

# **CODIFIED ORDINANCES OF SHREVE**

## **AMENDMENT OF ORDINANCE 10-70**

### **TAXATION CODE**

#### **Income Tax**

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## **PURPOSE.**

To provide funds for the purposes of general Municipal operations, maintenance, new equipment, extension and enlargement of Municipal services and facilities and capital improvements of the Village, there shall be and is hereby levied a tax on salaries, wages, commissions and other compensation, and on net profits as hereinafter provided.

## **Article I—1. 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) “Association” means a partnership, limited partnership, “S Corporation, Limited Liability Company or any other form of unincorporated enterprise, owned by two or more persons.
- (b) “Board of Review” means the Board created by and constituted as provided in Article I-1, Section 10.
- (c) “Business” means an enterprise, activity, or profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity.
- (d) “Corporation” means a corporation or joint stock association, other than an S Corporation as defined Article I-1 organized under the laws of the United States, the State of Ohio, or any other state, territory or foreign country or dependency.
- (e) “Income Tax Administrator” means the Income Tax Administrator of the Village of Shreve.
- (f) “Employee” means one who works for wages, salary, commission or other type of compensation in the service of an employer.
- (g) “Employer” means an individual, partnership, association, corporation, governmental body, unit or agency or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission or other compensation basis.
- (h) “Fiscal year” means an accounting period of twelve months or less ending on any day other than December 31.
- (i) “Gross receipts” means the total income from any source whatsoever.
- (j) “Net profits” means the net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary and necessary expenses whether 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; and in the case of an association and other unincorporated entities, without deduction of salaries paid, guaranteed payments made or income distributions to partners, other owners and beneficiaries; and otherwise adjusted to the requirements of this chapter.
  - (1) Taxes based on income include franchise taxes as computed using income basis regardless of whether the tax is computed using the net worth basis and “in substance” federal tax payments removed from expenses for federal tax purposes because of federal income tax credit received.
- (k) “Nonresident” means an individual domiciled outside the Village.
- (l) “Nonresident unincorporated business entity” means an unincorporated business entity not having an office or place of business within the Village.
- (m) “Person” means every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, the term “person” as applied to any unincorporated entity, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.
- (n) “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.
- (o) “Resident” means an individual domiciled in the Village.
- (p) “Resident unincorporated business entity” means an unincorporated business entity having an office or place of business within the Village.
- (q) “Taxable income” means wages, salaries and other compensation paid by an employer or employers before any deductions and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this chapter.
  - (1) “Other compensation” includes, but may not be limited to, fringe benefits taxable for federal tax purposes unless specifically exempted by this chapter, stock options when exercised, tips or gratuities when received and deferred compensation. It does not include moving expenses paid solely on a reimbursement basis nor health insurance premiums paid by an employee which are exempt for federal tax purposes.

- (2) Deferred compensation, considered non qualified under the United State’s Internal Revenue Service’ laws, ordinances, regulations and rulings shall be deemed paid by the employer when both (a) the services for the compensation have been performed and (b) there is not substantial risk of forfeiture to the compensation.
- (r) “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.
- (s) “Taxing municipality” means any municipal corporation levying a municipal income tax on salaries, wages, commissions and other compensation earned by individuals, and on the net profits earned from the operation of a business, profession or other activity.
- (t) “Taxpayer” means a person, whether an individual, partnership, association or any corporation or other entity, required hereunder to file a return or pay a tax and/or defined as follows:
- (1) All resident individuals who have “taxable income” (as defined in Article I—1(q)) and/or an ownership interest, other than ownership of stock, in or is a beneficiary of, any “business” (as defined in Article I-1(c)). Stock ownership in an S Corporation shall not be excluded from the above filing requirement if the S Corporation does not pay tax as an entity to the Village of Shreve or allocates less than 100% of its income to the Village of Shreve.
  - (2) All nonresident individuals who have “taxable income” (as defined in Article I-1(q)) on which Shreve tax is imposed, or an ownership interest, other than ownership of stock, in or is a beneficiary of, any “business” (as defined in section Article I-1(c) which has sales in Shreve, and/or pays compensation to employees for services rendered in Shreve, and/or owns property within Shreve, and/or pays or receives rents or other payments for the use of property within Shreve. Stock ownership in an S Corporation shall not be excluded from the above filing requirements.
- Nonresident partners, owners and S corporation shareholders and beneficiaries of trusts will be exempt from filing a return and paying tax if their only requirement to filing is derived from an ownership interest in or being the beneficiary of an entity which files a Shreve return and pays tax on income at the entity level without deduction for the distributive share of income to that partner or payment to that beneficiary.
- (3) Any business (as defined in section Article I-1(c) entity which has sales in Shreve, and/or pays compensation to employees for services rendered in Shreve, and/or owns property within Shreve, and/or pays or receives rents or other payments for the use of property within Shreve.
- (u) “Employment tax” means required payments by both employee and employer to Social Security and Medicare.
- (v) “S Corporation “means a corporation that has made an election under subchapter S of chapter 1 of subtitle A of the Internal Revenue Code for its taxable year.
- (w) “Limited Liability Company” means a limited liability company formed under chapter 1705. Of the Ohio Revised Code or under the laws of another state.

## **Article I-2 EFFECTIVE PERIOD**

Such tax shall be levied, collected and paid with respect to salaries, wages, commissions and other compensation earned on and after January 1, 1971, and with respect to the net profit of businesses, professions and other activities earned on and after January 1, 1971. 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 net profit for the fiscal year as shall be earned on and after January 1, 1971, to the close of the taxpayer’s fiscal year; thereafter the taxpayer shall report on its fiscal year basis.

## **Article II-2 IMPOSITION OF TAX**

- (a) Subject to the provisions of Section 16, an annual tax for the purposes specified in Article I hereof shall be imposed on and after January 1, 1971, at the rate of one percent per annum upon the following:
- (1) On all salaries, wages, commissions and other compensation earned on and after January 1, 1971, by residents of the Village;
  - (2) On all salaries, wages, commissions and other compensation earned on and after January 1, 1971, by nonresidents for work done or services performed or rendered in the Village subject to limitations on such taxation set forth in division (F)(8) of section 718.01 of the Ohio Revised Code
  - (3) On the portion attributable to the Village of the net profits earned on and after January 1, 1971, of all resident S Corporations, unincorporated businesses, professions or other entities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the Village, whether or not such business entity has an office or place of business in the Village. The liability of partnerships, S Corporations, and limited liability companies from this tax will be removed upon

proper filing of information regarding the allocation of profits to the Village of Shreve, the owners, shareholders or partners to which the liability is transferred, and the owner's, shareholder's or partner's distributive share of the entity's profits

- (4) On the portion of the distributive share of the net profits earned on and after Jan 1, 1971, of a resident partner, owner, S Corporation shareholder or beneficiary of an unincorporated business entity or S Corporation not attributable to the Village and not levied against such S Corporation or unincorporated business entity. However, the liability of an individual partner, S Corporation shareholder, owner or beneficiary hereunder on income attributable to another taxing municipality shall be subject to the relief and reciprocity provisions of Section 4. If a tax liability to another municipality is acknowledged and paid at the entity level, the individual partner, S Corporation shareholder or beneficiary shall be subject to the relief and reciprocity provisions of Section 4 as if the income claimed and tax paid were their own, prorated according to their profit percentage for the entity for that tax period;
  - (5) On the portion attributable to the Village of the net profits earned on and after January 1, 1971, of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in the Village, whether or not such corporations have an office or place of business in the Village
  - (6) On the portion of the distributive share of the net profits earned, of a partner, owner, S Corporation shareholder or beneficiary of an S Corporation or unincorporated business entity derived from sales made, work done, services performed or rendered and business or other activities conducted in the Village by the S Corporation or unincorporated business entity. Such tax liability of a nonresident partner, owner, S Corporation shareholder or beneficiary shall be removed upon payment of the tax liability by the business entity as described in divisions (a)(3) of this section. Such tax liability of a resident partner, owner, S Corporation shareholder or beneficiary shall be removed upon payment of the tax liability by the business entity as described in divisions (a)(3) of this section if the allocation of profits, to the Village of Shreve, is 100%. In the event of an allocation of less than 100% to the Village of Shreve, the resident partner, owner, S Corporation shareholder or beneficiary shall receive credit for any income taxes paid to the Village of Shreve, as an acknowledged income tax liability, in the same ratio to the entity's tax liability as their ownership or beneficiary profit percentage
  - (7) On the net proceeds, excluding deduction for income taxes, from prizes, awards, games of chance or lottery by residents of the Village that are taxable for federal income tax purposes. Losses resulting from these activities may be deducted from winnings but only to the extent of net proceeds in any given tax year.
- (b) Business Within and Without the Municipality. The portion of the net profits attributable to the Village of a taxpayer conducting a business, profession, enterprise or other activity both within and without the boundaries of the Village shall be determined as follows:

If the books and records of a taxpayer 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 municipality, those books and records shall be used to determine taxable income. Such records shall accompany the taxpayer's Shreve income tax return in the form of or similar to a pro forma federal income tax return. In the absence of such records, taxable income shall be determined in the same proportion as the average ratio of:

- (1) 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 during the taxable period to the average net book value of all real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.  
As used in the preceding paragraph, real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;
- (2) Wages, salaries, and other compensation paid during the taxable period to persons employed in the business or profession for services performed in the Village to wages, salaries, and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed;
- (3) Gross receipts of the business or profession from sales made and services performed during the taxable period in the Village to gross receipts of the business or profession during the same period from sales and services, wherever made or rendered.

As used in subsection (b)(3) hereof, 'sales made in the Village' means:

All sales of tangible personal property which is delivered within the Village regardless of where title passes if shipped or delivered from a stock of goods within the Village.

All sales of tangible personal property which is delivered in the Village regardless of where title passes even though transported from a point outside the Village when the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the Village and the sales result from such solicitation and/or promotion.

All sales of tangible personal property which is shipped from a place within the Village to buyers outside the Village regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where the delivery is made.

- (4) If the foregoing allocation does provide an equitable result due to the use of independent contractors for labor services within the Village of Shreve or because wares are excluded according to Section 718.01 (1)(8) of the Ohio Revised Code, allocation will be done weighting the receipts factor at 2/3, property at 1/3 and compensation paid at 0/3.

(c) Operating Loss Carry Forward

- (1) The portion of a net operating loss sustained in any taxable year subsequent to January 1, 1970, allocable to the Village and claimed on a properly filed Village tax return may be applied against the portion of the profit of succeeding tax years allocable to the Village, until exhausted, but in no event for more than the lesser of (a) a combination six fiscal and/or calendar tax years or (b) five taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year;
- (2) The portion of net operating loss sustained shall be allocated to the Village in the same manner as provided herein for allocating net profits to the Village; and
- (3) The Village Clerk shall provide by rules and regulations the manner in which such net operating loss carry-forward shall be determined.

(d) Rentals:

- (1) Rental income received by a taxpayer shall be included in the computation of net profits from business activities under subparagraphs (3) through (7) of subsection (a), only if and to the extent that the rental, ownership, management or operations of the real estate from which such rentals are derived (whether so rented, managed or operated by taxpayer individually or through agents or other representatives) constitutes a business activity of the taxpayer in whole or in part; and
- (2) where the gross monthly rental of any and all real properties, regardless of number and value, aggregates in excess of two hundred dollars (\$200.00) per month, it shall be deemed that the rental ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental property shall be subject to tax; provided that in case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds two hundred dollars (\$200.00) 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 farms, whether or not the gross income exceeds two hundred dollars (\$200.00) per month and provided further that the person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds two hundred dollars (\$200.00) per month.
- (3) The taxpayers subject to the provisions of this section, shall submit or cause to be submitted to the Village Clerk a list of names, social security numbers, employer's federal tax identification numbers and addresses of all persons, firms, corporations or other entities leasing, renting or otherwise occupying, for the purpose of conducting business, any premises within the Village of Shreve belonging to the taxpayer. The required list shall be prepared as of December 31 and submitted on or before January 31 of the subsequent year and/or such other times as may be specified by the Village Clerk.
- (4) Upon request of the Village Clerk, taxpayers subject to this provision shall submit or cause to be submitted to the Village Clerk a list of names and social security numbers of persons leasing, renting or otherwise occupying as a residence any premises within the Village belonging to the taxpayer within 15 days of such request.

(e) Consolidated Returns.

- (1) Filing of consolidated returns may be permitted or required in accordance with rules and regulations prescribed by the Village Clerk;
- (2) A husband and wife, in any taxable year, may elect to file separate or joint returns; and
- (3) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within the Village constituting a portion only of its total business, the Village Clerk shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to the Village. If the Village Clerk finds net profits are not properly allocated to the Village by reason of transactions with stockholders or with other cor-

porations related by stock ownership, interlocking directorates or transactions with such division, branch, factory, office, laboratory or activity or by some other method, he shall make such allocation as he deems appropriate to produce a fair and proper allocation of net profits to the Village.

- (4) Any business, profession or enterprise which conducts business within the Village and in the form of a partnership, limited liability company or S Corporation may elect to file and pay taxes due on the net profits of the business as defined in Article I-1. If the partnership, limited liability company or S Corporation elects not to file and pay taxes due as a single entity, each individual partner, owner, or S Corporation shareholder is required to file an income tax return and pay taxes due on their distributive share of the partnership, limited liability company or S Corporation net profits.
  - A. A partnership, limited liability company or S Corporation which elects not to pay taxes due as a single entity is required to report, by the normal or extended due date for the Shreve tax return, to the Village Clerk, the following information on a tax return: an allocation schedule according to the method described in division (b) of this section; the revenues and expenses to which the allocation should be applied in the same manner required for federal tax purposes; the distributive shares of net income for each partner in the same manner required for federal tax purposes.
  - B. A partnership which elects to file and pay taxes due as a single business entity and also allocates a portion of its net profits to areas outside of the Village is required to report, to the Village Clerk, the distributive share of net profits for each resident partner in the same manner required for federal income tax filing at the time of filing a tax return.
- (f) Exceptions. The tax provided for herein shall not be levied on the following:
  - (1) Pay or allowance of active members of the Armed Forces of the United States or the income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities;
  - (2) Poor relief, unemployment insurance benefits, old age pensions or similar payments including disability benefits received from local, State or Federal governments or charitable, religious or educational organizations;
  - (3) Proceeds of insurance paid by reason of death of the insured; pensions, disability benefits, annuities or gratuities not in the nature of compensation for services rendered from whatever source derived;
  - (4) Receipts from seasonal or casual entertainment, amusements, sports events and health and welfare activities which are conducted by bona fide charitable, religious or educational organizations and associations;
  - (5) Alimony received;
  - (6) Personal earnings of any natural person under eighteen years of age;
  - (7) Compensation for personal injuries or for damages to property by way of insurance or otherwise;
  - (8) Interest, dividends and other revenue from intangible property;
  - (9) Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations, items of income already taxed by the State from which the Village is specifically prohibited from taxing and income of a decedent's estate during the period of administration (except such income from the operation of a business);
  - (10) 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; and
  - (11) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the Constitution of the State or any act of the Ohio General Assembly limiting the power of the Village to impose net income taxes.
- (g) Expenses Related to Non-Taxable Income. When income is reported as non-taxable under this chapter in order to reconcile with the taxpayer's federal income tax return, all related expenses shall not be deductible when calculating Shreve taxable income. The minimum amount of expenses related to non-taxable income shall be the greater of (a) all interest expenses up to an amount equal to the amount of non-taxable income, but limited to 50 percent of interest expenses or, (b) 5 percent of non-taxable income, unless a taxpayer has no receipts from the sale of goods or services, in which case expenses related to non-taxable income shall be considered to be in the same ratio to total expenses as non-taxable income is to total income. (Note: Non-taxable income given capital gain treatment on the federal return, from which attributable expenses were already deducted, is not subject to the foregoing.)

## **Article II-4 ADMINISTRATION: DUTIES OF THE VILLAGE CLERK**

- (a) It shall be the duty of the Village Clerk 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 all moneys so received. All cashiers handling tax moneys shall be subject directly to the Village Clerk and shall give daily accounting to the Village Clerk.
- (b) It shall be the duty of the Village Clerk to enforce payment of all taxes owing the Village, to keep accurate records for a minimum of five 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.

The Village Clerk may apply payments first to any penalties and/or interest due and then to tax liabilities.

- (c) Such Village Clerk is hereby charged with the enforcement of the provisions of this chapter and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the collection of Village income taxes and the administration and enforcement of the provisions of this chapter, including provisions for the examination and correction of returns and payments.
- (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 Village Clerk may determine the amount of tax appearing to be due the Village 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 such Board, the Village Clerk shall have the power to compromise any interest or penalty, or both, imposed by this chapter.
- (f) The Income Tax Administrator shall be charged with the administration and operation of this chapter, under the direction of the Village Clerk. The Village Clerk shall prescribe the form and method of accounts and reports for such department, as well as the forms for taxpayers' 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 such receipt. The Village Clerk shall also make written report to Council annually of all moneys collected hereunder during the preceding year.

## **Article III. RETURN AND PAYMENT OF TAX**

- (a) Each taxpayer, except as herein provided, shall, whether or not a tax be due thereon, make and file a return on or before April 15, 1972, and on or before April 15 of each year thereafter thru 2001, 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, and such period or fiscal year ends on or before 11-30-01, the return shall be filed on or before the fifteenth day of the fourth month after the end of such fiscal year or period. For a fiscal year or period ending after 11-30-01, the return shall be filed on or before the end of the fourth month after the end of such fiscal year or period. The Village Clerk 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 Village Clerk shall be accepted as the return required of any employee whose sole income, subject to tax under this chapter, is such salary, wages, commissions or other compensation.
  - (1) Each taxpayer for the preceding year, that is no longer required to make or file a return thereafter, shall provide written notification of the valid reason for this change in filing status to the Village Clerk by the due date for a tax return of the following year.
- (b) The return shall be filed with the Village Clerk on a form or forms furnished by or obtainable upon request from such Village Clerk setting forth:
  - (1) The aggregate amount of salaries, wages, commissions and other compensation earned, and the gross income from a business, profession or other activity less allowable expenses incurred in the acquisition of such gross income. Such income shall include only income earned during the year, or portion thereof, covered by the return and subject to the tax imposed by this chapter;
  - (2) The amount of tax imposed by this chapter on income reported, any credits to which the taxpayer may be entitled under the provision of Article IV-1, Article V-1 and Section 4.
  - (3) Such other pertinent statements, information returns or other information as the Village Clerk may require.
- (c) Extension of Time. The Village Clerk may extend the time for filing of the annual return upon the request of the taxpayer for a period of not to exceed six months, or one month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the Federal Income Tax Return for fiscal years or periods ending on or before 11-30-01. For fiscal years or periods ending after 11-30-01, the time for filing the annual return cannot be extended more than six months, or until the end of the following month after the date requested of or granted by the Internal Revenue Service. Such extension may only be granted upon

receipt of application for extension on forms provided by the Village Clerk or a copy of the approved application for extension granted sent to the taxpayer by the Internal Revenue Service. Such extension must be received by the Village of Shreve on or before the due date for the tax period being extended~ Such extension must be accompanied by a declaration of estimated taxes for the ensuing tax year and payment estimated as provided in Article V-1. No penalty shall be assessed, on taxes due other than required estimated payments, in those cases in which the return is filed and the final tax paid within the period as extended unless such tax due exceeds the greater of(a) one-hundred dollars or ('b) 10% of the taxpayer's total tax liability for the tax period extended, but interest shall be assessed per Section 7(a).

(d) Payment of Tax.

- (1) The taxpayer making a return shall, at the time of filing thereof, pay to the Village Clerk the balance of tax due, if any after deducting:
  - A. The amount of Shreve income tax deducted or withheld at the source pursuant to Article IV-1;
  - B. Such portion of the tax as has been paid on declaration by the taxpayer pursuant to Article V-1; and
  - C. Any credit allowable under the provisions of Section 4.
- (2) Should the return, or the records of the Village Clerk indicate an overpayment of the tax to which the Village is entitled under the provisions of this chapter, such overpayment shall first be applied against any existing liability and the balance, if any, at the election of the taxpayer communicated to the Village Clerk, shall be refunded or transferred against any subsequent liability. Overpayment of less than one dollar and one cent (\$1.01) shall not be refunded.

(e) Amended Returns.

- (1) Where necessary, an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Article IV-2 and Section 4. Such amended returns shall be on a form obtainable on request from the Village Clerk. A taxpayer may not change the method of accounting, apportionment of net profits or the entity or individual responsible for the tax liability or benefiting from the loss carried forward after the due date for filing the original return.
- (2) Within three months from the final determination of any Federal tax liability affecting the taxpayer's Village income 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. No penalty or interest shall be assessed in those cases in which the amended Village return is filed timely.

(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, schedules and statements shall be deemed to be a violation of this chapter, punishable as provided in Section 8. The taxpayer shall have ten days after notification by the Village Clerk or his authorized representative, to file the items required by this subsection.

## **Article IV-1 COLLECTION AT SOURCE**

(a) Each employer within the Village, subject to exemptions set forth in division (A) of Section 718.03 of the Ohio Revised Code, who employs within the Village one or more persons on a salary, wage, commission or other compensation basis, excluding exempted incomes set forth in Article II-2 shall deduct, at the time of the payment of such salary, wage, commission or other compensation, the tax of one percent of of the following items:

- Salaries, wages, commissions or other compensation due by the employer to the employee.
- Deferred compensation, considered non qualified under the United State's Internal Revenue Service's laws, ordinances, regulations and rulings deemed paid under Article II-2 of this ordinance.
- Tips and gratuities received in the course of employment for the employer.

The employer shall, on or before the last day of the month following the close of the calendar quarter make a return and pay to the Village Clerk the amount of taxes so deducted, subject to the provisions of subsections (c) and (e) hereof. Returns shall be on a form prescribed by or acceptable to the Village Clerk and shall be subject to the rules and regulations prescribed therefore by the Village Clerk. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not taxes have in fact been withheld. The liability of an employer for taxes withheld on tips and gratuities shall be limited to the amount of compensation paid to the employee, net of income and employment taxes withheld, available to be withheld on this type of income.

- (b) Such employer in collecting the tax shall be deemed to hold the same, until payment is made by such employer to the Village, as a trustee for the benefit of the Village and any such tax collected by such employer from his employees shall, until the same is paid to the Village, be deemed a trust fund in the hands of such employer.

Owners, officers or other employer representatives shall be personally liable for the tax, interest and penalty, jointly and severally, for failure to withhold the tax from the employee's wages, file the employer's return or to pay the tax deducted and withheld from the employee's taxable income.

- (c) Such employer who deducts the tax of five hundred dollars (\$500.00) or more in the first or second month of a calendar quarter shall, on or before the last day of the following month, pay to the Village Clerk the amount of taxes so deducted.
- (d) Such employer who makes payments on a monthly basis for the first two months of a calendar quarter shall pay such tax deducted for the third month of a calendar quarter at the regular time for filing the employer's quarterly return of income tax withheld.
- (e) Payments shall be on a form furnished by or obtainable upon request from the Village Clerk, setting forth the amount of the tax deducted for the month.
- (f) No person shall be required to withhold the tax on wages or other compensation paid domestic servants employed by him exclusively in or about such person's residence, even though such residence is in the Village, but such employee shall be subject to all the requirements of this chapter.
- (g) Such employer who withholds a total of less than five hundred dollars (\$500.00) from all employees in any calendar year shall be required to pay to the Village Clerk the amount of taxes so withheld one time on or before the last day of January of the following year.
- (h) Such employer, on or before the last day of February of each year, shall be required to file a return to reconcile Shreve taxes withheld from employees to payments remitted of such tax withheld for the previous calendar year.
  - (1) Such return will show, for each employee who worked within the Village, the name, address, tax identification number, compensation received for services performed within Shreve and Shreve taxes withheld from such compensation in the previous calendar year.
  - (2) Such return, for each employer, will show the aggregate number of employees who performed services within the Village of Shreve for the employer, the aggregate amount of compensation paid to these employees for services performed within the Village, the aggregate amount of Shreve taxes withheld from such compensation and the amount of payments made to the Village from such amounts withheld.
  - (3) Such return shall be on a form prescribed by or acceptable to the Village Clerk.
  - (4) If employer has withheld Shreve income tax from compensation of Village residents for services performed outside the Village, such return will combine information with those employees who have performed services within the Village and shall provide aggregate information for these amounts shown separately from compensation and taxes withheld from employees for services rendered in the Village.
  - (5) Information returns, schedules and statements required to support the amounts provided on the return which are incomplete without such information shall be filed within the time limits set forth for the reconciliation of Shreve taxes withheld
  - (6) Failure to file the reconciliation of Shreve taxes withheld and/or the accompanying necessary returns, schedules and statements shall be deemed a violation of this chapter, punishable as provided in section 7 and section 8.

## **Article V-1 DECLARATIONS**

- (a) A declaration of estimated tax shall be filed by every taxpayer who may reasonably be expected to have taxable income, in excess of twenty thousand dollars (\$20,000), the tax on which is not or will not be withheld by an employer or employers. Where required such declaration shall be filed on or before the fifteenth day of the fourth month following the taxpayer's year end when such year end is on or before 11-30-01. When taxpayer's year end is after 11-30-01, such declaration shall be filed on or before the last day of the fourth month following the taxpayer's year end.
- (b) A taxpayer's final return for the preceding year may be used as the basis for computing his declaration of estimated tax for the current year, after taking into consideration known factors which might alter anticipated income. In the event a taxpayer has not previously been required to file an income tax return, a declaration of estimated tax on anticipated income is not required for the first taxable year or part of a year for which a return is required.

- (c) A declaration of estimated tax which is less than the lesser of (a) ninety percent of the tax as shown on the final return filed for the year in which the declaration covers or (b) 100% of the tax as shown on the previous year's final return, shall not be considered filed in good faith and shall be subject to the penalty and interest provisions in Section 7 of this chapter.
- (d) Such declaration shall be filed upon a form prescribed by the Village Clerk, which form may simply state that the figures used in making such declaration are the figures used in making the declaration of the estimate for the Federal income tax, provided that it is understood that such figures may be modified according to the provisions of this chapter so that the declaration required by this section shall set forth only such income as is taxable under the provisions of this chapter.
- (e) The declaration to be filed by dates set forth in Article V-1 (a) may be accompanied by payment of the full amount shown thereon, but shall be accompanied by payment of at least one-fourth of the estimated annual tax, and if the full amount was not paid with the declaration, at least one-fourth of the estimated annual tax shall be paid on or before the fifteenth day of the seventh, tenth and thirteenth months after the beginning of the taxable year. Any estimated payment due after 3-17-02, shall be paid on or before the last day of the fourth, seventh, tenth and thirteenth months after the beginning of the taxable year. Such estimate may be amended at the time of the making of any quarterly payment. On or before the dates set forth in Article III (a) of the year following that for which a declaration was filed, an annual return shall be filed and any balance which may be due the Village shall be paid therewith in accordance with, the provisions of Article III. Should it appear that such taxpayer has paid more than the amount of tax to which the Village is entitled, a refund of the amount so overpaid shall be made, 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 Village Clerk.

## **Article VI-2. COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENT**

- (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 a substantial portion 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. However, in those cases in which a Commissioner of Internal Revenue and the taxpayer have executed a waiver of the Federal statute of limitation, the period within which an additional assessment may be made by the Village Clerk 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 the time specified in Ohio R.C. 718.12.
- (c) Amounts of less than one dollar and one cent (\$1.01) shall not be collected or refunded.

### **Section 8. VIOLATIONS**

- (a) No person shall:
  - (1) Fail, neglect or refuse to make any return or declaration required by this chapter;
  - (2) Make any incomplete, false or fraudulent return;
  - (3) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter;
  - (4) Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Village Clerk;
  - (5) Refuse to permit the Village Clerk or any duly authorized agent or employee to examine his books records, papers and Federal income tax returns relating to the income or net profits of a taxpayer;
  - (6) Fail to appear before the Village Clerk and to produce his books, records, papers or Federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Village Clerk;
  - (7) Refuse to disclose to the Village Clerk any information with respect to the income or net profits of a taxpayer;
  - (8) Fail to comply with the provisions of this chapter or any order or subpoena of the Village Clerk authorized hereby;
  - (9) Give to an employer false information as to his true name, correct social security number and residence address, or fail to promptly notify an employer of any change in residence address and date thereof;
  - (10) Fail to use ordinary diligence in maintaining proper records of employee's residence addresses, total wages paid and Village tax withheld or to knowingly give the Village Clerk false information; or
  - (11) Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter.
- (b) The term "person" as used in this section shall, in addition to the meaning prescribed in Article I, include in the case of an association or corporation not having any partner, member or officer within the Village, any employee or agent of such association or corporation who can be found within the corporate limits of the Village.

- (c) All prosecutions under this section must be commenced within the time prescribed in Ohio R.C. 718.12.
- (d) The failure of any employer 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.

## **Section 6. INVESTIGATIVE POWERS OF THE VILLAGE CLERK**

- (a) The Village Clerk or a 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, for the purpose of verifying the accuracy of any employer or of any taxpayer or person subject to the tax, for the purpose of verifying the accuracy of any return made, or, if the return was not made, to ascertain the tax due. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish to the Village Clerk or a duly authorized agent or employee, the means, facilities and opportunity for making such examination and investigations as are hereby authorized.

Upon written request of the Village Clerk or a duly authorized employee, taxpayers who contract with individuals and are required to report such transactions to the federal government on Form 1099 or similar report shall provide the Village with a copy of each Form 1099 or similar report no later than 60 days from the date of the request.

- (b) The Village Clerk or a 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, papers and records and the attendance of all persons before the Village Clerk, whether as parties or witnesses, whenever the Village Clerk believes such persons have knowledge of such income.
- (c) The refusal of such examination by an employer, employee or person subject or presumed to be subject to the tax shall be deemed a violation of this chapter.
- (d) Tax returns and all audit papers and information connected therewith are confidential and shall be carefully preserved so that they shall not be available for inspection by anyone other than the proper agents of the Village for official purposes.
- (e) Any information gained as the result of the filing of any tax returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential, except for official purposes and except in accordance with proper judicial order. No person shall divulge such information.

## **Section 7. INTEREST AND PENALTIES**

- (a) Interest. Except as provided in subsection (c) hereof, 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 have become due shall bear interest, in addition to the amount of the unpaid tax or withholdings at the rate of one-half of one percent per month or fraction thereof.
- (b) Penalties. In addition to interest as provided in subsection (a) hereof, penalties based on the unpaid tax or failure to file a return, provide required written notification or information in a timely manner are hereby imposed as follows:
  - (1) For failure to pay taxes due, other than taxes withheld: one percent per month or fraction thereof.
  - (2) Underestimating income tax. This is a charge for underpaying the tax when the amount actually paid on the estimated liability is less than 90% of the amount of the actual final liability as shown on the final income tax return. Such penalty is figured separately for each installment as follows:
    - A. The amount of the minimum required estimated payments for the year is calculated as the lower of (1) 90% of the fiscal period's total tax liability) or (2) 100% of the previous fiscal period's total tax liability. This minimum required estimated payments for the year is then divided by four. Such amounts represent the quarterly installments that should have been made.
    - B. Each installment actually made is subtracted from the amount calculated in subparagraph A.  
Installments actually made shall include:
      - 1. Shreve income tax withheld from a taxpayer's compensation, by the taxpayer's employer, calculated as four equal installments made on the due date for each quarterly installment.
      - 2. Credits given to taxpayer for taxes paid to other cities calculated as four equal installments made on the due date for each quarterly installment.
      - 3. All other income tax payments, other than payment of penalty or interest assessed, made to the Village of Shreve, by the taxpayer or on the taxpayer's behalf

C. The difference is the amount upon which the penalty is applied. The penalty provisions for underestimating income tax are applied to taxpayers who are required to file a declaration of estimated tax as provided in Article V-1.

- (3) For failure to remit taxes withheld from employees: three percent per month or fraction thereof.
- (4) There shall be a minimum penalty of 5% of amounts due for a taxpayer's income tax liability (not including remittance of Shreve taxes withheld from employees) or estimated taxes due per installment.
- (5) There shall be a minimum penalty of \$25.00 per installment for late remittance of taxes withheld or required to be withheld.
  - A. Penalty and interest levied shall not exceed the amount of taxes due if such amount is paid within one year of the due date.
- (6) For failure to file a required return, provide required written notification or provide required information as set forth in this chapter, when there are no taxes due, \$25.00 for each full calendar year passed from the original due date for such return, notification or information. Any such penalty paid shall be considered a reduction of any fine imposed under section 7(b).

#### Section 7. PENALTY.

- (a) Whoever violates any of the provisions of Section 8 shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months, or both. Each disclosure shall constitute a separate offense. In addition to the above penalty, any appointed official or employee of the Village who violates this section relative to disclosures of confidential information shall be immediately dismissed from the service of the Village.

The Village Clerk is hereby authorized to enter into agreements with the United States Commissioner and/or District Director of the Internal Revenue Service, the State of Ohio Tax Commissioner, and the administrators of other local taxing authorities to provide the disclosure and exchange of returns and return information under the jurisdiction of such official for the purposes of collecting the city income tax. The Village Clerk is also authorized to pay the cost of services, materials or information supplied.

- (b) Whoever violates any of the provisions of Section 8 shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months, or both, for each offense.
- (c) Exceptions.
  - (1) No penalty shall be assessed on additional taxes found on an audit to be due when a return was timely filed in good faith and the tax paid thereon within the prescribed time.
  - (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 is paid within three months after final determination of the Federal tax liability.
  - (5) A taxpayer or employer shall have thirty days after receipt of notice of any proposed imposition of interest and penalties within which to file a written protest or explanation with the Village Clerk. If no protest or explanation is filed within the prescribed time, the proposed imposition of interest and penalties shall become and be the final assessment.
  - (4) No interest or penalty shall be assessed on any amounts due that are involved in the administration of an estate.
- (d) Abatement of Interest and Penalty. The Village Clerk with the approval of the Board of Review may abate penalty or interest, or both, or upon an appeal from the referral of the Village Clerk to recommend abatement of penalty and interest, the Board may nevertheless abate penalty or interest, or both. For the purpose of cost efficiency, the Village Clerk may abate penalty and interest for any income tax year where the sum of all penalties and interest assessed do not exceed ten dollars or a lesser amount to be consistently applied for any tax year for all tax filers.

#### Section 10. BOARD OF REVIEW

- (a) A Board of Review, consisting of three members to be appointed by the Mayor with the approval of Council, is hereby created. No member shall be appointed to the Board of Review who holds other public office or appointment. A majority of the members of the Board shall constitute a quorum. The Board shall elect its own chairman, adopt its own procedural rules and elect or designate a secretary who shall keep a record of its transactions.
- (b) Any hearing by the Board of Review may be conducted privately and shall be conducted privately upon the request of the taxpayer being heard. The provisions of Section 6(e) with regard to the confidential character of the information disclosed at the hearing and the penalties for unauthorized divulgence of such confidential information shall apply to such matters as are heard privately before the Board of Review on appeal or otherwise.
- (c) All rules and regulations and amendments or changes thereto, which are adopted by the Village Clerk under the authority conferred by this chapter, must be approved by the Board of Review before the same become effective. The Board shall hear and pass on appeals from any ruling or decision of the Village Clerk is empowered to substitute alternate methods of allocation.

- (d) Any person dissatisfied with any ruling or decision of the Village Clerk, which is made under the authority conferred by this chapter, may appeal there from to the Board of Review within thirty days from the announcement of such ruling or decision by the jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof.
- (e) Any person dissatisfied with any ruling or decision of the Board of Review may appeal there from to a court of competent jurisdiction within thirty days from the announcement of such ruling or decision.
- (f) The terms of office of the members of the Board of Review, as hereinbefore created, shall be for a period of three years respectively. When the first Board is appointed, one member shall be appointed for one year, one member for two years and one member for three years. An appointment to fill a vacancy shall be only for the unexpired term and shall be made in the same manner as the original appointment. Members of the Board of Review shall be eligible for reappointment.
- (g) The Board of Review shall meet for hearings at regularly scheduled time on a yearly basis unless there are no hearings scheduled as of ten days before the date of the yearly meeting.

Section 9. 14 ALLOCATION OF FUNDS.

The funds collected under the provisions of this chapter shall be disbursed in the following manner:

- (a) First, such part thereof shall be necessary to defray all expenses of collecting the tax and of administering and enforcing the provisions of this chapter shall be paid.
- (b) The balance remaining after payment of the expenses referred to in subsection (a) above shall be deposited in the General Fund for Municipal purposes.

Section 4. CREDIT - TAX PAID OTHER CITY.

- (a) It is the intent of this section that a taxpayer, subject to tax in more than one municipality on the same income, who has complied with the provisions hereof shall not be required by this chapter to pay a total municipal income tax on such income greater than the tax imposed at the higher rate.
- (b) Therefore, when a resident of the Village is subject to and has paid or has acknowledged liability for a municipal income tax in another municipality on the same income taxable under this chapter, and such other municipality does not allow a credit to its non-residents, such Village resident may claim a credit of the amount of such tax paid to such other municipality, but not in excess of the tax assessed by this chapter.

Section 16. SEVERABILITY; CONFLICT OF LAWS

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 Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

Section 17. COLLECTION OF TAX AFTER TERMINATION OF CHAPTER

- (a) This chapter shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as 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, it shall continue effective until all of such taxes levied in the aforesaid period 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 Article IV-2 and Section 8.
- (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 Article III and Article IV-1 as though the same were continuing.