

TITLE NINE – Taxation

Chap. 181. Income Tax.

Chap. 183. Motor Vehicle License Tax.

CHAPTER 181

Income Tax

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|--------|--|--------|-------------------------|
| 181.01 | Definitions. | 181.07 | Interest and penalties. |
| 181.02 | Imposition of tax. | 181.08 | Violations; penalties |
| 181.03 | Effective date. | 181.09 | Allocation of funds. |
| 181.04 | Reciprocity provision; credit for tax paid to other municipalities. | 181.10 | Board of Review. |
| 181.05 | Administration; duties of the Clerk-Treasurer. | 181.11 | Applicability. |
| 181.06 | Investigative powers of the Village; penalty for divulging confidential information. | 181.12 | Savings clause. |
| | | 181.13 | Exemptions. |
| | | 181.14 | Refunds. |
| | | 181.15 | Effective period. |

CROSS REFERENCES

Payroll deductions - see Ohio R.C. 9.42

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

State income tax - see Ohio R. C. Ch. 5747

181.01 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:

- (a) "Taxpayer" means a person, whether an individual, partnership, limited partnership, corporation, association or other entity, required hereunder to file a return or to pay a tax hereunder.
- (b) "Association" means a partnership, limited partnership, or any other form of unincorporated enterprise, owned by two (2) or more persons.
- (c) "Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit, or ordinarily conducted for profit, whether by an individual, partnership, limited partnership, corporation, association or any other entity.
- (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, foreign country or dependency.

- (g) On the net profits earned on and after January 1, 1968, of all corporations derived from work done or services performed or rendered and business or other activities conducted in the Village of West Unity.
- (h) The portion of the net profits attributable to the Village of West Unity of a taxpayer conducting a business, profession or other activity both within and without the boundaries of the Village of West Unity shall be determined as provided in Ohio R.C. 718.02 and in accordance with the Rules and Regulations adopted by the Council of the Village of West Unity pursuant to this chapter.
- (1) In the taxation of income which is subject to a taxation by the provisions of this chapter, if the books and records of a taxpayer conducting a business or profession both within and without the boundaries of the Village of West Unity shall disclose with reasonable accuracy what portion of its net profit is attributable to that part of the business or profession conducted within the boundaries of the Village of West Unity, then only such portion shall be considered as having a taxable situs in the Village of West Unity for purposes of income taxation. In the absence of such records, net profit from a business or profession conducted both within and without the boundaries of the Village of West Unity shall be considered as having a taxable situs in the Village of West Unity for purposes of income taxation in the same portion as the average ratio of:
 - A. The average net book value of the real and tangible personal property owned or used by the taxpayer in the business or profession in the Village of West Unity during the taxable period to the average net book value of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

As used in the preceding paragraph, real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight.
 - B. Wages, salaries, and other compensation paid during the taxable period to persons employed in the business or profession for services performed in the Village of West Unity to wages, salaries, and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed.
 - C. Gross receipts of the business or profession from sales made and services performed during the taxable period in the Village of West Unity to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

In the event that the foregoing allocation formula does not produce an equitable result, another basis may, under uniform regulations be substituted so as to produce such result.
- (2) As used in subsection (h)(1) "Sales made in the Village of West Unity" means:
 - A. All sales of tangible personal property which is delivered within the Village of West Unity regardless of where title passes if shipped or delivered from a stock of goods within such Village.

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

(e) Subject to the consent of the Board of Review or pursuant to regulations approved by Council, the Clerk-Treasurer shall have the power to compromise any interest or penalty, or both, imposed by this chapter.

(f) A Department of Taxation is hereby created within the office of the Clerk- Treasurer. Such Department of Taxation shall have such deputies, clerks, and other employees as may be from time to time determined by Council, and shall receive such salary as may be determined by Council. The Clerk-Treasurer shall recommend all appointments of personnel and purchase all equipment, supplies and material for the Department of Taxation subject to the approval of Council. The Department of Taxation shall be charged with the administration and operation of this chapter, under the direction of the Clerk-Treasurer. The Clerk-Treasurer shall prescribe the form and method of accounts and reports for said department, as well as the forms for taxpayer's returns and declarations, and shall be charged with the internal examination and audit all such accounts, and shall exhibit accurate records showing the amount received from each taxpayer and the date of said receipt. The Clerk-Treasurer shall also make written report to Council annually of all monies collected hereunder during the preceding year. (Ord. 327. Passed 12-21-67.)

181.06 INVESTIGATIVE POWERS OF THE VILLAGE; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.

(a) The Clerk-Treasurer or his duly authorized agent or employee, is hereby authorized to examine the books, papers and records of any employer, or of any taxpayer or person subject to the tax, or believed to be 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. Every such employer, supposed employer, taxpayer or supposed taxpayer, is hereby directed and required to furnish to the Clerk-Treasurer or his duly authorized agent or employee, within thirty days following a written request by the Clerk-Treasurer or his duly authorized agent or employee, the means, facilities, and opportunity for making such examination and investigations as are hereby authorized.

(b) The Clerk-Treasurer, or his duly authorized agent or employee, is hereby authorized to examine any person, employer or employee under oath, concerning any income which was or should have been returned for taxation, and for this purpose may compel the production of books, Federal Income Tax records, papers and records and the attendance of all persons before him, whether as parties or witnesses, wherever he believes such persons have knowledge of such income.

(c) The refusal to produce books, papers, records and Federal Income Tax returns, or the refusal to submit to such examination by any employer or person subject or presumed to be subject to the tax 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 any order or subpoena of the Clerk-Treasurer authorized hereby shall be deemed a violation of this chapter, punishable as provided in Section 181.08 hereof.

(b) Any person who violates any of the provisions of subsection (a) hereof shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months or both, for each offense.

(c) All prosecutions under this section must be commenced within two 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, in which cases the limitation of time within which prosecution must be commenced shall be five years from the date the return was due or the date the false or fraudulent return was filed.

(d) The failure of any employer or taxpayer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return or declaration, from filing such form, or from paying the tax. (Ord .327. Passed 12-21-67.)

181.09 ALLOCATION OF FUNDS.

The funds collected on or after January 1, 2001, under the provisions of this chapter shall be deposited and disbursed as follows:

- (a) Sixty-five percent (65%) of the funds collected shall be deposited in the Debt Service Fund (line item C I -A- 1 14, Income Tax line item) for payment of all debt service charges as they become due, for bonded debt, anticipation notes, for all old and new debts incurred for the construction of and improvements to the Village's storm and sanitary sewer system and related facilities for the collection, treatment and disposal of sanitary sewage and industrial wastes, and for the payment of all costs of collecting the income taxes and all costs of administering and enforcing this chapter including but not limited to the payment of confirmed refunds for overpayments of income tax;
- (b) Twenty-five percent (25 %) of the funds collected shall be deposited in the Capital Projects Fund (line item D3-A- 1 14); and
- (c) Ten percent (10%) of the funds collected shall be deposited in the general fund. (Ord. 2001-01. Passed 2-8-01.)

181.10 BOARD OF REVIEW.

(a) A Board of Review, consisting of three electors of the Village of West Unity, one to be appointed by the Mayor, one to be appointed by the Clerk-Treasurer, and the third to be selected by the two so appointed, is created. No member shall be appointed to the Board of Review who holds other public office or appointment. The members of the Board of Review shall serve without pay.

(b) A majority of the members of the Board of Review shall constitute a quorum. The Board of Review shall adopt its own procedural rules and shall keep a record of its transactions.

(c) All hearings of the Board shall be conducted privately and the provisions of Section 181.06 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 of Review on appeal.

(d) Any person dissatisfied with any ruling or decision of the Clerk-Treasurer which is made under the authority conferred by this chapter and the Rules and Regulations related thereto may appeal therefrom to the Board of Review within thirty days from the announcement of such ruling or decision of the Clerk-Treasurer and the Board of Review shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof.

181.14 REFUNDS

(a) Should it appear that any taxpayer has paid more than the amount of the tax to which the Village of West Unity is entitled under the provisions of this chapter, a refund of the amount so overpaid shall be made, provided a proper claim form for refund of such overpayment of tax has been filed by the taxpayer, or same may be applied toward the declaration of tax due for the ensuing year. Claims for refunds shall be made on forms prescribed by and obtainable from the Clerk – Treasurer.

(b) All applications for refund shall be made within six months of the due date of a final return or shall be forever barred thereafter. Provided, however, an extension may be granted by the Clerk – Treasurer on written application. (Ord. 327. Passed 12-13-71.)

181.15 EFFECTIVE PERIOD

The chapter shall continue effective insofar as the levy of taxes is concerned until terminated or otherwise amended by Council. This chapter, insofar as the collection of taxes levied in the aforesaid period, and actions or proceedings for collecting any tax so levied, or enforcing any provisions of this chapter are concerned, shall continue effective until all of said taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of said taxes or for the punishment of violations of this chapter shall have been fully terminated. (Ord. 366. Passed 12-13-71.)