 87-9. Passed 11-16-87.)

183.09 BOARD OF TAX APPEALS.

(a) A Board of Tax Appeals, consisting of a chairman and two other individuals, each to be appointed by the Village Council, is hereby created. 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. Any hearing by the Board may be conducted privately and the provision of Section 183.07 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.

(b) The Board shall hear and pass on appeals from any ruling or decision of the Administrator, and, at the request of the taxpayer or Administrator, is empowered to substitute alternate method of allocation.

(c) Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this chapter may appeal therefrom to the Board of Tax Appeals within thirty (30) days from the announcement of such ruling or decision by the Administrator and the Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof.

(d) No Council member, Village employee, Tax Administrator, members of the Board of Public Affairs, or Mayor, is permitted to sit on the Board of Tax Appeals.

(e) There shall be no limitation to the number of terms a member may serve on the Board of Tax Appeals.

(f) The Village Council shall fill any vacancy in the Board of Tax Appeals at the first regular meeting after such vacancy becomes effective.

(g) The Village Council shall appoint the first three members of the Board of Tax Appeals for staggered terms as follows:

- (1) One member for a 4 year term;
- (2) One member for a 3 year term;
- (3) One member for a 2 year term.

All succeeding terms shall be appointed for four years each. The appointed Board of Tax Appeals shall select the Chairperson.

(Ord. 87-9. Passed 11-16-87.)

183.10 CREDIT ALLOWED FOR TAX PAID TO ANOTHER MUNICIPALITY.

(a) Limitation. Where a resident of the Village of Jamestown is subject to a municipal tax, on or measured by income, in another municipality either located within or without the State of Ohio, he shall not pay a total municipal tax on the same income (when earned) greater than the tax imposed at the higher rate.

(b) Credits to Residents. Resident individuals of the Village of Jamestown who are required to pay and do pay a tax to another municipality on salaries, wages, commissions or other compensation, for work done or services performed in such other municipality, may claim a credit of the amount of tax paid by them or on their behalf to such other municipality, but only to the extent of the tax imposed by Chapter 181, on such compensation or net profits, when earned.

(c) Method of Applying for Credit.

- (1) No credit will be given unless the taxpayer claims such credit on his final return or other form prescribed by the Administrator, and presents such evidence of the payment of a similar tax to another municipality, as the Administrator may require.
- (2) A statement satisfactory to the Administrator from the taxing authority of the municipality to which the taxes are paid, that a Village of Jamestown resident or his employer is paying the tax shall be considered as fulfilling the requirements of this section.

(Ord. 87-9. Passed 11-16-87.)

183.11 SAVING CLAUSE.

(a) These Rules and Regulations shall not apply to any person, firm, corporation or income, as to whom, or as to which it is beyond the power of the Village Council to impose the tax provided for in Chapter 181.

(b) If any sentence, clause, section or part of Chapter 181, or any article or part of these Rules and Regulations, or any tax against any individual, or any of the several groups specified in Chapter 181 or Rules and Regulations, is found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality or invalidity, shall affect only such sentence, clause, section or part of Chapter 181, or part of these Rules and Regulations and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or part of Chapter 181 or these Rules and Regulations. It is hereby declared to be the intention of the Village Council that these Rules and Regulations would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section, article or part thereof not been included therein or herein.

(Ord. 87-9. Passed 11-16-87.)

183.12 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

(a) This chapter shall continue effective insofar as the levy of taxes and the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, until all of such taxes levied hereunder are fully paid and any and all suits and prosecutions for the collection of such taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Ordinance 87-6.

(b) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Chapter 181 as though the same were continuing.
(Ord. 87-9. Passed 11-16-87.)

183.99 PENALTY.

(a) Any person who shall:

- (1) Fail, neglect or refuse to make any return or declaration required by Chapter 181; or
- (2) Make any incomplete, false or fraudulent return; or
- (3) Fail, neglect or refuse to pay the tax, penalties or interest imposed by Chapter 181; or
- (4) Fail, neglect or refuse to withhold the tax from his employees or to remit such withholding to the Administrator; or
- (5) Refuse to permit the Administrator or any duly authorized agent or employee to examine his books, records, papers and copies of Federal income tax returns relating to the income or net profits of a taxpayer; or
- (6) Fail to appear before the Administrator and to produce his books, records, papers or copies of Federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator; or
- (7) Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer; or
- (8) Fail to comply with the provisions of Chapter 181 or any order or subpoena of the Administrator authorized hereby; or
- (9) Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by Chapter 181, shall be guilty of a misdemeanor and shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six (6) months or both, for each offense.

(b) The term "person" used in this section shall, in addition to the meaning prescribed in Section 183.02 of these Regulations, include in the case of an association or corporation not having any partner, member or officer within the Village of Jamestown, any employee or agent of such association or corporation who can be found within the corporate limits of the Village of Jamestown.

(c) Prosecutions. All prosecutions under this Section must be commenced within the time limit as now or hereafter may be provided by the applicable sections of the Ohio Revised Code for prosecution of violations of municipal income tax ordinances.

(d) Failure to Receive Forms Not a Defense. The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him/her from making any information return, declaration or return, from filing such form, or from paying the tax. (Ord. 87-9. Passed 11-16-87.)