

ORDINANCE NO. 38 - 2023

AN ORDINANCE AMENDING PART ONE, CHAPTER 181, SECTIONS 181.062, 181.091, AND 181.10 OF THE CODIFIED ORDINANCES OF THE VILLAGE OF MADISON, 2015, AS AMENDED, TO REVISE THE MUNICIPAL INCOME TAX CODE IN ACCORDANCE WITH AMENDMENTS TO CHAPTER 718 OF THE OHIO REVISED CODE, AND DECLARING AN EMERGENCY.

WHEREAS, Amend. Sub. H.B. 33 of the 135th General Assembly enacted various revisions to Chapter 718 of the Ohio Revised Code, which Chapter governs the imposition, collection, and related regulations for municipal income taxes; and

WHEREAS, the Village previously enacted Chapter 181 of the Codified Ordinances related to municipal income taxes; and

WHEREAS, because the Village is required to harmonize its Code with State law, the Council now desires to enact amendments to §§ 181.062, 181.091, and 181.10 which relate to qualifying remote employees and owners, the filing of annual returns, and penalties for late filing.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF MADISON, COUNTY OF LAKE, STATE OF OHIO:

SECTION 1. That Part One, Chapter 181, §§ 181.062, 181.091, and 181.10 of the Codified Ordinances of the Village of Madison, 2015, as amended, be and the same are hereby amended as collectively shown in Exhibit "A," which is attached hereto and incorporated herein by this reference as if fully re-written, wherein the amendments to the current text are shown as being stricken (to wit: ~~abcd~~) wherever such words are hereby removed from said Codes, replacement and/or new text hereby added to said Codes shown as underlined text (to wit: abcd), and all current text which is to remain unchanged shown as retaining its existing font and format.

SECTION 2. That publication of this Ordinance shall occur in book form containing the certification of the President of Council and Fiscal Officer of its correctness.

SECTION 3. That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that, except as otherwise provided by § 121.22 of the Ohio Revised Code, all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

SECTION 4. That this Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, welfare and safety of the inhabitants of this Village, and for the further reason to immediately address amendments to State law which took operative effect on October 3, 2023 and for which the Village is legally obligated to bring its Code of Ordinances into compliance; WHEREFORE, this Ordinance shall take effect and be in force from and immediately upon its passage.

PASSED:



Mark V. Vest,
President of Council

1st Reading:

November 13, 2023

Attested:



Kristie M. Crockett, Fiscal Officer / Clerk of Council

Approved:

Date:

11/13/2023



Sam Britton, Jr., Mayor

ORDINANCE NO. 38 - 2023
Exhibit "A"

181.062 NET PROFIT; INCOME SUBJECT TO NET PROFIT TAX; ALTERNATIVE APPORTIONMENT.

This section applies to any taxpayer engaged in a business or profession in the Village unless the taxpayer is an individual who resides in the Village or the taxpayer is an electric company, combined company, or telephone company that is subject to and required to file reports under Chapter 5745 of the Ohio Revised Code.

(A) Except as otherwise provided in divisions (B) and (I) of this section, net profit from a business or profession conducted both within and without the boundaries of the Village shall be considered as having a taxable situs in the Village for purposes of municipal income taxation in the same proportion as the average ratio of the following:

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

As used in the preceding paragraph, tangible personal or 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 individuals employed in the business or profession for services performed in the Village to wages, salaries, and other compensation paid during the same period to individuals employed in the business or profession, wherever the individual's services are performed, excluding compensation from which taxes are not-required to be withheld under § 181.052 of this Chapter;

(3) Total gross receipts of the business or profession from sales and rentals made and services performed during the taxable period in the Village to total gross receipts of the business or profession during the same period from sales, rentals, and services, wherever made or performed.

(B) (1) If the apportionment factors described in division (A) of this section do not fairly represent the extent of a taxpayer's business activity in the Village, the taxpayer may request, or the Tax Administrator may require, that the taxpayer use, with respect to all or any portion of the income of the taxpayer, an alternative apportionment method involving one or more of the following:

(a) Separate accounting;

(b) The exclusion of one or more of the factors;

(c) The inclusion of one or more additional factors that would provide for a more fair apportionment of the income of the taxpayer to the Village;

(d) A modification of one or more of the factors.

(2) A taxpayer request to use an alternative apportionment method shall be in writing and shall accompany a tax return, timely filed appeal of an assessment, or timely filed amended tax return. The taxpayer may use the requested alternative method unless the Tax Administrator denies the request in an assessment issued within the period prescribed by division (A) of § 181.19 of this Chapter.

(3) The Tax Administrator may require a taxpayer to use an alternative apportionment method as described in division (B)(1) of this section only by issuing an assessment to the taxpayer within the period prescribed by division (A) of § 181.19 of this Chapter.

(4) Nothing in division (B) of this section nullifies or otherwise affects any alternative apportionment arrangement approved by the Tax Administrator or otherwise agreed upon by both the Tax Administrator and taxpayer before January 1, 2016.

(C) As used in division (A)(2) of this section, "wages, salaries, and other compensation" includes only wages, salaries, or other compensation paid to an employee for services performed at any of the following locations:

(1) A location that is owned, controlled, or used by, rented to, or under the possession of one of the following:

(a) The employer;

(b) A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient;

(c) A vendor, customer, client, or patient of a person described in division (C)(1)(b) of this section, or a related member of such a vendor, customer, client, or patient.

(2) Any location at which a trial, appeal, hearing, investigation, inquiry, review, court-martial, or similar administrative, judicial, or legislative matter or proceeding is being conducted, provided that the compensation is paid for services performed for, or on behalf of, the employer or that the employee's presence at the location directly or indirectly benefits the employer;

(3) Any other location, if the Tax Administrator determines that the employer directed the employee to perform the services at the other location in lieu of a location described in division (C)(1) or (2) of this section solely in order to avoid or reduce the employer's municipal income tax liability. If the Tax Administrator makes such a determination, the employer may dispute the determination by establishing, by a preponderance of the evidence, that the Tax Administrator's determination was unreasonable.

(D) For the purposes of division (A)(3) of this section, and except as provided in division (I) of this section. receipts from sales and rentals made and services performed shall be situated to a municipal corporation as follows:

(1) Gross receipts from the sale of tangible personal property shall be situated to the municipal corporation in which the sale originated. For the purposes of this division, a sale of property originates in a municipal corporation if, regardless of where title passes, the property meets any of the following criteria:

(a) The property is shipped to or delivered within the municipal corporation from a stock of goods located within the municipal corporation.

(b) The property is delivered within the municipal corporation from a location outside the municipal corporation, provided the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such municipal corporation and the sales result from such solicitation or promotion.

(c) The property is shipped from a place within the municipal corporation to purchasers outside the municipal corporation, provided that the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

(2) Gross receipts from the sale of services shall be situated to the municipal corporation to the extent that such services are performed in the municipal corporation.

(3) To the extent included in income, gross receipts from the sale of real property located in the municipal corporation shall be situated to the municipal corporation.

(4) To the extent included in income, gross receipts from rents and royalties from real property located in the municipal corporation shall be situated to the municipal corporation.

(5) Gross receipts from rents and royalties from tangible personal property shall be situated to the municipal corporation based upon the extent to which the tangible personal property is used in the municipal corporation.

(E) The net profit received by an individual taxpayer from the rental of real estate owned directly by the individual or by a disregarded entity owned by the individual shall be subject to tax only by the municipal corporation in which the property generating the net profit is located and the municipal corporation in which the individual taxpayer that receives the net profit resides.

Such taxpayers are allowed to elect to use separate accounting for the purpose of calculating net profit situated under this division to the municipal corporation in which the property is located.

(F) (1) Except as provided in division (F)(2) of this section, commissions received by a real estate agent or broker relating to the sale, purchase, or lease of real estate shall be situated to the municipal corporation in which the real estate is located. Net profit reported by the real estate agent or broker shall be allocated to a municipal corporation based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease of real estate located in the municipal corporation to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.

(2) An individual who is a resident of the Village shall report the individual's net profit from all real estate activity on the individual's annual tax return for the Village. The individual may claim a credit for taxes the individual paid on such net profit to another municipal corporation only to the extent that such credit is allowed under § 181.081 of this Chapter.

(G) If, in computing a taxpayer's adjusted federal taxable income, the taxpayer deducted any amount with respect to a stock option granted to an employee, and if the employee is not required to include in the employee's income any such amount or a portion thereof because it is exempted from taxation under divisions (11)(L) and (34)(A)(iv) of § 181.03 of this Chapter, by a

municipal corporation to which the taxpayer has apportioned a portion of its net profit, the taxpayer shall add the amount that is exempt from taxation to the taxpayer's net profit that was apportioned to that municipal corporation. In no case shall a taxpayer be required to add to its net profit that was apportioned to that municipal corporation any amount other than the amount upon which the employee would be required to pay tax were the amount related to the stock option not exempted from taxation.

This division applies solely for the purpose of making an adjustment to the amount of a taxpayer's net profit that was apportioned to a municipal corporation under this section.

(H) When calculating the ratios described in division (A) of this section for the purposes of that division or division (B) of this section, the owner of a disregarded entity shall include in the owner's ratios the property, payroll, and gross receipts of such disregarded entity.

(I) (1) As used in this division:

(a) "Qualifying remote employee or owner" means an individual who is an employee of a taxpayer or who is a partner or member holding an ownership interest in a taxpayer that is treated as a partnership for federal income tax purposes, provided that the individual meets both of the following criteria:

(i) The taxpayer has assigned the individual to a qualifying reporting location.

(ii) The individual is permitted or required to perform services for the taxpayer at a qualifying remote work location.

(b) "Qualifying remote work location" means a permanent or temporary location at which an employee or owner chooses or is required to perform services for the taxpayer, other than a reporting location of the taxpayer or any other location owned or controlled by a customer or client of the taxpayer. "Qualifying remote work location" may include the residence of an employee or owner and may be located outside of a municipal corporation that imposes an income tax in accordance with this chapter. An employee or owner may have more than one qualifying remote work location during a taxable year.

(c) "Reporting location" means either of the following:

(i) A permanent or temporary place of doing business, such as an office, warehouse, storefront, construction site, or similar location, that is owned or controlled directly or indirectly by the taxpayer;

(ii) Any location in this state owned or controlled by a customer or client of the taxpayer, provided that the taxpayer is required to withhold taxes under this Chapter 181, on qualifying wages paid to an employee for the performance of personal services at that location.

(d) "Qualifying reporting location" means one of the following:

(i) The reporting location in this state at which an employee or owner performs services for the taxpayer on a regular or periodic basis during the taxable year;

(ii) If no reporting location exists in this state for an employee or owner under division (I)(1)(d)(i) of this section, the reporting location in this state at which the employee's or owner's supervisor regularly or periodically reports during the taxable year;

(iii) If no reporting location exists in this state for an employee or owner under division (I)(1)(d)(i) or (ii) of this section, the location that the taxpayer otherwise assigns as the employee's or owner's qualifying reporting location, provided the assignment is made in good faith and is recorded and maintained in the taxpayer's business records. A taxpayer may change the qualifying reporting location designated for an employee or owner under this division at any time.

(2) For tax years ending on or after December 31, 2023, a taxpayer may elect to apply the provisions of this division to the apportionment of its net profit from a business or

profession. For taxpayers that make this election, the provisions of division (A) of this section apply to such apportionment except as otherwise provided in this division.

A taxpayer shall make the election allowed under this division in writing on or with the taxpayer's net profit return or, if applicable, a timely filed amended net profit return or a timely filed appeal of an assessment. The election applies to the taxable year for which that return or appeal is filed and for all subsequent taxable years, until the taxpayer revokes the election.

The taxpayer shall make the initial election with the tax administrator of each municipal corporation with which, after applying the apportionment provisions authorized in this division, the taxpayer is required to file a net profit tax return for that taxable year. A taxpayer shall not be required to notify the tax administrator of a municipal corporation in which a qualifying remote employee's or owner's qualifying remote work location is located, unless the taxpayer is otherwise required to file a net profit return with that municipal corporation due to business operations that are unrelated to the employee's or owner's activity at the qualifying remote work location.

After the taxpayer makes the initial election, the election applies to every municipal corporation in which the taxpayer conducts business. The taxpayer shall not be required to file a net profit return with a municipal corporation solely because a qualifying remote employee's or owner's qualifying remote work location is located in such municipal corporation.

Nothing in this division prohibits a taxpayer from making a new election under this division after properly revoking a prior election.

(3) For the purpose of calculating the ratios described in division (A) of this section, all of the following apply to a taxpayer that has made the election described in division (I)(2):

(a) For the purpose of division (A)(1) of this section, the average original cost of any tangible personal property used by a qualifying remote employee or owner at that individual's qualifying remote work location shall be situated to that individual's qualifying reporting location.

(b) For the purpose of division (A)(2) of this section, any wages, salaries, and other compensation paid during the taxable period to a qualifying remote employee or owner for services performed at that individual's qualifying remote work location shall be situated to that individual's qualifying reporting location.

(c) For the purpose of division (A)(3) of this section, and notwithstanding division (D) of this section, any gross receipts of the business or profession from services performed during the taxable period by a qualifying remote employee or owner for services performed at that individual's qualifying remote work location shall be situated to that individual's qualifying reporting location.

(4) Nothing in this division prevents a taxpayer from requesting, or a tax administrator from requiring, that the taxpayer use, with respect to all or a portion of the income of the taxpayer, an alternative apportionment method as described in division (B) of this section. However, a tax administrator shall not require an alternative apportionment method in such a manner that it would require a taxpayer to file a net profit return with a municipal corporation solely because a qualifying remote employee's or owner's qualifying remote work location is located in that municipal corporation.

(5) Except as otherwise provided in this division, nothing in this division is intended to affect the withholding of taxes on qualifying wages pursuant to this Chapter 181.

(R.C. §§ 718.02; 718.021).

181.091 RETURN AND PAYMENT OF TAX.

- (A) (1) An annual return with respect to the income tax levied by the Village shall be completed and filed by every taxpayer for any taxable year for which the taxpayer is subject to the tax, regardless of whether or not income tax is due.
- (2) The Tax Administrator shall accept on behalf of all nonresident individual taxpayers a return filed by an employer, agent of an employer, or other payer located in the Village under § 181.051(C) of this Chapter when the nonresident individual taxpayer's sole income subject to the tax is the qualifying wages reported by the employer, agent of an employer, or other payer, and no additional tax is due to the Village.
- (3) All resident individual taxpayers, eighteen years of age and older, shall file an annual municipal income tax return with the Village, regardless of income or liability.
- (B) If an individual is deceased, any return or notice required of that individual shall be completed and filed by that decedent's executor, administrator, or other person charged with the property of that decedent.
- (C) If an individual is unable to complete and file a return or notice required by the Village in accordance with this Chapter, the return or notice required of that individual shall be completed and filed by the individual's duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual. Such duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual shall provide, with the filing of the return, appropriate documentation to support that they are authorized to file a return or notice on behalf of the taxpayer. This notice shall include any legally binding authorizations, and contact information including name, address, and phone number of the duly authorized agent, guardian, conservator, fiduciary, or other person.
- (D) Returns or notices required of an estate or a trust shall be completed and filed by the fiduciary of the estate or trust. Such fiduciary shall provide, with the filing of the return, appropriate documentation to support that they are authorized to file a return or notice on behalf of the taxpayer. This notice shall include any legally binding authorizations, and contact information including name, address, and phone number of the fiduciary.
- (E) Spouses may file a joint return.
- (F) (1) Each return required to be filed under this section shall contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer, and shall include the taxpayer's social security number or taxpayer identification number. Each return shall be verified by a declaration under penalty of perjury.
- (2) A taxpayer who is an individual is required to include, with each annual return, amended return, or request for refund required under this section, copies of the following documents: all of the taxpayer's Internal Revenue Service form W-2, "Wage and Tax Statements," including all information reported on the taxpayer's federal W-2, as well as taxable wages reported or withheld for any municipal corporation; the taxpayer's Internal Revenue Service form 1040 or, in the case of a return or request required by a qualified municipal corporation, Ohio IT 1040; and, with respect to an amended tax return or

refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return. An individual taxpayer who files the annual return required by this section electronically is not required to provide paper copies of any of the foregoing to the Tax Administrator unless the Tax Administrator requests such copies after the return has been filed.

(3) A taxpayer that is not an individual is required to include, with each annual net profit return, amended net profit return, or request for refund required under this section, copies of the following documents: the taxpayer's Internal Revenue Service form 1041, form 1065, form 1120, form 1120-REIT, form 1120F, or form 1120S, and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return.

A taxpayer that is not an individual and that files an annual net profit return electronically through the Ohio business gateway or in some other manner shall either mail the documents required under this division to the Tax Administrator at the time of filing or, if electronic submission is available, submit the documents electronically through the Ohio Business Gateway. The department of taxation shall transmit, pursuant to § 718.05(F)(3) of the Ohio Revised Code, all documents submitted electronically under this division to the Tax Administrator.

(4) After a taxpayer files a tax return, the Tax Administrator may request, and the taxpayer shall provide, any information, statements, or documents required by the Village to determine and verify the taxpayer's municipal income tax liability. The requirements imposed under division (F) of this section apply regardless of whether the taxpayer files on a generic form or on a form prescribed by the Tax Administrator.

(5) Any other documentation, including schedules, other municipal income tax returns, or other supporting documentation necessary to verify credits, income, losses, or other pertinent factors on the return shall also be included to avoid delay in processing, or disallowance by the Tax Administrator of undocumented credits or losses.

(G) (1) (a) Except as otherwise provided in this Chapter, each return required to be filed under this section shall be completed and filed as required by the Tax Administrator on or before the date prescribed for the filing of state individual income tax returns under division (G) of § 5747.08 of the Ohio Revised Code. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the Village or Tax Administrator. No remittance is required if the amount shown to be due is ten dollars or less.

(b) Except as otherwise provided in this Chapter, each annual net profit income tax return required to be filed under this section by a taxpayer that is not an individual shall be completed and filed as required by the Tax Administrator on or before the fifteenth day of the fourth month following the end of the taxpayer's taxable year or period. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the Village or Tax Administrator.

(c) In the case of individual income tax return required to be filed by an individual, and net profit income tax return required to be filed by a taxpayer who is not an

individual, no remittance is required if the amount shown to be due is ten dollars or less.

(2) Any taxpayer that has duly requested an automatic six-month extension for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return for a taxpayer that is an individual shall be the fifteenth day of the tenth month after the last day of the taxable year to which the return relates. For tax years ending on or after January 1, 2023, the extended due date of the Village's income tax return for a taxpayer that is not an individual shall be the 15th day of the eleventh month after the last day of the taxable year to which the return relates. An extension of time to file under this division is not an extension of the time to pay any tax due unless the Tax Administrator grants an extension of that date.

(3) If the tax commissioner extends for all taxpayers the date for filing state income tax returns under division (G) of § 5747.08 of the Ohio Revised Code, a taxpayer shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the same as the extended due date of the state income tax return.

(4) If the tax administrator considers it necessary in order to ensure the payment of the tax imposed by the Village in accordance with this Chapter, the Tax Administrator may require taxpayers to file returns and make payments otherwise than as provided in this section, including taxpayers not otherwise required to file annual returns.

(5) If a taxpayer receives an extension for the filing of a municipal income tax return under division (G)(2), (3), or (4) of this section, the tax administrator shall not make any inquiry or send any notice to the taxpayer with regard to the return on or before the date the taxpayer files the return or on or before the extended due date to file the return, whichever occurs first.

If a tax administrator violates division (G)(5) of this section, the municipal corporation shall reimburse the taxpayer for any reasonable costs incurred to respond to such inquiry or notice, up to \$150.

Division (G)(5) of this section does not apply to an extension received under division (G)(2) of this section if the tax administrator has actual knowledge that the taxpayer failed to file for a federal extension as required to receive the extension under division (G)(2) of this section or failed to file for an extension under division (G)(2) of this section.

~~(5)~~ (6) To the extent that any provision in this division conflicts with any provision in § 181.092 of this Chapter, the provision in § 181.092 of this Chapter prevails.

(H) (1) For taxable years beginning after 2015, the Village does not require a taxpayer to remit tax with respect to net profits if the amount due is less than ten dollars.

(2) Any taxpayer not required to remit tax to the Village for a taxable year pursuant to division (H)(1) of this section shall file with the Village an annual net profit return under division (F)(3) and (4) of this section.

(I) (1) If any report, claim, statement, or other document required to be filed, or any payment required to be made, within a prescribed period or on or before a prescribed date under this Chapter is delivered after that period or that date by United States mail to the Tax Administrator or other municipal official with which the report, claim, statement, or other document is required to be filed, or to which the payment is required to be made, the date of the postmark stamped on the cover in which the report, claim, statement, or other document, or payment is mailed shall be deemed to be the date of delivery or the date of payment. "The date of postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.

(2) If a payment under this chapter is made by electronic funds transfer, the payment shall be considered to be made on the date of the timestamp assigned by the first electronic system receiving that payment.

(J) The amounts withheld for the Village by an employer, the agent of an employer, or an other payer as described in § 181.051 of this Chapter shall be allowed to the recipient of the compensation as credits against payment of the tax imposed on the recipient by the Village, unless the amounts withheld were not remitted to the Village and the recipient colluded with the employer, agent, or other payer in connection with the failure to remit the amounts withheld.

(K) Each return required by the Village to be filed in accordance with this section shall include a box that the taxpayer may check to authorize another person, including a tax return preparer who prepared the return, to communicate with the Tax Administrator about matters pertaining to the return. The return or instructions accompanying the return shall indicate that by checking the box the taxpayer authorizes the Tax Administrator to contact the preparer or other person concerning questions that arise during the examination or other review of the return and authorizes the preparer or other person only to provide the Tax Administrator with information that is missing from the return, to contact the Tax Administrator for information about the examination or other review of the return or the status of the taxpayer's refund or payments, and to respond to notices about mathematical errors, offsets, or return preparation that the taxpayer has received from the Tax Administrator and has shown to the preparer or other person. Authorization by the taxpayer of another person to communicate with the Tax Administrator about matters pertaining to the return does not preclude the Tax Administrator from contacting the taxpayer regarding such matters.

(L) The Tax Administrator of the Village shall accept for filing a generic form of any income tax return, report, or document required by the Village in accordance with this Chapter, provided that the generic form, once completed and filed, contains all of the information required by ordinances, resolutions, or rules adopted by the Village or Tax Administrator, and provided that the taxpayer or tax return preparer filing the generic form otherwise complies with the provisions of this Chapter and of the Village's ordinance or resolution governing the filing of returns, reports, or documents.

(M) When income tax returns, reports, or other documents require the signature of a tax return preparer, the Tax Administrator shall accept a facsimile of such a signature in lieu of a manual signature.

(N) (1) As used in this division, "worksite location" has the same meaning as in section 181.052 of this Chapter.

(2) A person may notify the Tax Administrator that the person does not expect to be a taxpayer with respect to the Village for a taxable year if both of the following conditions apply:

(a) The person was required to file a tax return with the Village for the immediately preceding taxable year because the person performed services at a worksite location within the Village, and the person has filed all appropriate and required returns and remitted all applicable income tax and withholding payments as provided by this Chapter. The Tax Administrator is not required to accept an affidavit from a taxpayer who has not complied with the provisions of this Chapter.

(b) The person no longer provides services in the Village, and does not expect to be subject to the Village's income tax for the taxable year.

The person shall provide the notice in a signed affidavit that briefly explains the person's circumstances, including the location of the previous worksite location and the last date on which the person performed services or made any sales within the Village. The affidavit also shall include the following statement: "The affiant has no plans to perform any services within the municipal corporation, make any sales in the municipal corporation, or otherwise become subject to the tax levied by the municipal corporation during the taxable year. If the affiant does become subject to the tax levied by the municipal corporation for the taxable year, the affiant agrees to be considered a taxpayer and to properly register as a taxpayer with the municipal corporation, if such a registration is required by the municipal corporation's resolutions, ordinances, or rules." The person shall sign the affidavit under penalty of perjury.

(c) If a person submits an affidavit described in division (N)(2) of this section, the Tax Administrator shall not require the person to file any tax return for the taxable year unless the Tax Administrator possesses information that conflicts with the affidavit or if the circumstances described in the affidavit change, or the taxpayer has engaged in activity which results in work being performed, services provided, sales made, or other activity that results in municipal taxable income reportable to the Village in the taxable year. It shall be the responsibility of the taxpayer to comply with the provisions of this Chapter relating to the reporting and filing of municipal taxable income on an annual municipal income tax return, even if an affidavit has been filed with the Tax Administrator for the taxable year. Nothing in division (N) of this section prohibits the Tax Administrator from performing an audit of the person.

(R.C. § 718.05).

181.10 PENALTY, INTEREST, FEES, AND CHARGES.

(A) As used in this section:

(1) "Applicable law" means this Chapter, the resolutions, ordinances, codes, directives, instructions, and rules adopted by the Village provided such resolutions, ordinances, codes, directives, instructions, and rules impose or directly or indirectly address the levy, payment, remittance, or filing requirements of a municipal income tax.

(2) "Federal short-term rate" means the rate of the average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of three years or less, as determined under § 1274 of the Internal Revenue Code, for July of the current year.

(3) "Income tax," "estimated income tax," and "withholding tax" means any income tax, estimated income tax, and withholding tax imposed by a municipal corporation pursuant to applicable law, including at any time before January 1, 2016.

(4) "Interest rate as described in division (A) of this section" means the federal short-term rate, rounded to the nearest whole number per cent, plus five per cent. The rate shall apply for the calendar year next following the July of the year in which the federal short-term rate is determined in accordance with division (A)(2) of this section.

(5) A "return" includes any tax return, report, reconciliation, schedule, and other document required to be filed with a Tax Administrator or municipal corporation by a taxpayer, employer, any agent of the employer, or any other payer pursuant to applicable law, including at any time before January 1, 2016.

(6) "Unpaid estimated income tax" means estimated income tax due but not paid by the date the tax is required to be paid under applicable law.

(7) "Unpaid income tax" means income tax due but not paid by the date the income tax is required to be paid under applicable law.

(8) "Unpaid withholding tax" means withholding tax due but not paid by the date the withholding tax is required to be paid under applicable law.

(9) "Withholding tax" includes amounts an employer, any agent of an employer, or any other payer did not withhold in whole or in part from an employee's qualifying wages, but that, under applicable law, the employer, agent, or other payer is required to withhold from an employee's qualifying wages.

(B) (1) This section applies to the following:

(a) Any return required to be filed under applicable law for taxable years beginning on or after January 1, 2016;

(b) Income tax, estimated income tax, and withholding tax required to be paid or remitted to the Village on or after January 1, 2016.

(2) This section does not apply to returns required to be filed or payments required to be made before January 1, 2016, regardless of the filing or payment date. Returns required to be filed or payments required to be made before January 1, 2016, but filed

or paid after that date shall be subject to the ordinances or rules of the Village as adopted before January 1, 2016.

(C) A taxpayer, employer, any agent of the employer, and any other payer shall pay the interest amounts and penalties prescribed in this section when the taxpayer, employer, any agent of the employer, or any other payer for any reason fails, in whole or in part, to make to the Village timely and full payment or remittance of income tax, estimated income tax, or withholding tax or to file timely with the Village any return required to be filed.

(1) Interest shall be imposed at the rate described in division (A) of this section, per annum, on all unpaid income tax, unpaid estimated income tax, and unpaid withholding tax.

(2) With respect to unpaid income tax and unpaid estimated income tax, there is hereby imposed a penalty equal to fifteen percent of the amount not timely paid.

(3) With respect to any unpaid withholding tax, there is hereby imposed a penalty not exceeding fifty percent of the amount not timely paid.

(4) (a) For tax years ending on or before December 31, 2022, wWith respect to returns other than estimated income tax returns, there is hereby imposed a penalty of twenty-five dollars for each failure to timely file each return, regardless of the liability shown thereon for each month, or any fraction thereof, during which the return remains unfiled regardless of the liability shown thereon. The penalty shall not exceed one hundred fifty dollars for each failure.

(b) For tax years ending on or after January 1, 2023, with respect to returns other than estimated income tax returns, the Village may impose a penalty not exceeding \$25 for each failure to timely file each return, regardless of the liability shown thereon, except that the Village shall abate or refund the penalty assessed on a taxpayer's first failure to timely file a return after the taxpayer files that return.

(D) With respect to income taxes, estimated income taxes, withholding taxes, and returns, the Village shall not impose, seek to collect, or collect any penalty, amount of interest, charges or additional fees not described in this section.

(E) With respect to the income taxes, estimated income taxes, withholding taxes, and returns not described in division (A) of this section, the Village shall not refund or credit any penalty, amount of interest, charges, or additional fees that were properly imposed or collected before January 1, 2016.

(F) The Tax Administrator may abate or partially abate penalties or interest imposed under this section when the Tax Administrator determines, in the Tax Administrator's sole discretion, such abatement is appropriate.

(G) By the thirty-first day of October of each year the Village shall publish the rate described in division (A) of this section applicable to the next succeeding calendar year.

(H) The Village does hereby impose on the taxpayer, employer, any agent of the employer, or any other payer the Village's post-judgment collection costs and fees, including attorney's fees.

(I) The Tax Administrator and Law Director shall attempt to collect in the best exercise of their discretion and judgment the interest amounts and penalties prescribed in this section.

(R.C. § 718.27).

[Amended by Ord. No. 37-2017, eff. 12/04/2017].