

An ordinance to establish a municipal income tax, and declaring an emergency, to provide funds for general operations and permanent improvements by levying a tax on all salaries, wages, commissions, and other compensation earned by residents: on all salaries, wages, commissions, and other compensation earned by non-residents for work done or services performed in the Village of Williamsburg: on the net profits of all unincorporated businesses, professions, or other entities from sales made, work done and services performed, or business or other activities conducted in the Village of Williamsburg, whether or not such unincorporated businesses, professions, or other entities have an office or place of business in the Village of Williamsburg: on a resident's share of the net profits of an unincorporated business, professions, or other entity, whether located in or outside the Village of Williamsburg, not attributable to Williamsburg, and on the net profits of all corporations from sales made, work done, and services performed, or business or other activities conducted in the Village of Williamsburg, whether or not such corporations have an office or place of business in the Village of Williamsburg requiring the filing of returns and furnishing of information by employers and all those subject to said tax: imposing on employers the duty of collecting the tax at the source and paying the same to the Village of Williamsburg: providing for the administration, collection, and enforcement of said tax: declaring violations therefore to be misdemeanors, and imposing penalties therefore.

Now therefore be it resolved, by the Council of the Village of Williamsburg, State of Ohio, Three-Quarters of the elected members thereto concurring:

MUNICIPAL INCOME TAX

SECTION 1. PURPOSE.

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

SECTION 2. DEFINITIONS.

As used in this Ordinance, 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.

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

BOARD OF REVIEW. The Board created by and constituted as provided for in Section XIII of this Ordinance.

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 association having ten or more shareholders 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, commissions, or other types of compensation in the services of any employer.

EMPLOYER. An individual, partnership, association, corporation, governmental body, unit or agency, or other entity, whether or not organized for profit, and including the officers and senior resident manager, who or that employs one or more persons on a salary, wage, commission, or other compensation basis. (Ord. 616-83)

FISCAL YEAR. An accounting period of twelve (12) months ending on any day other than December 31st.

FORM 2106. Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.

GENERIC FORM. An electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation's tax on income.

GROSS RECEIPTS. Total income of taxpayers from whatever source derived.

INTANGIBLE INCOME. Income of any of the following types: income yield, interest, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701. Of the Ohio Revised Code.

INTERNAL REVENUE CODE. The Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.

INTERNET. The international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork known as the world wide web.

MUNICIPALITY. The Village of Williamsburg, Ohio.

NET PROFITS. A net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary, reasonable and necessary expenses, authorized by the ordinance, either paid or accrued in accordance with the provisions of the ordinance and the rules and regulations set forth by the tax commissioner, without deduction of taxes imposed by this ordinance, federal, state, and other taxes based on income exclusive of the amount of Ohio franchise tax computed on the net worth basis; and in the case of an association, without deduction of salaries paid to partners, and other owners; and otherwise adjusted to the requirements of this ordinance. (Ord. 616-83)

NON-RESIDENT. A person, whether an individual, association, corporation, or other entity, domiciled outside the Village of Williamsburg.

OTHER PAYER. Any person that pays an individual any item included in the taxable income of the individual, other than the individual's employer or that employer's agent.

PERSON. Every natural person, partnership, fiduciary, association, corporation, or other entity.

Whenever used in any clause prescribed and imposing a penalty, the term "person" as applied to any association shall include 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 one or more of his employees, regularly in attendance.

RESIDENT. A person, whether an individual, association, corporation, or other entity, domiciled in the Village of Williamsburg.

RETURN PREPARER. Any person other than a taxpayer that is authorized by a taxpayer to complete or file an income tax return, report, or other document for or on behalf of the taxpayer.

SCHEDULE C. Internal Revenue Service Schedule C filed by a taxpayer pursuant to the Internal Revenue Code.

TAX YEAR. The calendar year, or the fiscal year upon the basis of which net profits are to be computed under this Ordinance 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.

TAX COMMISSIONER. The Tax Commissioner of the Village of Williamsburg, or the person executing the duties of the aforesaid Commissioner, is the Tax Administrator.

TAX PAYER. A person, whether an individual, partnership, association, corporation, or other entity, required by this Ordinance to file a return or pay a tax.

The singular shall include the plural, and the masculine shall include the feminine and the neuter.

SECTION 3. IMPOSITION OF TAX.

(A) BASIS OF IMPOSITION.

Subject to provisions of Section 16 of the Ordinance, an annual tax for the purposes specified in Section 1 hereof, shall be, and is hereby levied on at the rate of One (1%) percent per annum upon the following:

1. The aggregate amounts of salaries, wages, commissions, and other compensation earned, and gross income from any business, profession, or other activity, less allowable expenses incurred in acquisition of such gross income and not disallowed by the provisions of any section or subsection of this ordinance earned during the preceding year and subject to said tax.

2. On all salaries, wages, vacation pay, commissions, and other compensation earned, during the effective period of this Ordinance, by non-residents for work done or service performed in the Municipality.

3. (a) On the portion attributable to the Municipality of the net profits earned during the effective period of the Ordinance of all resident associations, unincorporated businesses, professions, or other entities, derived from sales made, work done, or services performed or rendered, or business or other activities conducted in the Municipality.

(b) On a resident partner's or owner's share of the net profits earned during the effective period of this Ordinance of a resident association or other unincorporated entity not attributable to the Municipality and not levied against such association or other unincorporated entity.

4. (a) On the portion attributable to the Municipality of the net profits, earned during the effective period of this Ordinance, of all non-resident associations, unincorporated businesses, professions, or other entities, derived from sales made, work done, or services performed or rendered or business or other activities conducted in the Municipality, whether or not such association or other unincorporated entity has an office or place of business in the Municipality.

(b) On a resident partner's or owner's share of the net profits earned during the effective period of this Ordinance of a non-resident association or other unincorporated entity not attributable to the Municipality, and not levied against such association or other unincorporated entity.

5. On the net profits earned during the effective period of this Ordinance of all corporations derived from sales made, work done, or services performed or rendered, and business or other activities conducted

in the Municipality whether or not such corporations have an office or place of business in the Municipality.

(B.) APPORTIONMENT OF NET PROFITS.

Where a person conducts a business both within and outside the Municipality, the portion of the entire net profits of such business to be apportioned as having been made within the Municipality may be determined from the records of such business, if such business has bona fide records which disclose with reasonable accuracy what portion of its net profits is attributable to that part of its activities conducted within the Municipality or at the option of the taxpayer may be determined by the following formula, which shall be used if taxpayer has no bona fide records showing net profits from Williamsburg business activities, subject, however, to the provisions of sub-paragraph 2 hereof.

1. Multiply the entire net profits of the business by a business apportionment percentage to be determined by:

(a) ascertaining the percentage with the average original cost of the real and tangible personal property owned or used in the business and situated within the Municipality, during the period covered by the return is of the average original cost of all the real and tangible personal property owned or used in the business, wherever situated, during such period.

(b) ascertaining the percentage which the gross receipts of the business from sales made and services performed in the Municipality, during the period covered by the return, are of the total gross receipts from all sales and services, wherever made or performed, during such period.

(c) Ascertaining the percentage which the total wages, salaries, commissions, and other compensation paid, during the period covered by the return, to employees for services performed in the Municipality is of the total wages, salaries, commissions, and other compensation paid during such period to all employees within and outside the Municipality.

(d) Adding together the percentages determined in accordance with subparagraphs (a), (b), and (c) above, or such of the aforesaid percentages as are applicable to the particular taxpayer, and dividing the total so obtained by the number of percentages used in deriving said total.

(1) A factor is applicable even though it may be apportioned entirely in or outside the Municipality.

(d.) (2) Provided, however, that in the event a just and equitable result cannot be obtained under the formulas provided for herein, the Board of Review, upon application of the taxpayer or the Tax Commissioner, shall, under uniform regulations adopted by the Board, have the authority to substitute other factors or methods calculated to effect a fair and proper apportionment.

(C.) OPERATING LOSS CARRY-FORWARD. (Ord. 616-83)

1. The portion of a net operating loss sustained in any taxable year, apportioned to this _____ municipality may be applied against the portion of the profit of succeeding year (s) _____ apportioned to this municipality, until exhausted but in no event for more than three (3) _____ taxable years. No portion of a net operating loss shall be carried back against net profits in any prior year.

2. The portion of a net operation loss sustained shall be apportioned to the Municipality in the same manner as provided herein for apportioning net profits to the Municipality.

3. The Tax Commissioner shall provide by Rules and Regulations the manner in which such net operating loss carry-forward shall be determined.

(D.) CONSOLIDATED RETURNS. (Ord. 616-83)

1. Filing of consolidated returns, providing they clearly show the income and expenses attributable to this municipality alone, may be permitted, required, or denied in accordance with Rules and Regulations prescribed by the Tax Commissioner.

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, the Tax Commissioner shall require such information, in addition to the return hereinafter provided for, as he may deem necessary to ascertain whether net profits are properly apportioned to the Municipality. If the Tax Commissioner finds net profits are not properly apportioned to the Municipality by reason of transactions with stockholders or other corporations related by stock ownership, interlocking directorates, or some other method, he may require the filing of a consolidated return or adjust such transactions so as to produce a fair and proper apportionment of net profits to the Municipality.

(E.) EXCEPTION.

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

- (a) military pay or allowance of members of the armed forces of the United States or,
- (b) upon the net profits of any civic, charitable, religious, fraternal or other organization specified in Section 718.01 of the Revised Code of Ohio to the extent that such net profits are exempted from municipal income taxes under said section, or
- (c) on compensation paid under Section 3501.28 or Section 3501.36 of the Ohio Revised Code to a person serving as a precinct official, to the extent that such compensation does not exceed one thousand dollars (\$1,000) annually. Such compensation in excess of one thousand dollars (\$1,000) may be subjected to taxation. The payer of such compensation is not required to withhold city tax from that compensation, or
- (d) on compensation paid to an employee of a transit authority, regional transit authority, or regional transit commission created under Chapter 306 of the Ohio Revised Code for operating a transit bus or other motor vehicle for the authority or commission in or through the city, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such tax by reason of residence or domicile in the city, or the headquarters of the authority or the commission is located within the city, or
- (e) on the income of a public utility when that public utility is subject to the tax levied under Section 5727.24 or Section 5727.30 of the Ohio Revised Code, except starting on January 1, 2002, the income of an electric company or combined company, as defined in Section 5727.01 of the Ohio Revised Code shall be taxed subject to Chapter 5745 of the Ohio Revised Code, or
- (f) on the proceeds from welfare benefits, unemployment insurance benefits, social security benefits and qualified retirement plans as defined by the Internal Revenue Service, or
- (g) on the compensation of an individual if all of the following apply: (1) the individual does not reside in the Village of Williamsburg: (2) the compensation is paid for personal services performed by the individual in the Village of Williamsburg on twelve or fewer days in the calendar year: (3) in the case of an individual who is an employee, the principal place of business of the individual's employer is located outside of the Village of Williamsburg but within the State of Ohio and the individual pays tax on the compensation described in Subsection (2) of this section to the city, if any, in which the employer's principal place of business is located, and no portion of that tax is refunded to the individual.

(F.) DEDUCTIONS FOR EMPLOYED PERSONS RECEIVING SALARIES AND WAGES.

An employee who receives wages, salary or compensation and who pays business expenses without reimbursement from his or her employer shall be entitled to a deduction to the same extent allowed for federal income tax purposes, or which would otherwise be allowed except for the fact that the taxpayer has used the standard deduction when filing his or her federal income tax return, but only to the extent considered ordinary, necessary and reasonable and incurred in earning the specific wages, salary or commission subject to the tax imposed by this ordinance from which the deduction is made.

SECTION 4. EFFECTIVE PERIOD.

The tax imposed by the Ordinance shall be levied, collected, and paid with respect to all income and net profits, subject to the tax. (Ord. 596-82 and 598-82)

SECTION 5. RETURN AND PAYMENT OF TAX.

(A.) DATES AND EXEMPTIONS.

Each person who, engaged in business, or whose salary, wages, commissions, or other compensation are subject to the tax imposed by this Ordinance shall, whether or not a tax be due thereon, make and file, on or before April 15th in each year, a return with the Tax Commissioner.

(A.) DATES AND EXEMPTIONS. (cont.)

A tax payer on a fiscal year accounting basis for federal income tax purposes shall, beginning with his first fiscal year, any part of which falls within the effective period of this Ordinance, file his return within four (4) months from the end of such fiscal year or period.

(B.) RETURNS AND CONTENTS THEREOF.

The return shall be filed with the Tax Commissioner on a form or forms available to the public through the internet or furnished by or obtainable upon request from the Tax Commissioner or on a generic form or forms used for the filing of federal income taxes provided such forms contain all information necessary for a determination of local income taxes. Such information includes: taxpayer identification number, specification of city tax year involved and if a

federal form is used, a statement that indicates the city income tax purpose for which the federal form is intended as a substitute, such as power of attorney, extension of time in which to file, and the like. All forms filed shall set forth:

1. The aggregate amounts of salaries, wages, commissions, and other compensation earned, and gross income from any business, profession, or other activity, less allowable expenses incurred in the acquisition of such gross income, earned during the preceding year and subject to said tax. . Monies set aside for pensions of shareholders in corporations that have been excused for filing with the Division of Securities of the Ohio Department of Commerce shall not be considered an allowable expense.
2. The amount of the tax imposed by this Ordinance on such earnings and profits; and
3. Such other pertinent statements, information returns, or other information as the Tax Commissioner may require, including a statement that the figures used in the return are the figures used in the return for federal income tax, adjusted to set forth only such income as is taxable under the provisions of this Ordinance.
4. No return shall be considered to have been submitted unless it clearly sets forth the income and expenses attributable to this municipality alone. (Ord. 616-83)

(C.) EXTENSIONS.

The Tax Commissioner may extend the time for filing of the annual return upon the request of the taxpayer for a period of not to exceed six (6) months, or one (1) month beyond any extension requested of or granted by the Internal Revenue Service for filing of the Federal Income Tax Return. The Tax Commissioner 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.

(D.) PAYMENT WITH RETURNS.

1. The taxpayer making a return shall at the time of the filing thereof pay to the Tax Commissioner the amount of taxes shown as due thereon; provided, however, that where the source, pursuant to the provisions of Section 6 of this Ordinance; or where any portion of said tax shall have been paid by the taxpayer, pursuant to the provisions of Section 7 of this Ordinance, or where an income tax, creditable against the Williamsburg tax pursuant to Section 15 hereof has been paid to another municipality, credit for the amount so paid shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing said return.

2. A taxpayer who has overpaid the amount of tax to which the municipality is entitled under the provisions of this chapter may have such overpayment applied against any subsequent liability hereunder or, at the taxpayer's election indicated on the return, such overpayment, or part thereof, shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded. When a taxpayer's return indicates that a refund is due and a refund is not issued within 90 days after the Tax Commissioner has received proper verification and substantiation as to the validity of the refund claim, interest shall be paid at the rate prescribed by Section 5703.47 of the O.R.C.

(E.) AMENDED RETURNS.

1. Where necessary an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and limitations contained in Section 11 and 15, such Amended Returns shall be on a form obtainable on request from the Tax Commissioner.

2. Within three (3) months from the final determination of any Federal Tax liability affecting the taxpayer's Williamsburg tax liability, such taxpayer shall make and file an amended Williamsburg return, showing income subject to the municipality tax based upon such final determination of federal tax liability, and pay any additional tax shown thereon, or make claim for refund of any overpayment.

SECTION 6. COLLECTION AT SOURCE.

(A.) WITHHOLDING BY EMPLOYER.

Each employer within, or doing business within the Municipality, who employs one or

more persons on a salary, wage, commission, or other compensation basis shall deduct at the time of the payment of such salaries, wages, commissions, or other compensation due by said employer to each said employee, and shall, beginning with the year 1980, on or before the last day of each month make a return and pay to the Tax Commissioner the amount of taxes so deducted during the preceding month.

(a.) When taxes withheld during a quarter are less than \$100.00 per month, payments may be made quarterly, on or before the last day of the month following the end of the quarter.

(A.) WITHHOLDING BY EMPLOYER. (cont.)

Said return shall be on a form or forms prescribed by or acceptable to the Tax Commissioner and shall be subject to the rules and regulations prescribed therefore by the Tax Commissioner.

(B.) EMPLOYER CONSIDERED AS TRUSTEE.

Each employer in collecting said tax shall be deemed to hold the same, until payment is made by such employer to the Municipality, as a Trustee for the benefit of the Municipality, and any such tax collected by such employer from his employees shall, until the same is paid to the Municipality, be deemed a trust fund in the hands of such employer. Each employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such tax, in fact, has been withheld.

(C.) CORPORATE OFFICERS PERSONAL LIABILITY.

It shall be the responsibility, jointly and severally, of the officers of each corporation required to withhold the tax from wages of its employees under this section to see that all such taxes so withheld are paid to the Municipality in accordance with the provisions of this section. In the event taxes withheld by a corporation from the salaries of its employees are not paid to the Municipality in accordance with the provisions of this section, the officers of said corporation shall each be criminally liable under the provisions of Section 12 hereof.

(D.) EMPLOYEES' LISTINGS.

On or before February 28th of each year, each employer shall file a withholding return, on a form or forms prescribed by and obtainable from the Tax Commissioner, setting forth the tax which was withheld during the preceding calendar year and such other information as may be required by the rules and regulations adopted by the Tax Commissioner.

(E.) DOMESTIC SERVANTS.

Provided, however, that no person shall be required to withhold the tax on the wages or other compensation paid domestic servants employed exclusively in or about such person's residence. However, such domestic servants shall be responsible for filing and paying their own returns and taxes.

SECTION 7. DECLARATIONS.

(A.) REQUIREMENT FOR FILING.

Every person who anticipates any taxable income which is not subject to Section 6 hereof, or engages in any business, profession, enterprise, or activity, shall 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, if any.

(B.) DATES FOR FILING.

1. Such declaration, beginning with the year 2005, and thereafter during the life of this ordinance, shall be filed, and thereafter during the life of this ordinance, on or before April 15, or within four (4) months of the date the taxpayer first becomes subject to the provision of this section.

2. Those taxpayers reporting on a fiscal year basis shall file a declaration within four (4) months after the start of each year or period.

(C.) FORMS --- PAYMENT DATES.

1. Such declaration shall be filed upon a form furnished by or obtainable from the Tax Commissioner. Credit shall be taken in said declaration for Williamsburg tax to be withheld from any portion of such income and for income taxes to be paid to another taxing municipality for which credit is allowed against the Williamsburg tax Section 15 hereof.

2. A declaration of estimated tax to be paid the municipality shall be accompanied by a payment of at least one-fourth (1/4) of the estimated tax, less credit for taxes withheld or paid to another municipality, and at least a similar amount shall be paid on or before the 15th day of the sixth, ninth, and thirteenth months after the beginning of the tax year.

4. A declaration may be amended at any time, provided, however, that in case an

amended declaration is filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

(D.) AMENDED DECLARATION. (Ord. 616-83)

Such declaration or estimated tax equal to or greater than the tax paid last year to this municipality shall be accompanied by a payment of at least one fourth (1/4) of the net estimated annual tax and at least a similar amount shall be paid on or before the 15th day of the sixth, ninth, and thirteenth months after the beginning of the taxable year. Provided however that in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates. Failure to file such a declaration or pay at least twenty-five (25%) percent of the amount declared shall subject the taxpayer to the interest and penalties provided for in Section X of this ordinance: Such assessments shall begin to run on the day following the due day of such declaration.

(E.) ANNUAL RETURN REQUIRED.

On or before the 15th day of the fourth month of the calendar or fiscal year following that for which the declaration was filed, and annual return shall be filed and any balance which may be due the Municipality shall be paid therewith in accordance with the provisions of Section 5 hereof.

SECTION 8. DUTIES OF THE TAX COMMISSIONER.

(A.) COLLECTION AND MAINTENANCE RESPONSIBILITY.

1. There is hereby created an independent department to be titled the Williamsburg Income Tax Bureau for the administration of the provisions of this Ordinance. Such Bureau shall consist of a Tax Commissioner, Deputy Tax Commissioner and such clerical and secretarial personnel as may be determined to be necessary for the administration of this Ordinance. All such personnel shall be appointed by the Mayor with the consent of Council. The Tax Commissioner and Deputy Tax Commissioner shall also be Deputy Village Treasurer, without additional compensation, for the purpose of collecting and depositing all income tax revenue.
2. It shall be the duty of the Tax Commissioner to collect and receive the tax imposed by this Ordinance in the manner prescribed therein, and to keep an accurate record thereof, and to report all monies so received.
3. It shall be the duty of the Tax Commissioner to enforce payment of all incomes taxes owed the Municipality, to keep accurate records for a minimum of five (5) years, showing the amount due from each taxpayer required to file a declaration or make any return including a return of taxes withheld, and to show the dates and amounts of payments thereof.

(B.) ENFORCEMENT AUTHORITY.

Said Tax Commissioner is hereby charged with the enforcement of the provisions of this Ordinance, and is hereby empowered, subject to the approval of Board of Review, to adopt and promulgate and to enforce rules and regulations authorized or required by this Ordinance, relating to any matter or thing pertaining to the collection and payment of taxes and the administration and enforcement of the provisions of this Ordinance, including provisions for the re-examination and correction of returns.

(C.) 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 Tax Commissioner may determine the amount of tax appearing to be due the Municipality from the taxpayer and will send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.

(D.) COMPROMISE AUTHORITY.

Subject to the consent of the Board of Review or pursuant to regulation approved by the Board of Review, the Tax Commissioner shall have the power to compromise any liability imposed by this Ordinance.

SECTION 9. INVESTIGATIVE POWERS OF THE TAX COMMISSIONER – PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.

(A.) EXAMINATION OF TAXPAYERS RECORDS.

The Tax Commissioner, or any of his authorized agents, is hereby authorized to examine the books, papers, records, and federal income tax returns of any employer, or taxpayer, or any person subject to, or whom the Tax Commissioner believes subject to, the provisions of this Ordinance, for the purpose of verifying the accuracy of any withholdings due under this

Ordinance. Every such employer, supposed employer, taxpayer, or supposed taxpayer, is hereby directed and required to furnish, upon written request of the Tax Commissioner, or his duly authorized agent or employees, the means, facilities, and opportunity for making such examinations and investigations as are hereby authorized.

(B.) APPEARANCE ORDERS TO TAXPAYERS.

The Tax Commissioner is hereby authorized to order any persons 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 reported for taxation or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records, and federal, state, county, and municipal income tax returns persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry. (Ord. 616-83)

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(C.) RESULT 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 an order or subpoena of the Tax Commissioner authorized hereby shall be deemed a violation of this Ordinance punishable as provided in Section 12 hereof.

(D.) RETENTION OF RECORDS BY TAXPAYER.

Every taxpayer shall retain all records necessary to compute his tax liability for a period of five (5) years from the date his return is filed or the taxes required to be withheld are paid.

(E.) CONFIDENTIAL NATURE OF INFORMATION.

Any information gained as a result of any returns, investigations, hearings or verifications required or authorized by this Ordinance shall be confidential, and no disclosure thereof shall be made except to municipal, county, state or federal taxing agencies, or except for official purposes as the Village Solicitor shall determine, or except in accordance with proper judicial order. Any person divulging such information in violation of this section shall be guilty of a misdemeanor in the third degree and shall be fined not more than Five Hundred (\$500.00) Dollars and imprisoned not more than sixty (60) days, or both for each offense. Each disclosure shall constitute a separate offense. In addition to the above penalty, any employee of the Municipality who violates the provisions of this section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

SECTION 10. INTEREST AND PENALTIES.

(A.) INTEREST.

All taxes imposed and monies withheld or required to be withheld by employers under the provisions of this Ordinance, remaining unpaid after they become due, shall bear interest at the rate of one-half of one percent (1/2%) per month.

(B.) PENALTIES.

In addition to interest as provided in Paragraph A hereof, penalties for failure to pay taxes and to withhold and remit taxes pursuant to the provisions of this Ordinance are hereby imposed as follows:

(1.) In the case of taxpayers failing to pay the full amount of tax due, a penalty of the higher of: (a) Fifty (\$50.00) Dollars or (b) one and one-half (1-1/2%) percent per month or fraction thereof, of the amount of the unpaid tax, if the tax is paid during the first three months after said tax became due; a penalty of two and one-half (2-1/2%) percent per month or fraction thereof, of the unpaid tax, if said tax is paid between the fourth and sixth months after said tax became due; and a penalty of four and one-half (4-1/2%) percent per month, or fraction thereof, of the amount of the unpaid tax, if said tax is paid later than six (6) months after it became due. The percentages herein specified, when used, shall apply from the first month of delinquency.

(2.) In the case of employers who fail to withhold and remit to the Tax Commissioner the taxes to be withheld from employees, a penalty of the higher of (a) One Hundred (100.00) Dollars or (b) two and one-half (2-1/2%) percent per month or fraction thereof, of the unpaid withholding, if paid during the first three (3) months after it was due; a penalty of four and one-half (4-1/2%) percent per month or fraction thereof, of the unpaid withholding, if paid during the fourth to sixth month, inclusive, after it was due; and a penalty of five and one-half percent (5-1/2%) per month or fraction thereof,

of the unpaid withholding, if paid later than six (6) months after it was due. The percentages herein specified, when used, shall apply from the first month of delinquency.

(C.) EXCEPTIONS.

A penalty shall not be assessed or an additional tax assessment made by the Tax Commissioner when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Tax Commissioner; 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 audit, providing an amended return is filed and the additional tax is paid within three (3) months after final determination of the federal tax liability.

(D.) ABATEMENT BY BOARD OF REVIEW.

Upon an appeal from the refusal of the Tax Commissioner to recommend abatement of penalty and interest, the Board of Review may abate such penalty or interest, or both.

SECTION 11. COLLECTION OF UNPAID TAXES AND REFUNDS OF OVER-PAYMENTS.

(A.) TIME LIMITATION ON SUITS.

All taxes imposed by this Ordinance shall be collectable, together with any interest and penalties thereon, by suit as other debts of like amount are recoverable. No additional assessment shall be made after three (3) years from the time of payment of any tax due hereunder; provided, however, there shall be no period of limitation on an additional assessment in a case of a return that omits gross income in excess of twenty-five percent (25%) of that required to be reported or in the case of filing a false or fraudulent return with intent to evade the tax, or in the case of a failure to file a return. In those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitations the period within which an additional assessment may be made by the Tax Commissioner shall be extended one (1) year from the time of the final determination of the federal tax liability.

(B.) TIME LIMITATIONS ON REFUNDS.

Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date on which such payment was made or the return was due, or within three (3) months after final determination of the federal tax liability, whichever is later.

SECTION 12. VIOLATIONS -- PENALTIES.

(A.) ENUMERATION OF AND PENALTIES.

Any person who shall:

1. fail, neglect, or refuse to make any return or declaration required by this Ordinance; or
2. make an incomplete, false, or fraudulent return; or
3. fail, neglect, or refuse to pay the tax, penalties, or interest imposed by this Ordinance; or
4. fail, neglect, or refuse to withhold the tax from his employees and remit such withholding tax to the Tax Commissioner; or
5. refuse to permit the Tax Commissioner or any duly authorized agent or employee to examine his or his employer's books, records, papers, and federal income tax returns, or
6. fail to appear before the Tax Commissioner and to produce his or her employer's books, records, papers, or federal income tax returns upon order or subpoena of the Tax Commissioner; or
7. refuse to disclose to the Tax Commissioner any information with respect to such person's or such person's employer's income or net profits; or
8. fail to comply with the provisions of this Ordinance or any order or subpoena of the Tax Commissioner; or
9. fail, neglect, or refuse to make any payment on the estimated tax for any year as required by Section 7, or
10. fail, as an officer or resident manager of a corporation, to cause the tax withheld from the wages of the employees of such corporation pursuant to this Ordinance to be paid to the Municipality in accordance with the provisions of Section 6 hereof; 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 Ordinance, shall be guilty of a misdemeanor in the third degree, and shall be fined not more than Five Hundred Dollars (\$500.00) or imprisoned not more than sixty (60) days or both, for each offense.

(B.) TIME LIMITATIONS ON PROSECUTIONS.

All criminal prosecutions under this section must be commenced within three (3) years, and all civil actions within three (3) years following the date on which the final return for a

taxable year was due, or three (3) years from the time of any other offense complained of.
(C.) FAILURE TO OBTAIN FORMS NOT A DEFENSE.

The failure of any employer, taxpayer, or person to receive or procure a return, declaration, or other required form shall not excuse him from making any information return, or declaration, from filing such form, or from paying the tax.

(D.) RESPONSIBILITY OF CORPORATION EMPLOYEES.

The term "person" as used in the section shall, in addition to the meaning prescribed in Section 2 of this Ordinance, include in the case of an association or corporation to having any partner, member, or officer within the Municipality, any employee or agent of such association or corporation who can be found within the corporate limits of the Municipality.

SECTION 13. BOARD OF REVIEW. (Ord. 677-88)

(A.) COMPOSITION.

A Board of Review shall consist of three persons, one who shall be the Clerk/Treasurer of the Village of Williamsburg, one who shall be the Mayor of the Village of Williamsburg, or his designate, and one who shall be a Williamsburg Councilperson, designated by the Village Council.

(B.) PROCEDURE.

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 Section 9 of the Ordinance with reference to the confidential character of information required to be disclosed by the Ordinance shall apply to such matters as may be heard before the Board on appeal. All rules and regulations and amendments or changes thereto, which are adopted by the Commissioner under the authority conferred by the Ordinance, must be approved by the Board of Review before the same become effective. The Board shall hear and pass on appeals from any ruling or decision of the Commissioner, and, at the request of the Taxpayer or Commissioner, is empowered to substitute alternate methods of apportionment.

(C.) APPEALS.

1. An appeal from a ruling of the Commissioner by a Taxpayer or Employer is effective by filing a notice of appeal with the Board in the Village Hall, within thirty (30) days after the announcement of the Commissioner's ruling or decision from which the appeal is taken. A copy of such notice of appeal must be filed with the Commissioner.

2. The Board, by a majority vote, may affirm, modify or reverse, in whole or in part any such ruling or decision of the Commissioner.

3. Hearings before the Board shall be private unless the Taxpayer requests a public hearing. Hearings shall be scheduled within forty-five (45) days after receiving the request.

(D.) AUDIT.

The Board of Review, or their official designate, shall periodically review and audit the books, files, returns and procedures of the Tax Commissioner and the Tax Department, and make recommendations to the Tax Commissioner and the Village Council concerning the operation of the Tax Department. All members of the Board of Review are subject to the confidential nature of information provision contained in Article 9, paragraph E of the Williamsburg Income Tax Ordinance.

SECTION 14. APPORTIONMENT OF FUNDS. (Ord. 743-93)

(A.) The funds collected under the provisions of this Ordinance shall be deposited in the Income Tax Fund and shall be disbursed in the following manner:

1. Any monies collected under the provisions of this Ordinance shall be transferred, upon the approval by a motion of the Village Council, to such fund or funds as necessary to meet anticipated expenditures.

SECTION 15. CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(A.) LIMITATION ON AMOUNT PAID.

Every individual taxpayer who resides in the Municipality and who receives salaries, wages, commissions, or other compensation or net profits from sales made, work done, or services performed or rendered outside of the Municipality, if it be made to appear that he has paid a municipal income tax on such income, taxable under this Ordinance, to another municipality, shall be allowed a credit for such tax paid, against the tax imposed by this Ordinance in an amount not to exceed the tax due the Village of Williamsburg.

(B.) CREDITS AND LIMITATIONS THEREOF.

Notwithstanding the provisions contained in Section 11 hereof, or any other provisions inconsistent herewith, a claim for refund or credit under this section shall be made in such manner as the Tax Commissioner may by regulation provide. No such claim for refund of credit shall be allowed unless made on or before the date of filing the taxpayer's final return and unless such taxpayer's employer files with the Tax Commissioner a list showing the tax withheld from taxpayer's wages, salaries, or commissions for other municipalities.

SECTION 16. SAVING CLAUSE.

This Ordinance shall not apply to any person, firm, or corporation, or to any property as to whom or which it is beyond the power of Council to impose the tax herein provided for. Any sentence, clause, section, or part of this Ordinance or any tax against or exception granted any individual of any of the several groups of persons, or forms of income specified herein if found to be unconstitutional or illegal or invalid, such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section, or part of this Ordinance and shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or other parts of this Ordinance. It is hereby declared to be the intention of Council of the Municipality that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, or part hereof, not been included therein.

SECTION 17. EMERGENCY CLAUSE.

This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety and it shall go into effect forthwith. The reason for the said emergency is the immediate necessity of levying the tax provided for herein in order to obtain revenue for the operation of the Municipal Government during the period from November 1, 1980, and thereafter.

Passed this 27th day of October, 1980.

Attest:

JUNE LUDWICK HARRY DONAWORTH
Clerk-Treasurer Mayor