

Chapter 35: Income Tax

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~ 35.01 Purpose

To provide funds for the purpose of debt retirement, general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities, including recreation and capital improvements of the village there shall be, and is hereby, levied a tax on salaries, wages, commissions, lottery and raffle winnings in excess of \$600.00, and other compensation, and on net profits as hereinafter provided.

(Adopting Ord. 2004-20, passed 7-19-04) (Ord. 92-20, passed 9-28-92) (Ord. 636, passed 11-24-69)

~ 35.02 Definitions

For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Association. A partnership, limited partnership, or any other form of unincorporated enterprise, owned by two or more persons.

Assignment. The assignment made by the resident of the village of claim for refund due from another taxing municipality granting credit to nonresidents.

Board of Review. The Board created by and constituted as provided in ~35.12.

Business. An enterprise, activity, profession, or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity.

Corporation. A corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory, or foreign country or dependency.

Employee. One who works for wages, salary, commission or other type of compensation in the service of an employer.

Employer. An individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission, or other compensation basis.

Fiscal Year. An accounting period of 12 months or less ending on any day other than December 31.

Gross Receipts. The total income from any source whatsoever.

Lottery and raffle winnings. The gross receipts of lottery and raffle winnings in excess of \$600.00 are taxable income. In addition to cash winnings, you must include as taxable income the fair market value of bonds, cars, houses, and other non-cash prizes. Lottery winnings payable in installments must include the gross receipts of annual payments and any amounts received designated as interest on unpaid installments. Lottery payments received as a lump sum must report the amount received from the sale as taxable income in the year it is received.

Net Profits. The net gain from the operation of a business, profession, or enterprise after provision for all ordinary and necessary expenses either paid or

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accrued in accordance with the accounting system used by the taxpayer for federal income tax purposes.

Nonresident. An individual domiciled outside the village.

Nonresident Unincorporated Business Entity. An unincorporated business entity not having an office or place of business within the village.

Person. 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.

Place of Business. Any bona fide office (other than a mere statutory office), factory, warehouse or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through on or more of his regular employees regularly in attendance.

Reciprocity Credit. The credit granted by a municipality to its residents, when said resident pays municipal income tax on the same income to another municipality.

Resident. An individual domiciled in the village.

Resident Unincorporated Business Entity. An unincorporated business entity having an office or place of business within the village.

Tax Administrator. The individual designated by this chapter to administer and enforce the provisions of this chapter.

Taxable Income. Wages, salaries, commissions, lottery and raffle winnings in excess of \$600.00 earned by residents and non-residents of the Village of Swanton, 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. The total compensation paid to an individual in cash or in kind on an hourly, daily, weekly, monthly, annual, or other basis, including but not limited to the following: severance or termination pay, wage continuation payments made as a result of early retirement or employee termination; wage continuation payments made as a result of sickness or temporary disability and whether paid by the recipient's employer or by a third party; vacation or holiday pay; tips, gratuities, lottery or raffle winnings received; group term insurance premiums paid on the employees behalf; employee contributions to tax sheltered annuities, non-qualified pension plans, or into employer or third party trusts or pension plans permitted by IRS and which may be excludable from wages for federal tax purposes; employee contributions to Cafeteria Plans or similar plans and which may be excludable from wages for federal tax purposes; ordinary income portion of stock options or employee stock purchase plans, supplemental unemployment benefits (SUB pay), employer or employee contributions or amount credited to non-qualified pension plans or deferred compensation plans at the time of deferral; bonuses; ordinary income portion of lump sum distributions which become subject to federal tax because the recipient did not roll over the distribution within time required by IRS.

Taxable Year. The calendar year, or the fiscal year upon the basis of which the net profits are to be computed under this chapter and, in the case of a return for a fractional part of a year, the period for which such return is required to be made.

Taxing Municipality. Any municipal corporation levying a municipal 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.

Taxpayer. A person, whether an individual, partnership, association, or any corporation or other entity, required hereunder to file a return or pay a tax. (Adopting Ord. 2004-20, passed 7-19-04) (Ord. 2000-23, passed 6-26-00)(Ord. 92-20, passed 9-28-92) (Ord. 636, passed 11-24-69; Am. Ord. 75-9, passed 7-14-75)

~ 35.03 Imposition of Tax

(A) An annual tax for the purposes specified in ~35.01 shall be imposed on and after January 1, 1990 at the rate of 1 ¼ % per annum upon the following:

- (1) All salaries, wages, commissions, lottery and raffle winnings in excess of \$600.00 and other compensation earned by residents of the Village of Swanton.
- (2) All salaries, wages, commissions, lottery and raffle winnings in excess of \$600.00 and other compensation earned by non-residents for work done, for lottery and raffle winnings won, for services performed or rendered in the Village of Swanton.
- (3) The portion attributable to the village of the net profits earned during the effective period of this chapter of a resident, partner or owner of a resident unincorporated business entity not attributable to the village and not levied against such unincorporated business entity; provided, however, that the liability of an individual partner or owner taxable hereunder on income attributable to another taxing municipality shall be subject to the relief and reciprocity provisions of ~35.14.
- (4a) The portion attributable to the village of the net profits earned during the effective period of this chapter of all nonresident unincorporated businesses, professions or other entities, derived from sales made, work done or services performed or rendered and business or other activities conducted in the village, whether or not such unincorporated business entity has an office or place of business in the village.
- (4b) The portion of the distributive share of the net profits earned during the effective period of this chapter of a resident, partner or owner of a nonresident unincorporated business entity not attributable to the village and not levied against such unincorporated business entity; provided, however, that the liability of an individual partner or owner taxable hereunder on income attributable to another taxing municipality shall be

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subject to the relief and reciprocity provisions of ~35.14.

(5) The portion attributable to the village of the net profits earned during the effective period of this chapter 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.

(B) The portion of the net profits attributable to the village of a taxpayer conducting a business, profession or other activity both within and without the boundaries of the village shall be determined as provided in R.C. ~718.02 and in accordance with the rules and regulations adapted by the Tax Administrator pursuant to this chapter.

(C) Operating Loss Carry Forward.

(1) The portion of a net operating loss sustained in any taxable year subsequent to the effective date of this chapter allocable to the village may be applied against the portion of the profit of succeeding years allocable to the village, until exhausted, but in no event for more than five taxable years. No portion of a net operating loss shall be carried back against net profits of any prior year.

(2) The portion of a net operating loss sustained shall be allocated to the village in the same manner as provided herein for allocating net profits to the village.

(3) The Tax Administrator shall provide by rules and regulations the manner in which such net operating loss carry forward shall be determined.

(D) Consolidated Returns

(1) Filing of consolidated returns may be permitted or required in accordance with rules and regulations prescribed by the Tax Administrator.

(2) 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 Tax Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to the village. If the Tax Administrator finds net profits are not properly allocated to the village by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates, or

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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.

(E) Exception

(1) The tax provided for herein shall not be levied upon the military pay or allowances of members of the armed forces of the United States, or upon the net profits of any civic, charitable, religious, fraternal or other organization specified in R.C. ~718.01 to the extent that such net profits are exempted from municipal income taxes under said section.

(Adopting Ord. 2004-20, passed 7-19-04) (Ord. 92-20, passed 9-28-92)

(Ord. 636, passed 11-24-69; Am. Ord. 75-9, passed 7-14-75; Am. Ord. 89-18, passed 5-8-89)

~ 35.04 Effective Period

(A) Said tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professions or other activities earned from January 1, 1970.

(B) This chapter shall continue until terminated by law insofar as the levy of taxes is concerned 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 said taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of said taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in ~35.11 and ~35.15.

(C) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in ~35.05 and ~35.06.

(Adopting Ord. 92-20, passed 9-28-92) (Ord. 636, passed 11-24-69)

~ 35.05 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 of the year following the effective date of this chapter, and on or before April 15 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four months from the end of such fiscal year or period. The Tax Administrator is hereby authorized to provide by

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regulation that the return of an employer or employers, showing the amount of tax deducted by said employer or employers from the salaries, wages, commission or other compensation of an employee, and paid by him or them to the Tax Administrator shall be accepted as the return required of an employee whose sole income, subject to tax under this chapter, is such salary, wages, commissions, or other compensation.

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

(1a) The aggregate amount of salaries, wages, commissions and other compensation earned; and

(b) The gross income from a business, profession or other activity less allowable expenses incurred in the acquisition of such gross income;

(c) 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.

(2a) The amount of tax imposed by this chapter or income reported;

(b) Any credits to which the taxpayer may be entitled under the provisions of ~35.06, 35.07, and 35.14; and

(3) Such other pertinent statements, information returns, or other information as the Tax Administrator may require.

(C) The Tax Administrator 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. The Tax Administrator may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due. No penalty or interest shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended.

(D1) The taxpayer making a return shall, at the time of filing thereof, pay to the Tax Administrator the balance of tax due, if any, after deducting:

(a) The amount of village income tax deducted or withheld at the source pursuant to ~35.06;

(b) Such portion of the tax as had been paid on declaration by the taxpayer pursuant to ~35.07;

(c) Any credit allowable under the provisions of ~35.14.

(2) Should the return, or the records of the Tax Administrator, indicated 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 Tax

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Administrator, shall be refunded or transferred against any subsequent liability. Provided, however, the overpayment of less than \$1 shall not be refunded.

(E1) 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 ~35.11 and 35.14. Such amended returns shall be on a form obtainable on request from the Tax Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

(E2) Within three months from the final determination of any federal tax liability affecting the taxpayer's village tax liability, such taxpayer shall make and file an amended village return showing income subject to the village tax based upon such final determination of federal tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment.

(Adopting Ord. 92-20, passed 9-28-92) (Ord. 636, passed 11-24-69; Am. Ord. 75-9, passed 7-14-75)

~ 35.06 Collection at Source

(A1) Each employer within or doing business within the village who employs one or more persons on a salary, wage, commission or other compensation basis shall, at the time of payment thereof, deduct the tax of 1 ¼ % from the gross salaries, wages, commissions or other compensation earned by village residents regardless of where such compensation was earned and shall deduct the tax of 1 ¼ % from the salaries, wages, commissions or other compensation earned within the village by nonresidents;

(A2) Notwithstanding the provisions of division (A1) above where such employer employs a village resident in another taxing municipality requiring such employer to deduct its tax from all employees engaged therein, such employer shall withhold for and remit to the village only the difference, if any, between the tax imposed by such other taxing municipality and the tax imposed by this chapter;

(A3) Each such employer shall, on or before the last day of the month following each calendar quarter, make a return and remit to the village the tax hereby required to be withheld. Such return shall be on a form or forms prescribed by or acceptable to the Tax Administrator and shall be subject to the rules and regulations proscribed therefore by the Tax Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld whether or not such taxes have in fact been withheld.

(A4) On or before January 31 following any calendar year such employer shall file with the Tax Administrator an information return for each employee from whom village income tax has been, or should have been withheld, showing the name, address and Social Security Number of the employee, the total amount of

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compensation paid during the year and the amount of village income tax withheld from such employee.

(B) Such employer in collecting said 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.

(Adopting Ord. 92-20, passed 9-28-92) (Ord. 636, passed 11-24-69; Am Ord. 75-9, passed 7-14-75)

~35.07 Declarations

(A) Every person who anticipates any taxable income which is not subject to ~35.06 or who engages in any business, profession, enterprise, or activity subject to the tax imposed by ~35.03 may file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon.

(B1) Such declaration may be filed on or before April 15 of each year during the life of this chapter, or within four months of the date the taxpayer becomes subject to tax for the first time.

(B2) Those taxpayers reporting on a fiscal year basis may file a declaration within four months after the beginning of each fiscal year or period.

(C1) Such declaration, if filed, shall be filed upon a form furnished by, or obtainable from the Tax Administrator. Credit shall be taken for Village income tax to be withheld, if any, from any portion of such income. In addition, credit may be taken for tax payable to other taxing municipalities in accordance with the provisions of ~35.14.

(C2) The original declaration (or any subsequent amendment thereof) may be increased or decreased on or before any subsequent quarterly date as provided for herein.

(D1) The taxpayer making the declaration may, at the time of the filing thereof, pay to the Tax Administrator at least one-fourth (1/4) of the estimated annual tax due after deducting:

- (a) Any portion of such tax to be deducted or withheld at the source pursuant to ~35.06;
- (b) Any credits allowable under the provisions; of ~35.14; and
- (c) Any overpayment of previous year's tax liability which taxpayer has not elected to have refunded.

(D2) At least a similar amount shall be paid on or before the last day of the sixth, ninth, and twelfth month after the beginning of taxpayer taxable year, provided

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that in case an amended declaration has been duly filed, or the taxpayer is taxable for a portion of the year only, the unpaid balance shall be paid in equal installments on or before the remaining payment dates.

(E) On or before the last day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the Village shall be paid therewith in accordance with the provisions of ~35.05.

(Adopting Ord. 2003-4, passed 2-24-03) (92-20, passed 9-28-92) (Ord. 636, passed 11-24-69; Am. Ord. 75-9, passed 7-14-75)

~35.08 Administrative Responsibilities

(A1) It shall be the duty of the Tax Administrator to receive the tax imposed by this chapter in the manner prescribed herein from the taxpayer; to keep an accurate record thereof; and to report all moneys so received.

(2) It shall be the duty of the Tax Administrator 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 amount due from each taxpayer required to file a declaration and/or make any return, including taxes withheld, and to show the dates and amounts of payments thereof.

(B) The Tax Administrator 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 taxes and the administration and enforcement of the provisions of this chapter, including provisions for the reexamination and correction of returns.

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

(D) Subject to the consent of the Board of Review or pursuant to regulation approved by said Board, the Tax Administrator shall have the power to compromise any interest or penalty, or both, imposed by ~35.10.

(E) The Tax Administrator shall be appointed by the Mayor, subject to the approval of the Council. he may be removed at any time with or without cause by a two-thirds vote of Council. He shall give bond in such sum and shall receive such compensation as may be determined from time to time by Council. Subject to the approval of Council he shall have authority to employ such assistants, clerk, investigators, and other help on a full or part-time basis as he may determine is necessary for proper performance of his duties under the

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ordinance. Such assistants, clerks, investigators and other help shall receive such compensation as may be determined from time to time by Council. (Adopting Ord. 92-20, passed 9-28-92) (Ord. 636, passed 11-24-69; Am. Ord. 75-9, passed 7-14-75)

~ 35.09 Investigative Powers; Divulging Confidential Information

(A) The Tax Administrator or any authorized employee, is hereby authorized to examine the books, papers, records and federal income tax returns of any employer or of any taxpayer or person subject to, or whom the Tax Administrator believes is subject to the provisions of this chapter, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish upon written request by the Tax Administrator, or his duly authorized agent or employee, the means, facilities, and opportunity for making such examinations and investigations as are hereby authorized.

(B) The Tax Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before him and may examine such person, under oath, concerning any income which was or should have been returned for taxation or any transaction tending to affect such income, and for this purpose may compel the production of books, papers records and federal income tax returns and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.

(C) The refusal to produce books, papers, records and federal income tax returns, or the refusal to submit to such examination by any employer or person subject or presumed to be subject to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this section or with an order or subpoena of the Tax Administrator authorized hereby shall be deemed a violation of this chapter punishable as provided in ~35.99.

(D) Any information gained as the result of any returns, investigations, hearings, or verifications required or authorized by this chapter shall be confidential, except for official purposes, or except in accordance with proper judicial order. Any person divulging such information in violation of this chapter, shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine or penalty as set forth in ~35.99. Each disclosure shall constitute a separate offense. In addition to the penalty provided in ~35.99 any employee of the village who violates the provisions of this section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

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

(Adopting Ord. 92-20, passed 9-28-92) (Ord. 636, passed 11-24-69; Am. Ord. 75-9, passed 7-14-75) Penalty, see ~35.99

~ 35.10 Interest and Penalties

(A) All taxes imposed and all moneys withheld or required to be withheld by employers under the provisions of this chapter and remaining unpaid after they become due shall bear interest at the rate of $\frac{3}{4}$ % per month or fraction thereof.

(B) In addition to interest as provided in division (A) above, penalties based on the unpaid tax are hereby imposed as follows:

(1) For failure to pay taxes due, other than taxes withheld; $\frac{3}{4}$ % per month or fraction thereof.

(2) For failure to remit taxes withheld from employees; 3% per month or fraction thereof.

(C) A penalty shall not be assessed on an additional tax assessment made by the Tax Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Tax Administrator, and provided further, that, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal unit, providing an amended return is filed and the additional tax is paid within three months after final determination of the federal tax liability.

(D) Upon recommendation of the Tax Administrator, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the Tax Administrator to recommend abatement of penalty and interest, the Board may nevertheless abate penalty or interest, or both.

(E) A late filing fee of \$5 for the first overdue month and \$10 for each additional overdue month, or part thereof, shall be assessed against any taxpayer whose tax return is not timely filed pursuant to the terms of ~35.05.

(Adopting Ord. 92-20, passed 9-28-92) (Ord. 636, passed 11-24-69; Am. Ord. 75-9, passed 7-14-75; Am. Ord. 80-12, passed 7-14-80)

~ 35.11 Collection of Unpaid Taxes and Refunds of Overpayments

(A) All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are

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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 which is later, provided, however, in those cases in which the Commissioner of Internal Revenue and taxpayer have executed a waiver of the federal statute of limitation, the period within which an additional assessment may be made by the Tax Administrator shall be one year from the time of the final determination of the federal tax liability.

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

(C) Amounts of less than \$5 shall not be collected or refunded.
(Adopting Ord. 92-20, passed 9-28-92) (Ord. 636, passed 11-24-69; Am. Ord. 75-9, passed 7-14-75; Am. Ord. 90-17, passed 7-30-90)

~ 35.12 Board Of Review

(A) A Board of Review, consisting of the Village Solicitor, as chairperson, and two other individuals to be appointed by the Mayor, is hereby created. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board may be conducted privately and the provisions of ~35.09 with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as may be heard before the Board on appeal.

(B) All rules and regulations and amendments or changes thereto, which are adopted by the Tax Administrator under the authority conferred by this chapter, must be approved by the Board of Review before the same becomes effective. The Board shall hear and pass on appeals from any ruling or decision of the Tax Administrator, and at the request of the taxpayer or Tax Administrator, is empowered to substitute alternate methods of allocation.

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

(Adopting Ord. 92-20, passed 9-28-92) (Ord. 636, passed 11-24-69; Am. Ord. 75-9, passed 7-14-75)

~ 35.13 Allocation of Funds

The funds collected under the provisions of this chapter shall be deposited into the Expendable Income Tax Trust Fund, and thereafter applied for the following purposes and in the following order:

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

(B) A sum equal to 100% of the balance of funds collected each year under the provisions of this chapter remaining after payment of costs referred to in paragraph (A) hereto, to the General Fund for general operating expenses.

(Adopting Ord. 2004-34, passed 10-11-04) (Ord. 97-32, passed 11-10-97) (Ord. 92-20, passed 9-28-92) (Ord. 636, passed 11-24-69)

~ 35.14 Relief and Reciprocity Provisions

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 receive partial credit for such tax paid to such other municipality. Accordingly, notwithstanding any other provisions of this contract.

(A) Residents of Swanton

(1) When a resident of the Village is subject to and had paid, or has acknowledged liability for, a municipal income tax in another municipality on the same income tax in another municipality taxable under this chapter, such Swanton resident may claim a credit in the amount of .5% of the wages taxed by such other municipality, but not in excess of 50% of the tax assessed by this chapter.

(2a) If the tax due such other municipality has been paid to, or withheld in such other municipality, a resident of Swanton may claim credit for and assign to the Village of Swanton any claim for refund to which he may be entitled from such other municipality. In the event an amount is not received by the Village of Swanton equal to such credit claimed by reason of tax payments made to, or withheld in, such other municipality, then the taxpayer shall be liable to the Village of Swanton for an amount by which the claimed credit exceeds the amount recovered on such assignment by the Village of Swanton, together with penalty and interest. If satisfactory evidence is offered, however, that the taxpayer is entitled to the claim

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covered by the assignment, such taxpayer shall not be deprived of credit therefore because of fault or neglect on the part of either municipality.

(b) Assignment of any claim for refund to which a Swanton resident may be entitled from another municipality, shall be tentatively accepted as payment of the portion of Swanton income tax represented by such assignment; provided, however, should an overpayment result from the credit allowed by reason of such assignment, no refund thereof shall be made until such assignment has been accepted for payment by such other municipality.

(B) Resident Credits

The credits provided for in division (A) above will not be allowed unless the same are claimed in a timely return or form acceptable to, and filed with the Tax Administrator. In the event a taxpayer fails, neglects or refuses to file such timely return or form he shall not be entitled to such credit and shall be liable for the full amount of tax assessed by this chapter, together with such interest and penalties, both civil and criminal, as are prescribed in the ordinance.

(Adopting Ord. 2000-23, passed 6-26-00)(Ord. 92-20, passed 9-28-92) (Ord. 636, passed 11-24-69; Am. Ord. 75-9, passed 7-14-75; Am. Ord. 79-4, passed 2-26-79; Am. Ord. 80-13, passed 7-14-80)

~35.15 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; or
- (3) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter; or
- (4) Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Tax Administrator; or
- (5) Refuse to permit the Tax Administrator 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; or
- (6) Fail to appear before the Tax Administrator 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 Tax Administrator; or

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(7) Refuse to disclose to the Tax Administrator any information with respect to the income or net profits of a taxpayer; or

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

(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; or

(10) Fail to use ordinary diligence in maintaining proper records of employees; residence addresses, total wages paid and village tax withheld, or to knowingly give the Tax Administrator 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) All prosecutions under this section must be commenced within five years from the time of the offense complained of except in the case of failure to file a return or in case of filing a false or fraudulent return, in which event the limitation of time within which prosecution must be commenced shall be ten years from the date the return was due or the date the false or fraudulent return was filed.

(C) 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, return or declaration, from filing such form, or from paying the tax.

(Adopting Ord. 92-20, passed 9-28-92) (Ord. 636, passed 11-24-69; Am. Ord. 75-9, passed 7-14-75) Penalty, see ~35.99

~ 35.99 Penalty

Whoever violates any provision of this chapter shall be guilty of a misdemeanor of the first degree and shall be fined not more than \$1,000 or imprisoned not more than six months or both for each offense.
(Adopting Ord. 92-20, passed 9-28-92) (Ord. 636, passed 11-24-69)