

**INCOME TAX ORDINANCE**

**VILLAGE OF GENOA**

CHAPTER 181  
Income Tax

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CROSS REFERENCES

- Payroll deductions – see Ohio R.C. 9.42  
Municipal income taxes – see Ohio R.C. Ch. 718  
State income tax – see Ohio R.C. Ch. 5747

181.01 PURPOSES.

To provide funds for the purpose of general Municipal operation, capital improvements, and sanitary sewer improvements and bond retirement for the Village, there shall be and hereby is levied a tax on salaries, wages, commissions and other compensation and on net profits as hereinafter provided. (Ord. 40-88. Passed 8-15-88.)

181.02 DEFINITIONS.

As used in this chapter, the following words shall have the meaning ascribed to them in this section, except as and if the context clearly indicates or requires a different meaning.

(a) “Administrator” means the individual designated, whether appointed or elected, to administer and enforce the provisions of this chapter.

(b) “Assignment” means the assignment made by a resident of Genoa of a claim for refunds due from another taxing municipality granting credit to non-residents thereof.

(c) "Association" means a partnership, limited partnership, or any other form of unincorporated enterprise, owned by one or more persons.

(d) "Board of Review" means the Board created to hear and pass on appeals from any ruling or decision of the Administrator. Board of Review to consist of makeup members as defined in this chapter at Section 181.16.

(e) "Business" means 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.

(f) "Corporation" means a corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory or foreign country or dependency, except for a Sub-S Corporation.

(g) "Domicile" means the place where a taxpayer has his true, fixed, and permanent home, and to which, whenever the taxpayer is absent, he has the intention of returning. Factors to be considered when determining domicile are, but are not limited to: registration of vehicles; current driver's license; address on Federal and State income tax returns; address of voter's registration; attendance at schools by taxpayer's family; county of taxpayer's estate if deceased.

(h) "Employee" means one who works for wages, salary, commission or other type of compensation in the service of an employer and whose wage, salaries or commissions are subject to withholding of Federal Income Tax, Social Security Tax, and/or Medicare Tax.

(i) "Employer" means an individual, copartnership, association, corporation, governmental body or unit or agency or any other entity who or that employs one or more persons on a salary, wage, commission or other compensation basis.

(j) “Fiduciary” means a guardian, trustee, executor, administrator, or any other person acting in any fiduciary capacity for any individual, trust, or estate.

(k) “Fiscal year” means an accounting period of twelve months ending on any day other than December 31.

(l) “Gross receipt” means the total income of a taxpayer from any source whatsoever.

(m) “Net profits” means the net gain from the operation of a business, profession, or enterprise after provision for all costs and expenses incurred in the conduct thereof, either paid or accrued in accordance with the accounting system used and without deduction of taxes imposed by this chapter, or Federal, State, or other taxes based on income.

(n) “Nonresident” means an individual, copartnership, association or other entity domiciled outside the Village.

(o) “Pension” means income earned or received as a result of retirement from employment from an IRS qualified retirement plan and which is generally, although not exclusively reported to the taxpayer by the payor on a Form 1099-R or similar form.

(p) “Person” means every natural person, copartnership, fiduciary or association. Whenever used in any clause prescribing and imposing a penalty, the terms “person” as applied to association means the partners or members thereof and as applied to corporation, the officers thereof.

(q) “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 out any business activity individually or through one or more of his regular employees regularly in attendance.

(r) “Resident” means a person domiciled in the Village.

(s) Salaries, Wages, and Other Compensation – Salaries, wages, commissions and other compensation: Means 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 employment 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 or gratuities received; group term insurance premiums paid on an employee's behalf; employee contributions to tax sheltered annuities, non-qualified pension plans, or into employer or third party trusts or pension plans as permitted by IRS and which may be excludable from wages for federal tax purposes; employee contributions to "Cafeteria Plans" as permitted by IRS under IRS code Section 125, 127, or 129 or similar plans and which may be excludable from wages for federal purposes; ordinary income portion of stock options or employee stock purchase plans; supplemental unemployment benefits (SUB Pay); strike pay; jury duty pay; employer or employee contributions or amounts credited to non-qualified pension plans or deferred compensation plans at the time of deferral and to the extent subject to Medicare Tax; working conditions fringe benefits subject to tax by IRS; guardian, executor, conservator, trustee, or administrator fees; bonuses; ordinary income portion of lump sum distributions which become subject to federal tax because the recipient did not roll over the distribution within the time required by IRS.

#### 181.03 TAX RATE.

(a) The funds collected under the Village Income Tax at the rate of one and one-half percent (1-1/2%) per year shall be applied for the following purposes;

(1) One Percent (1%). Such part thereof, as necessary to defray all cost of collecting the tax and cost of administration and enforcing the provisions thereof. One-fourth of the balance of one percent (1%) shall be used for Capital Improvements or for payments of notes and/or bonds issued for capital improvements. All of the balance of the one percent (1%) shall be allocated to the General Fund primarily for the purpose of general municipal operations and shall be allocated as to the Village needs.

(2) One-Half Percent (1/2%). Such part thereof as necessary to defray all cost of collecting the tax and cost of administration and enforcing provisions thereof the balance of the one-half percent (1/2%) to finance Sewer Improvements, or for the payment of notes and/or bonds issued to finance sewerage treatment plant and intercepting sewer improvements.

(Ord. 23-92. Passed 4-6-92.)

#### 181.04 INCOME SUBJECT TO TAX – IMPOSITION OF TAX.

An annual tax for the purposes specified in Section 181.01 hereof, and at the rates set forth at Section 181.03, is hereby imposed.

(a) On all salaries, wages, commissions and other compensation, as defined at Section 181.02(s), earned or received during the effective period of this ordinance by residents of the Village.

(b) On all salaries, wages, commissions and other compensation, as defined at Section 181.02(s), earned or received during the effective period of this ordinance by nonresidents for work done or services performed or rendered in the Village.

(c) On the portion attributable to the Village of the net profits earned during the effective period of this ordinance, of all resident unincorporated businesses, professions and

other entities, derived from sales made, work done or services performed or rendered and business or other activities conducted in the Village.

(d) On the portion of the distributive share of the net profits earned during the effective period of this ordinance 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.

(e) On the portion attributable to the Village of the net profits earned during the effective period of this ordinance 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 person unincorporated business entity, profession or other entity has an office or place of business in the Village.

(f) On the portion of the distributive share of the net profits earned during the effective period of this chapter of a nonresident partner or owner of a nonresident unincorporated business entity not attributable to Genoa and not levied against such unincorporated business entity.

(g) On the portion of the distributive share of the net profits earned or received by a resident partner or owner of a nonresident unincorporated business entity not attributable to the Village and not levied against such unincorporated business entity.

However, the liability of an individual partner or owner taxable hereunder on income attributable to another taxing municipality shall be subject to the credit provisions of Section 181.17.

(A) On 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 or 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.

(i) On the gross income derived anywhere from gaming, wagering, lotteries, or schemes of chance by residents of the Village or by nonresidents of the Village when the income derived from gaming, wagering, lotteries, or schemes of chance is won or received from the Village sources including sales of lottery tickets.

#### 181.05 ALLOCATION FORMULA

The portion of the net profits attributable to Genoa of a taxpayer conducting a business, profession or other activity both within and without the boundaries of Genoa shall be determined as provided in Ohio R.C. 718.02 and in accordance with the rules and regulations adopted by the Administrator pursuant to this chapter. (Ord. 40-88. Passed 8-15-88.)

#### 181.06 OPERATING LOSS CARRY FORWARD.

(a) The portion of a net operating loss sustained in any taxable year subsequent to January 1, 1989, 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.

(b) No portion of a net operating loss shall be carried back against net profits of any prior year.

(c) 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.

(d) The administrator shall provide rules and regulations for the manner in which such net operating loss carry forward shall be determined.

#### 181.07 CONSOLIDATED RETURNS.

(a) Filing of consolidated returns by affiliated groups or corporations that file consolidated returns with IRS for the same reporting period will be accepted in accordance with rules and regulations prescribed by the Administrator. (ORC 718.06).

(b) 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 only a portion of its total business. The Administrator shall require such additional information, as he may deem necessary to ascertain whether net profits are not property allocated to the Village. If the 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 transactions with such divisions, 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.

#### 181.08 EXEMPTIONS - SOURCE OF INCOME NOT TAXED.

The tax provided for herein shall not be levied on the following:

(a) Pay or allowance of active members of the armed forces of the United States because of active duty service 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 and only to the extent that the said income is exempt from federal income tax.

(b) Poor relief, Social Security benefits, unemployment insurance benefits except for supplemental unemployment benefits, IRS qualified retirement plan or similar payments, disability benefits received from local, state or Federal governments or charitable religious or

educational organizations. The disability benefits excludable must be a permanent nature as determined by a physician or government entity.

(c) Compensation paid to a nonresident individual for personal services performed within Genoa if the personal services are performed during twelve (12) or fewer days during the calendar year. A day is a full day or any fractional part of a day.

Compensation paid to a nonresident employee by a nonresident employer for work or services performed in Genoa if the services are performed during twelve (12) or fewer days during the calendar year. A day is a full day or any fractional part of a day.

Compensation paid to a nonresident individual who is an employee for work or services performed in Genoa if the services or work is performed during twelve (12) or fewer days during the calendar year and further provided that the individual's employer is located outside of Genoa and the individual pays tax on the compensation to the municipal corporation in which the employer's principal place of business is located and no portion of the tax paid is refunded to the individual.

The foregoing three paragraphs do not apply to professional entertainers, professional athletes, promoters for professional entertainment or sporting events and their employees. (ORC 718.01(F)(8) and 718.02(A)(2).)

(d) Proceeds of insurance paid by reason of death of the insured, pensions, including industrial pensions, disability benefits paid for total and permanent disability, annuities or gratuities not in the nature of compensation for services rendered from whatever source derived.

(e) Receipts from seasonal or casual entertainment, amusement, sports events and health and welfare activities when any such are conducted by bona fide charitable, religious or

educational organizations and associations and only to the extent that the said income is exempt from Federal Income Tax.

(f) Alimony received.

(g) Compensation for personal injuries or for damages to property by way of insurance or otherwise but this exclusion does not apply to compensation paid for lost salaries or wages.

(h) Interest, dividends and other revenue from intangible property as set forth in O.R.C. 718.01.

(i) Payments made to Election Workers.

(j) 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.

(k) Salaries, wages, commissions and other compensations and net profits, the taxation of which is prohibited by the Constitution of the State of Ohio or any act of the Ohio General Assembly limiting the power of a municipality to impose net income taxes.

(l) The amount of unreimbursed employee business expenses (2106 Expenses) which the employee deducted as an itemized deduction before reduction by 2% of the employee's AGI on his federal tax return. Taxpayer must furnish a copy of the form 2106 and Schedule "A" of form 1040 as filed with IRS. This deduction must be allocated first to the municipality where the employment occurred.

(m) Parsonage Allowances paid to "Ministers Of The Gospel" in the form of rental allowance as part of a Minister's compensation to the extent excluded from Federal or Ohio Tax. (ORC 718.01(F)(7)).

(n) Expenses Not Deductible

(1) No deduction for health insurance premiums paid by self-employed taxpayers as permitted by IRS is permitted for the Village.

(2) No deduction for self-employment tax paid by self-employed taxpayers as permitted by IRS is permitted for the Village.

(3) No deduction for contributions to IRA or Keogh plans made by taxpayers as permitted by IRS is permitted for the Village.

181.09 ANNUAL 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 30, of each year. 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.

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

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

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

(3) 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.

(4) The amount of tax imposed by this chapter on income reported.

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

(c) The taxpayer making a return shall, at the time of filing thereof, pay to the Administrator the balance of tax due, if it exceeds \$4.99, after deducting:

(1) The amount of Village income tax deducted or withheld during the previous year as set forth at Section 181.10.

(2) Such portion of the tax as has been already paid on declaration by the taxpayer as set forth at Section 181.11.

(3) Any credit allowable for tax paid to another municipality as set forth at Section 181.17.

(d) Should the return of the records of the Administrator 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 Administrator, shall be refunded or transferred against any subsequent liability.

(e) Amended Returns.

(1) Where necessary an amended return must be filed in order to report additional income and pay any additional tax due, to claim a refund or tax overpaid, subject to the requirements and/or limitations contained in this chapter. Such amended returns shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

(2) Within three months from the final determination of any Federal tax liability affecting the taxpayers Village tax liability, such taxpayer shall make and file an amended Village return showing income subject to Village tax based upon such final determination of Federal tax liability, and pay any additional tax shown thereon to be due or make claim for refund of any overpayment. (Ord. 40-88. Passed 8-15-88.)

(f) Taxpayers granted extensions of time for filing their federal income tax returns may have an extension for filing their Genoa Tax Return provided that a copy of the federal extension is filed with the Administrator on or before the original due date of the Genoa Tax Return.

The extended date for filing the Genoa Return will be the same as the extended date of the tax return. Statutory interest as set forth at Section 181.14(a) will be charged from the original due date of the tax return until the date of actual payment.

If a taxpayer wishes to extend the time for filing the Genoa Tax Return to a date other than that provided by the automatic federal extension, the taxpayer must file a request in writing to the Administrator prior to the due date of the automatic extension. The extension may be granted by the Administrator upon terms and conditions set forth by him or her. The extension does not extend the time for paying any tax due. The extension request may be denied if the taxpayer is delinquent in the filing of any tax returns or payments of any taxes, penalties, or interest due. (ORC 718.05 D.)

(g) The officer or employee of such employer having control or supervision or charged with the responsibility of filing the return and making the payment, shall be personally liable for failure to file the return or pay the tax, penalties, or interest due as required herein. The dissolution, bankruptcy or reorganization of any such employer does not discharge an officer's or

employee's liability for a prior failure of such business to file a return or pay taxes, penalties, or interest due.

(h) The Tax Return Is Considered Received if mailed, on the date postmarked by the United States Postal Service or on the date delivered without mailing to the Village Tax Office.

(i) The failure of any taxpayer to receive or procure a return, declaration or other required from shall not excuse the taxpayer from filing such forms or form paying the tax due.

(j) Payments received for taxes due shall be allocated first to penalties due, then to interest due, and then to taxes due.

(k) The Administrator is authorized but is not required to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proved to the Administrator that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under the ordinance.

#### 181.10 COLLECTION AT SOURCE – WITHHOLDING BY EMPLOYER.

(a) (1) 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, as defined at Section 181.02(s), at the time of payment thereof, deduct the tax at the rate specified in this chapter from the gross salaries, wages, commissions or other compensation, including tips and supplemental unemployment benefits earned by Village residents, regardless of where such compensation was earned by Village residents, regardless of where such compensation was earned and shall deduct the tax at the rate specified in this chapter from the salaries, wages, commissions or other compensation earned within the Village by nonresidents.

(2) Notwithstanding the provisions of subsection (a)(1) hereof, 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 or shall withhold Village tax on 100% of the income subject to Village tax if the Village resident/employee is employed at a location where no municipal tax is imposed.

(3) 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 Administrator and shall be subject to the rules and regulations prescribed therefore by the Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld from such employee.

(4) On or before January 31 following any calendar year, such employer shall file with the Administrator an annual reconciliation return along with an information return for such employee from whom Genoa income tax has been or should have been withheld, showing the name, address and Social Security number of the employee, the total amount of compensation paid during the year and the amount of municipal income tax withheld from the employee with the municipality for which said tax was withheld identified. The information return shall also include all of the information required to be reported by the employer to IRS on a W-2 form. At the time of filing the annual reconciliation return the employer shall pay over any amounts deducted or which should

have been deducted during the preceding year but which was not remitted. The annual reconciliation form shall be obtained from the Administrator.

(b) Each 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. 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.

(c) The Administrator for good cause may require immediate returns and payments to be submitted to his office. (Ord. 40-88. Passed 8-15-88.)

(d) The officer or employee, if the entity is a corporation, or any other person if the entity is other than a corporation, having control or supervision of or charged with the responsibility of filing the return and making the payment, shall be personally liable for failure to file a required return, declaration or withhold form, or to pay the tax due as required by this chapter. The dissolution, bankruptcy, or reorganization of any such employer does not discharge the liability of an officer, employee or other person for a prior failure of such employer to file a return or pay taxes due. (Ord. 29-97. Passed 6-2-97.)

(e) (1) Effective January 1, 2001, Genoa shall not require any nonresident employer, agent of such nonresident employer, or other payer that is not situated in Genoa, to deduct and withhold Genoa tax from the salaries, wages, and other compensation earned or received by an individual unless the total amount of Genoa tax required to be withheld and deducted for all of the nonresident employer's employees or other payer's payees exceeds One Hundred Fifty Dollars (\$150.00) for that calendar year. (ORC 718.03A.)

(2) Effective January 1, 2001, if the Genoa tax required to be deducted and withheld from the salaries, wages, and other compensation of all of the nonresident employer's employees or other payer's payees exceeds One Hundred Fifty Dollars (\$150.00) for any calendar year beginning with the calendar year commencing on January 1, 2001, and thereafter, then the said nonresident employer, agent of such employer, or other payer, is required to deduct and withhold Genoa tax in each ensuing year, even if the amount of tax required to be withheld and deducted in each of those ensuing years is One Hundred Fifty Dollars (\$150.00) or less, except as provided in paragraph (e)(3) following. (ORC 718.03A.)

(3) If a nonresident employer, agent of such employer, or other payer that is not situated in Genoa is required to deduct and withhold Genoa Tax for an ensuing year as set forth in paragraph (e)(2) immediately preceding, and the total amount of the tax required to be deducted and withheld in accordance with the said paragraph (e)(2) in each of the three consecutive ensuing years is One Hundred Fifty Dollars (\$150.00) or less, then Genoa tax shall not be required to be deducted and withheld by the employer, the employer's agent, or other payer in any subsequent year after the last of those three (3) consecutive years unless the amount required to be deducted and withheld in any such subsequent year exceeds One Hundred Fifty Dollars (\$150.00). (ORC 718.03B.)

(4) As used in paragraphs (e)(1), (e)(2), and (e)(3) preceding, "Other Payer" means any person that pays an individual, other than the individual's employer or that employer's agent. (ORC 718.03.)

(f) All individuals, businesses, employers, brokers or others who are required under the Internal Revenue Code to furnish forms 1099 to IRS for individuals or businesses to whom or

which they have non-employee compensation shall furnish copies of the said form 1099's to the Administrator or in lieu thereof, a list containing the same information as required by IRS on the 1099's on or before the due date for such forms 1099's as established by IRS. Failure to provide the foregoing information may result in any deduction for payment by the taxpayer taken on the taxpayer's return to be disallowed.

(g) Every employer shall retain all records necessary to compute withholding taxes due Genoa for a period of five years from the date the Reconciliation Form, W-2 Forms, and 1099 forms are filed.

THE RETURN IS CONSIDERED RECEIVED WHEN

All returns and forms required to be filed by an employer are considered received on the date postmarked by the United States Postal Service or on the date delivered without mailing by the taxpayer to the Village.

(h) The failure of any employer to receive or procure a return, or other required form shall not excuse the employer from preparing any information return, withholding tax returns or from filing such forms or from paying the tax due.

(i) Payments received for withholding taxes due shall be applied first to penalties due, then to interest due, and then to taxes due.

181.11 DECLARATION – ESTIMATED TAX PAYMENTS.

(a) Every person who anticipates any taxable income which is not subject to Section 181.10, or who engages in any business, profession, enterprise or activity subject to the tax imposed in this chapter, who anticipates owing one hundred dollars (\$100.00) or more by the end of the year shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity, together with the estimated due thereof, if any; provided,

however, if a person's income is wholly from wages the tax will be withheld and remitted to the Village in accordance with Section 181.10, such person need not file a declaration. (Ord. 54-96. Passed 9-3-96.)

(b) (1) Such declaration shall be filed on or before April 30<sup>th</sup>, 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.

(2) These taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year or period.

(c) (1) Such declaration shall be filed upon a form furnished by or obtainable from the Administrator. Credit shall be taken for Village income tax to be withheld, if any, from any portion of such income in accordance with Section 181.10. In addition, credit may be taken for tax payable to other taxing municipalities in accordance with Section 181.17.

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

(d) The taxpayer making the declaration shall at the time of the filing thereof, pay to the Administrator at least twenty-two and one-half percent (22 1/2%) of the estimated annual tax due after deducting:

(1) Any portion of such tax to be deducted or withheld at the source pursuant to Section 181.10.

(2) Any credits allowed under provisions of this chapter pursuant to Section 181.17.

(3) Any overpayment of the previous year's tax liability which taxpayer has not elected to have refunded.

At least a similar amount shall be paid on or before the last day of the seventh, tenth and thirteenth months after the beginning of taxpayer's taxable year, provided 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) The declarations for the 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> quarters shall be due on July 31<sup>st</sup> and October 31<sup>st</sup> of the current year and on January 31<sup>st</sup> of the subsequent year. The amounts due on those dates are not to exceed forty-five percent (45%), sixty-seven and one-half percent (67 1/2%) and ninety percent (90%) respectively of the tax estimated to be due. (ORC 718.08)

(Ord. 40-88. Passed 8-15-88.)

(f) Effective January 1, 2002, no penalty or interest will be assessed for late payment or nonpayment of estimate taxes if the taxpayer was not domiciled in Genoa on the 1<sup>st</sup> day of January of the current calendar year or if the taxpayer has paid estimate payments equaling one hundred percent (100%) of the taxpayer's tax liability for the immediately preceding tax year, provided that the immediately preceding tax year reflected a 12-month tax period and the taxpayer filed a return for the immediately preceding year. (ORC 718.08)

(g) On or before the last day of the fourth (4<sup>th</sup>) 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 to Genoa shall be paid therewith in accordance with the provisions of Section 181.09.

181.12 DUTIES OF ADMINISTRATOR.

(a) Collection responsibility. It shall be the duty of the office designated to receive moneys due the Village 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.

Responsibility for Maintenance of Records. It shall be the duty of the Administrator to enforce payment of all taxes owing Genoa, 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.

(b) Enforcement Authority.

Such 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 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 re-examination and corrections of returns.

(c) The Administrator is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proved to the Administrator that due to certain hardship conditions, he is unable to pay the full amount of tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer as per this chapter.

(d) Failure to make any deferred payment when due, shall cause the total unpaid amount, including penalty and interest, to become due and payable on demand.

(e) Determination of Taxes. 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 Administrator may

determine the amount of tax appearing to be due Genoa from the taxpayer and shall send to such taxpayer a written statement showing the amount of tax to be determined, together with interest and penalties therein, if any.

(f) Compromise Authority. Subject to the consent of the Board of Review or pursuant to regulation approved by the Board, the Administrator shall have the power to compromise any interest and penalty, or both, imposed by Section 181.14.

(Ord. 40-88. Passed 8-15-88.)

#### 181.13 INVESTIGATIVE POWERS OF THE ADMINISTRATOR; DIVULGING CONFIDENTIAL INFORMATION

(a) Examination of Taxpayer's Records. The Administrator, or any authorized employee, is hereby authorized to examine the books, papers, records, Federal and State income tax returns of any employer or of any taxpayer or person subject to, or whom the Administrator believes is subject to 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 Administrator, or his duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

(b) Appearance Orders to Taxpayers. The Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before him and may examine such person, under oath, concerning any income which was or should have been returned for taxation or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and 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) Results of Refusal to Submit Information. 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 any order or subpoena of the Administrator authorized hereby, shall be deemed a violation of this Tax Code, punishable as provided in Section 181.99.

(d) Confidential Nature of Information.

(1) 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, which includes the exchange of information with other tax authorities, 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 or not more than one thousand dollars (\$1,000) or imprisoned for not more than six months or both. Each disclosure shall constitute a separate offense.

(2) In addition to the above penalty, 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.

(e) Retention of Records. 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. (Ord. 40-88. Passed 8-15-88.)

#### 181.14 INTEREST AND PENALTIES.

(a) All taxes imposed and all moneys withheld or required to be withheld by the employers under the provisions of this chapter and remaining unpaid after they become due shall bear interest at the rate of one and one-half percent (1.5%) per month or fraction thereof.

(Ord. 40-88. Passed 8-15-88.)

(b) In addition to interest as provided in subsection (a) hereof, penalties are hereby imposed as follows:

(1) For failure to pay taxes when due other than taxes withheld the great of one and one-half percent (1.5%) of the unpaid taxes or twenty-five dollars (\$25.00) per month or fraction thereof.

(2) For failure to remit taxes withheld or required to be withheld from employees when due, the greater of six percent (6%) of the unpaid tax or fifty dollars (\$50.00) per month or part thereof.

(3) For failure to file a tax return by the due date, there is hereby imposed a late filing penalty of fifteen dollars (\$15.00)

(4) When any check or other negotiable instrument used in the payment of any tax liability due pursuant to this chapter is dishonored, an additional charge of twenty-five dollars (\$25.00) per dishonored item shall be added to the tax liability of the person owing the same.

(Ord. 63-99. Passed 8-2-99.)

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

(d) Upon recommendation of the Administrator, the Board of Review may abate penalty or interest, or both, or upon appeal from the refusal of the Administrator to recommend abatement of penalty and interest, the Board may nevertheless abate penalty or interest or both. (Ord. 40-88. Passed 8-15-88.)

#### 181.15 COLLECTION OF UNPAID TAXES BY CIVIL LITIGATION; 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 prerecoverable. Such litigation shall be commenced within three years after the tax was due or the return was filed, whichever is later, in accordance with O.R.C. 718.12A.

(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 one dollar (\$5.00) shall not be collected or refunded.

#### 181.16 BOARD OF REVIEW.

(a) A Board of Review consisting of the Village Solicitor as Chairman, the Chairman of the Finance Committee as Secretary and one other member of Council to be selected by the Solicitor and the Chairman of the Finance Committee is hereby created. A majority of the

members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and keep a record of its transactions. Any hearing by the Board may be conducted privately and the provisions of Section 181.13(d), with reference to the confidential character of information required to be disclosed, shall apply to such matters as may be heard before the Board of Review.

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

(c) Any persons dissatisfied with any ruling or decision of the Administrator which is made under the authority of this chapter may appeal therefrom to the Board of Review within thirty days from the announcement of such ruling or decision, or any part thereof.

(d) Any person dissatisfied with any ruling of the Administrator, which is made under the authority conferred by this Chapter at Section 181.12(b)(1), may appeal therefrom in writing to the Board of Review within thirty (30) calendar days from the issuance of such ruling or decision by the Administrator. The appeal must state the alleged errors in the Administrator's ruling or decision. The Board must schedule a hearing within forty-five (45) calendar days of receiving the appeal unless the taxpayer expressly waives the hearing and chooses instead to let the Board render its decision on the writings submitted by the Administrator and the Appellant. If the taxpayer does not waive the hearing, the taxpayer is entitled to appear before the Board and bring with him or her representation of his or her choosing. The Board must issue a written decision within ninety (90) calendar days after the final hearing and send a notice of its decision

to the taxpayer within fifteen (15) calendar days after issuing the decision. If the Board fails to comply with the provisions of this Section, the taxpayer's appeal will default in favor of the taxpayer. The Board's records of the hearing are not open to public inspection nor are the meetings subject to the State open meetings law.

(e) Whenever the Administrator issues a decision that is appealable, the Administrator must inform the taxpayer of their right to appeal and the manner in which the appeal is to be filed.

#### 181.17 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(a) Credits and limitations thereof. Every individual taxpayer who resides in the Village of Genoa who received net profits, salaries, wages, commissions, or other personal service compensation for work done or services performed or rendered outside of the Village of Genoa, if it be made to appear that he has paid a municipal income tax on the same income taxable under this ordinance to another municipality, shall be allowed a credit against the tax imposed by this ordinance of the amount so paid by him or in his behalf to such other municipality. The credit shall not exceed three-fourths of one percent (.75%).

(b) The credits provided for shall not be allowed unless the same are claimed in a timely return or form acceptable to, and filed with the 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 ordinance, together with such interest and penalties, both civil and criminal, as are prescribed in this chapter.

(c) No credit shall be given for any school district tax.

#### 181.18 SAVING CLAUSE.

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 not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter.

(Ord. 72-93. Passed 10-18-93.)

#### 181.19 TAX PREPARATION FEE.

Council does hereby establish a twenty-five dollars (\$25.00) fee to prepare Village annual tax returns. (Ord. 94-99. Passed 10-4-99.)

#### 181.99 VIOLATIONS – CRIMINAL PROSECUTIONS.

- (a) Any person who shall:
  - (1) Fail, neglect or refuse to make any return or declaration required by this chapter; or
  - (2) Make any incomplete, false or fraudulent return; or,
  - (3) Willfully fail, neglect or refuse to pay the tax, penalties and interest imposed by this chapter; or,
  - (4) Willfully fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator; or
  - (5) Refuse to permit the Administrator or 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 Administrator to produce his books, records, papers or federal income tax returns relating to the income or net profits of a taxpayer; or,

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

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

(9) Give to an employer false information as to his true name, correct social security number and residence address and date thereof; or

(10) Fail to use ordinary diligence in maintaining proper records of employees residence addresses, total wages paid and this Municipality's income tax withheld, or to knowingly give the Administrator false information; or,

(11) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties, or interest imposed by this chapter, shall be guilty of a misdemeanor in the first degree and be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months or both, for each offense.

(b) Prosecutions for an offense made punishable under this section or any other provision of this chapter shall be commenced within three years, after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five (25%) of more of income required to be reported prosecutions may be commenced within six years after the commission of the offense in accordance with O.R.C. 718.12B.

(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 tax.

(d) Any person divulging information in violation of Section 181.13 shall upon conviction thereof, be deemed guilty of a misdemeanor in the first degree and shall be subject to

a fine or penalty of not more than one thousand dollars (\$1,000) or imprisoned for not more than six months or both. Each disclosure shall constitute a separate offense.

(e) In addition to the above penalty, any employee of the Village who violates the provisions of Section 181.13 of this chapter relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal. (Ord. 40-88 Passed 8-15-88.)