

# RECORD OF ORDINANCES

FORM NO. 55043

Ordinance No. 576-06-10

Passed June 7

2010

YEAR

**AN ORDINANCE AMENDING PART ONE, ADMINISTRATIVE CODE, TITLE NINE TAXATION, CHAPTER 197 INCOME TAX, SECTION 197.03 IMPOSITION OF TAX, TO INCREASE THE RATE OF TAX TO ONE PERCENT PER ANNUM EFFECTIVE JULY 1, 2010, AND DECLARING AN EMERGENCY.**

WHEREAS, Council had previously adopted Ordinance No. 844-7-90 on July 10, 1990, which was later codified as Chapter 197 of Part One, Administrative Code, Title Nine, Taxation, of the Codified Ordinances of the Village of Milan, Ohio; and

WHEREAS, section 197.03(a) of Chapter 197 of Part One, Administrative Code, Title Nine, Taxation, of the Codified Ordinances of the Village of Milan, Ohio provided for the imposition of an annual tax for the purposes of general Municipal operations, including but not limited to Police Department responsibilities, maintenance, acquisition of new equipment, enlargement and improvement of Municipal services, and capital improvements of the Village to be levied, imposed, collected and paid at the rate of one-half percent ( $\frac{1}{2}\%$ ) per annum upon income as defined in section 197.03(a)(1) through (4); and

WHEREAS, said rate of tax has not been increased since the effective date of Ordinance No. 844-7-90, July 10, 1990; and

WHEREAS, Council has been informed by the Fiscal Officer and the Finance Committee that due to a decrease in revenue currently being generated by said one-half percent ( $\frac{1}{2}\%$ ), it is necessary to amend Part One, Administrative Code, Title Nine, Taxation, Chapter 197, Income Tax, Section 197.03 Imposition of Tax, to provide for the rate of income taxation to be increased to one per cent per annum, effective July 1, 2010; and

WHEREAS, Pursuant to Ohio Revised Code section 718.01(C), Council has the authority to levy a tax on income of one percent (1%) without having obtained approval by a majority of the electors of the municipality voting on the question at a general, primary, or special election; and

WHEREAS, Council of the Village of Milan, Ohio, has determined that it is necessary to amend Part One, Administrative Code, Title Nine, Taxation, Section 197.03(a) in order to preserve the provision of general Municipal operations, including but not limited to Police Department responsibilities, maintenance, acquisition of new equipment, enlargement and improvement of Municipal services, and capital improvements; and

WHEREAS, Council has determined that this Ordinance shall be an emergency measure in order to commence generating the additional revenue as soon as is practicable noting the fact that the effective date is July 1, 2010, and further noting that the Village of Milan has contracted with the Regional Income Tax Agency to administer and collect Village of Milan income taxes, time is of the essence in implementing the increase, and in order to provide for the financial stability of the Village, which is necessary for the health, safety and general welfare of the residents, and as such this Ordinance shall take effect immediately, upon adoption and due authentication by the Mayor and Fiscal Officer, respectively.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF MILAN, ERIE AND HURON COUNTIES, OHIO;**

**Section 1.** That Part One, Administrative Code, Title Nine, Taxation, Chapter 197, section 197.03(a) of the Codified Ordinances of the Village of Milan, Ohio be, and the same hereby is, amended to read as follows: (Changes in bold print)

# RECORD OF ORDINANCES

FORM NO 300-2

Ordinance No. 526-06-10

Passed June 2, 2010  
YEAR

## 197.03 IMPOSITION OF TAX

(a) Rate: Commencing **July 1, 2010** and thereafter, an annual tax for the purposes specified in Section 197.01 hereof shall be levied, imposed, collected and paid at the rate of **one percent (1%)** per annum upon the following:

(1) On all salaries, wages, commissions and other compensation (including tips, gratuities and taxable rental income as set forth below, income derived from gaming, wagering, lotteries or schemes of chance) earned or received by resident individuals of the Village of Milan from any source during the effective period of this chapter.

(2) On all salaries, wages, commissions and other compensation (including tips, gratuities and taxable rental income as set forth below, income derived from gaming, wagering, lotteries or schemes of chance) earned or received by nonresident individuals of the Village, for work done or services performed or rendered in the Village of Milan during the effective period of this chapter.

(3) On the net profits earned, accrued, or received by resident unincorporated businesses located in Milan; on the net profits earned, accrued, or received by nonresident unincorporated businesses doing business in Milan; on the net profits of unincorporated businesses located outside of Milan which are owned by a resident of Milan, all during the effective period of this chapter. The net profits attributable to Milan shall be computed using the formula or separate accounting method as applicable

(4) On the net profits earned, accrued or received, attributable to Milan under the formula or separate accounting method provided for herein, of all corporations derived from work done or services performed or rendered and business or other activities conducted in the Village of Milan, whether or not such corporations have an office or place of business in the Village during the effective period of this chapter.

**Section 2.** That if any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**Section 3.** That all formal actions relative to the adoption of this Ordinance were taken in an open meeting of this Council; and that all deliberations of this Council and of its committees, if any, which resulted in formal action, were taken in meetings open to the public in full compliance with applicable legal requirements, including §121.22 of the Revised Code.

**Section 4.** That for the reasons stated in the preamble hereto, this Ordinance Amending Part One, Administrative Code, Title Nine, Taxation, Chapter 197, Income Tax, Section 197.03, Imposition of Tax, shall be effective immediately upon adoption and due authentication by the Mayor and Fiscal Officer, respectively.

  
MAYOR ROBERT C. BICKLEY

ATTEST:

  
Mary Bruno, Village Fiscal Officer

Adopted June 2, 2010

CHAPTER 197  
Income Tax

<p>197.01 Purpose.</p> <p>197.02 Definitions.</p> <p>197.03 Imposition of tax.</p> <p>197.04 Return and payment of tax.</p> <p>197.05 Withholding by employer.</p> <p>197.06 Liability for payment.</p> <p>197.07 Declarations; quarterly estimates.</p> <p>197.08 Position of and duties of the Tax Administrator.</p>	<p>197.09 Examination of books, returns and records.</p> <p>197.10 Interest and penalties.</p> <p>197.11 Collection of unpaid taxes.</p> <p>197.12 Board of Review.</p> <p>197.13 Allocation of funds.</p> <p>197.14 Credits. (Repealed)</p> <p>197.15 Applicability.</p> <p>197.16 Assessment of tax by the Tax Administrator.</p> <p>197.99 Penalty.</p>
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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

197.01 PURPOSE.

To provide funds for the purposes of general Municipal operations, including but not limited to Police Department responsibilities, maintenance, acquisition of new equipment, enlargement and improvement of Municipal services, and capital improvements of the Village, there is hereby levied a tax on salaries, wages, net profits and other forms of income as hereinafter provided.

(Ord. 844-7-90. Passed 7-10-90)

197.02 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) "Association" means a partnership, limited partnership, or any other form of unincorporated enterprise, owned by two or more persons.
- (b) "Business" means an enterprise, activity, profession, or undertaking of any nature conducted for profit, whether being an individual, partnership, association, corporation or any other entity, including but not limited to the renting or leasing of property, real, personal or mixed.

- (c) "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.
- (d) "Employer" means an individual, co-partnership, association, corporation, governmental body or unit or agency, or any other entity, whether or not organized for profit, which employs one or more persons on a salary, wage, commission, or other compensation basis.
- (e) "Net profits" means the net gain from the operation of a business, profession, or enterprise after provision for reasonable costs and expenses incurred in the conduct thereof, either paid or accrued in accordance with a responsible accounting system, and without deduction of taxes imposed by this chapter or federal or state taxes based on income.
- (f) "Nonresident" means an individual domiciled outside the Village of Milan.
- (g) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Village of Milan.
- (h) "Person" means every natural person, co-partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person", as applied to associations and co-partnerships shall mean the partners or members thereof, and as applied to corporations, the officers thereof.
- (i) "Resident" means an individual domiciled in the Village of Milan.
- (j) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the Village of Milan. (Ord. 033-5-96. Passed 5-28-96.)
- (k) "Salaries, wages, commissions, and other compensation" means the total compensation paid to an individual 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 termination, wage continuation payments made as a result of sickness or temporary disability, vacation or holiday pay, employee contributions to tax sheltered annuities 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 and which may be excludable from wages for federal tax purposes, ordinary income portion of stock options or employee stock purchase plans, supplemental unemployment benefits (SUB Pay), strike pay, jury duty pay, working condition fringe benefits subject to tax by IRS, guardian, executor, or administrator fees, bonuses, ordinary income portion of lump sum distributions which are not "rolled over" into an IRA by the recipient; provided, however, Social Security payments and other payments made from a retirement plan shall be excluded, and including income derived from gaming, wagering, lotteries or schemes of chance. (Ord. 033-5-96. Passed 5-28-96.)
- (l) "Tax Administrator" is the individual designated and appointed under the provisions of this chapter to administer and enforce the tax.

- (m) "Taxpayer" means a husband and wife who have filed a joint Federal income tax return, a person, whether an individual, co-partnership, association, or any corporation or other entity required hereunder to file a return or to pay a tax.

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

(Ord. 844-7-90. Passed 7-10-90)

#### 197.03 IMPOSITION OF TAX.

(a) Rate. Commencing September 1, 1990 and thereafter, an annual tax for the purposes specified in Section 197.01 hereof shall be levied, imposed, collected and paid at the rate of one-half percent (1/2%) per annum upon the following:

- (1) On all salaries, wages, commissions and other compensation (including tips, gratuities and taxable rental income as set forth below, income derived from gaming, wagering, lotteries or schemes of chance) earned or received by resident individuals of the Village of Milan from any source during the effective period of this chapter.
- (2) On all salaries, wages, commissions and other compensation (including tips, gratuities and taxable rental income as set forth below, income derived from gaming, wagering, lotteries or schemes of chance) earned or received by nonresident individuals of the Village, for work done or services performed or rendered in the Village of Milan during the effective period of this chapter.  
(Ord. 033-5-96. Passed 5-28-96.)
- (3) On the net profits earned, accrued, or received by resident unincorporated businesses located in Milan; on the net profits earned, accrued, or received by nonresident unincorporated businesses doing business in Milan; on the net profits of unincorporated businesses located outside of Milan which are owned by a resident of Milan, all during the effective period of this chapter. The net profits attributable to Milan shall be computed using the formula or separate accounting method as applicable.
- (4) On the net profits earned, accrued or received, attributable to Milan under the formula or separate accounting method provided for herein, of all corporations derived from work done or services performed or rendered and business or other activities conducted in the Village of Milan, whether or not such corporations have an office or place of business in the Village during the effective period of this chapter.

(b) Rental Income. For the purpose of determining whether or not rental or leased property is subject to the tax, the following test will apply:

- (1) Where the gross monthly rental of all real properties exceeds an average of five hundred dollars (\$500.00) per month, it shall be prima facie evidence that the rental, ownership, management or operation of such property or properties shall be subject to the tax.
- (2) The average monthly rental shall be determined by dividing the number of months (or portion thereof) that the property or properties are actually rented into the total rents received for the period actually rented.

- (3) The five hundred dollars (\$500.00) per month figure is attributable to the property itself, regardless of the forms of ownership or number of owners.

If a rental or leased property is determined to be subject to the tax based on the test provided in subsection (1), (2), and (3) hereof, and the property or properties are owned by two or more taxpayers, the profits or losses from such rental or lease activity shall be included with other sources of income of the owners in proportion to their ownership interests.

Residents of Milan are subject to taxation upon the net income from rentals (to the extent above specified), regardless of the location of the real property owned.

Nonresidents of Milan are subject to such taxation only if the real property is situated within the Village of Milan. Nonresidents, in determining whether gross monthly rentals exceed five hundred dollars (\$500.00), shall take into consideration only real estate situated within Milan.

(c) Allocation of Net Profits.

- (1) In the taxation of income which is subject to the tax, if the books and records of a taxpayers conducting a business or profession both within and without the boundaries of the Village shall disclose with reasonable accuracy what portion of its net profit is attributable to that part of the business or profession conducted within the boundaries of the Village, then only such portion shall be considered as having a taxable situs in the Village for purposes of the tax. In the absence of such records, net profits from a business or profession conducted both within and without the boundaries of the Village shall be considered as having a taxable situs in the Village for purposes of the tax in the same proportion as the average ratio of:
  - A. The average net book value of the real and tangible personal property owned or used by the taxpayer in the business or profession in the Village during the taxable period to the average net book value of all of the real tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated. As used in the preceding paragraph, real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight.
  - B. Wages, salaries, and other compensation paid during the taxable period to persons employed in the business or professions for services performed in the Village, to wages, salaries, and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed.

- C. Gross receipts of the business or profession from sales made and services performed during the taxable period in the Village to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.
- (2) In the event that the foregoing allocation formula does not produce an equitable result, another basis may, under uniform regulations be substituted by the Tax Administrator so as to produce such result.
- (3) As used in subsection (c)(1) hereof, sales made in the Village means:
  - A. All sales of tangible personal property which is delivered within the Village regardless of where title passes if shipped or delivered from a stock of goods within the Village.
  - B. All sales of tangible personal property which is delivered within the Village regardless of where title passes even though transported from a point outside the Village if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the Village and the sale result from such solicitation or promotion.
  - C. All sales of tangible personal property which is shipped from a place within the Village to purchasers outside the Village regardless of where title passes if the taxpayer is not through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

(d) Losses Against Other Income. Beginning with tax years commencing after July 31, 1990, the net profits and losses sustained by a taxpayer from business activities or investments otherwise subject to the tax, other than from the taxpayer's principal source of income, subject to Milan tax, shall be aggregated for each of the taxpayer's tax years. If the result of such aggregation is a net profit, tax will be imposed and paid on that net profit. If the result of such aggregation is a net loss, the net loss may be carried forward to any of the succeeding five tax years to be used against an aggregate net profit, but shall not be used to offset any other income.

(e) Consolidated Returns. Filing of consolidated returns may be permitted or required in accordance with Rules and Regulations prescribed by the Tax Administrator.

(f) Operating Loss Carry Forward.

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

- (2) The portion of a net operating loss sustained shall be allocated to Milan in the same manner as provided herein for allocating net profits to Milan.
- (3) The Tax Administrator shall provide by Rules and Regulations the manner in which such net operating loss carry forward shall be determined.

(g) Lotteries and Games of Chance. The proceeds of lotteries and games of chance are subject to Milan Tax to the same extent as includable on the recipient's federal tax return.

(Ord. 844-7-90. Passed 7-10-90)

#### 197.04 RETURN AND PAYMENT OF TAX.

(a) Each taxpayer who engages in business, or whose salaries, wages, commissions and other compensation are subject to the tax imposed by this chapter and all residents of Milan with income subject to the tax shall, whether or not a tax be due thereon, make and file a return on or before April 15 of each year with the Tax Administrator or such other official as may be designated by Council. Provided, however, that when the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within three months and fifteen days from the end of such fiscal year or other period. This should be done on a form furnished by or obtainable from the Tax Administrator, setting forth the aggregate amount of salaries, wages, commissions and other compensations earned by the taxpayer and/or gross income from such business, less allowable expenses incurred in the acquisition of such gross income, earned during the preceding year and subject to the tax, together with such other pertinent information as the Tax Administrator may require. Copies of federal forms, or schedules or portions thereof, used to determine income subject to Milan tax shall be attached to the Milan Tax Return. A return is considered timely filed if received or postmarked on or before the due date. The return shall also show the amount of the tax imposed by this chapter on such earnings and profits. The taxpayer making the return shall, at the time of the filing thereof, pay to the Tax Administrator the amount of taxes shown as due thereon.

(b) Provided further, however, that where any portion of the tax due shall have been withheld by an employer and shall have been paid to the Tax Administrator by the employer making such deduction pursuant to the provisions of Section 197.05 or where any portion of such tax shall have been paid on an estimated basis by such taxpayer pursuant to the provisions of Section 197.07, 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 the return. Should it then appear that the taxpayer has overpaid the amount of the tax to which the Village is entitled on the taxpayer's Milan taxable income, under the provisions of this chapter, such overpayment shall be applied against any subsequent liability hereunder, or, at the election of the taxpayer and so indicated on the return, such overpayment (or part thereof) shall be refunded. Provided, however, that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded.

(c) Within thirty days from the final determination of any change to Federal, State, or Local tax liability affecting taxpayer's Milan tax liability, such taxpayer shall make and file an amended Milan return showing income subject to Milan tax based upon such final determination and pay any additional tax shown due thereon or make claim for refund of any overpayment.



(d) Extension of time for filing returns. Taxpayers granted extensions of time for filing their federal income tax returns have automatic extensions of time for filing their Village of Milan Tax Returns, provided the following conditions are met. If the extension granted by the IRS is an automatic extension, a copy of the federal extension application must be submitted with the Milan return. If the federal extension is not automatic, a copy of the approved federal extensions must be submitted with the Milan return.

The extended date for filing the Milan return will be the same as the extended date on the federal form regardless of the original due date of the tax return. Interest at the rate of one-half percent (1/2%) per month or portion thereof will be charged from the original due date of the return until date of actual payment provided payment in full is received on or before the extended date.

If a taxpayer fails to file a tax return by the extended date, interest will be assessed from the original due date of the return.

(e) All individuals, businesses, employers, brokers or others who are required under the Internal Revenue Code to furnish forms 1099 to the IRS for individuals or businesses to whom or which they have paid nonemployee compensation, shall furnish copies of the form 1099's to the Tax Administrator or in lieu thereof, a listing 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 the IRS.

(Ord. 844-7-90. Passed 7-10-90)

#### 197.05 WITHHOLDING BY EMPLOYER.

(a) Each employer within the Village who employs one or more persons on a salary, wage, commission or other compensation basis (including tips and gratuities) shall deduct at the time of payment of such salary, wage, commission or other compensation (including tips and gratuities), the tax imposed by Section 197.03.

(b) Each employer shall, on or before the last day of the month following the close of the calendar quarter, make a return and pay to the Commissioner of Taxation the amount of taxes so deducted. However, any employer who deducts taxes in the amount of one hundred dollars(\$100.00) or more per month shall remit to the Tax Administrator on or before the fifteenth day of the second and third months of each calendar quarter the taxes so deducted monthly, which remittance may be based on an estimate made by the employer of the employer's most recent payroll.

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

(Ord. 844-7-90. Passed 7-10-90)

#### 197.06 LIABILITY FOR PAYMENT.

The officer or employee 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 taxes, penalty and 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 and penalty and interest due.

(Ord. 844-7-90. Passed 7-10-90)

**197.07 DECLARATIONS; QUARTERLY ESTIMATES.**

(a) Every taxpayer having or anticipating any income not subject to the provisions of Section 197.05, shall file a declaration setting forth the estimated annual income, together with an estimate of the annual amount of tax due thereon. Such declaration shall be filed quarterly as provided in subsection (b) hereof, upon a form furnished or obtainable from the Tax Administrator. The estimated amount of the tax due annually may be amended if necessary.

(b) Such declaration of estimated annual tax to be paid to the Village shall be accompanied by a payment of at least one-fourth of the estimated annual tax for such year and shall be paid on or before April 15th, June 15th, and September 15th of such year and January 15th of the succeeding year. Provided, however, that on or before April 15th of the year succeeding that for which such declaration was filed, an annual return shall be filed and any tax remaining due the Village in the amount of one dollar (\$1.00) or more shall be paid therewith as set forth at Section 197.04 herein.

(c) Those taxpayers reporting on a fiscal year basis must file and pay the annual declarations of estimated tax and the annual return and tax due thereon using the corresponding calendar quarters of the fiscal year.  
(Ord. 844-7-90. Passed 7-10-90)

**197.08 POSITION OF AND DUTIES OF THE TAX ADMINISTRATOR.**

(a) The position of Tax Administrator is herein created and it shall be the duty of the Tax Administrator to collect and receive the tax imposed by this chapter in the manner prescribed. It shall also be his or her duty to keep an accurate record showing the amount received from each taxpayer required to file a declaration and/or make a return and the date of such receipt.

(b) The Tax Administrator shall be appointed by and serve at the pleasure of Council and is hereby charged with the enforcement of the provisions of this chapter, and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this chapter. Subject to the approval of the Board of Review as provided for in Section 197.12, the Tax Administrator is hereby empowered to adopt rules and regulations pertaining to the imposition of the tax created herein, all filings required hereunder and the collection of such tax.  
(Ord. 844-7-90. Passed 7-10-90)

**197.09 EXAMINATION OF BOOKS, RETURNS AND RECORDS.**

(a) The Tax Administrator, or any employee authorized by the Tax Administrator, is hereby authorized to examine the books, papers, records, federal, state, or local income tax returns of any employer or of any taxpayer or person subject to the tax for the purpose of verifying the accuracy of any return made, or, if 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 to the Tax Administrator, or his or her duly authorized agent or employee, the means, facilities, and opportunity for making such examinations and

investigations as are hereby authorized. The Tax Administrator is hereby authorized to compel by subpoena the appearance of and to examine any person, under oath, concerning any income which was or should have been returned for taxation, and for this purpose may compel the production of books, papers, records and federal, state, or local income tax returns or schedules or portions thereof, and the attendance of all persons before him or her whether as parties or witnesses, whenever he or she believes such persons have knowledge of such income.

(b) The refusal of such examination by any employer or person subject or presumed to be subject to the tax shall be deemed a violation of this chapter.

(c) Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this chapter, shall be confidential, except for the exchange of tax information with other tax entities, for other official purposes, and except in accordance with proper judicial order. Any person divulging such information shall be punished as provided in Section 197.99.  
(Ord. 844-7-90. Passed 7-10-90)

#### 197.10 INTEREST AND PENALTIES.

(a) All taxes due from taxpayers and all monies withheld by employers under the provisions of this chapter remaining unpaid after they have become due and payable shall bear interest at the rate of one and one-half percent (1 1/2%) per month or fraction thereof until paid in full unless otherwise provided herein.

(b) In addition to the interest provided in subsection (a) hereof, any taxpayer who or which files a tax return after the normal due date or after the due date as extended as set forth in Section 197.04, shall be penalized a flat amount of twenty-five dollars (\$25.00), whether or not tax was due on the return.

(c) Provided further that the Tax Administrator may abate penalty and interest for good cause shown under guidelines established by the Board of Review. The Board of Review may abate interest assessed against a taxpayer who appeals for such abatement under the provisions of Section 197.12 subsequent to a denial of such abatement by the Tax Administrator.  
(Ord. 844-7-90. Passed 7-10-90)

#### 197.11 COLLECTION OF UNPAID TAXES.

In addition to the interest and penalty provided in Section 197.10 for the failure, neglect or refusal to pay the taxes, or for late filing of a tax return, all taxes imposed by this chapter shall be collectable, together with any interest thereon or any penalty, by civil suit, subject to Ohio R.C. 718.06. However, taxes erroneously paid shall not be refunded unless a claim for refund is made subject to Ohio R.C. 718.06.  
(Ord. 844-7-90. Passed 7-10-90)

#### 197.12 BOARD OF REVIEW.

(a) A Board of Review, is hereby created and shall consist of a chairman and two other individuals appointed by Council. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a written record of its transactions. Any hearing by the Board may be conducted privately and the provisions of Section 197.09 hereof 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 of Appeal.

(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 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, the Board is empowered to substitute alternate methods of allocation.

(c) Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this chapter may appeal therefrom to the Board of Review within thirty days from the announcement of such ruling or decision by the Administrator, and the Board shall, on hearing, having jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof.  
(Ord. 844-7-90. Passed 7-10-90)

#### 197.13 ALLOCATION OF FUNDS.

The funds collected under the provisions of this chapter shall be applied for the following purposes:

- (a) Administration. Such part thereof as shall be necessary to defray all costs of collecting all income taxes levied and the cost of administering and enforcing the provisions of this chapter including the cost of a legal program by Regional Income Tax Agency (R.I.T.A.), as the duly authorized agent of the Village of Milan, Ohio.
- (b) General Fund. Eighty percent (80%) of the balance of net available income tax receipts after first deducting the administrative expenses described in subsection (a) hereof, shall be deposited in the General Fund and used for general operating expenses of the Village.
- (c) Capital Improvement Funds. Twenty percent (20%) of the balance of net available income tax receipts after first deducting the administrative expenses described in subsection (a) hereof, shall be placed in a Capital Improvement Fund. Funds shall be disbursed from this fund only by ordinance passed by Council for capital improvements having a useful life of at least four years.  
(Ord. 084-03-98. Passed 3-24-98.)

#### 197.14 CREDITS. (REPEALED)

(EDITOR'S NOTE: Former Section 197.14 was repealed by Ordinance 171-06-00, passed June 23, 2000.)

**197.15 APPLICABILITY.**

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

(Ord. 844-7-90. Passed 7-10-90)

**197.16 ASSESSMENT OF TAX BY THE TAX ADMINISTRATOR.**

(a) In any case where a taxpayer has failed to file a tax return when due or has filed a tax return which does not reflect the correct amount of tax due, the Tax Administrator may assess the amount of tax appearing to be due together with applicable penalty and interest in the following manner:

- (1) A proposed assessment shall be served upon the taxpayer in person or by mailing it to the taxpayer's last known address. Proof of mailing furnished by the U. S. Post Office shall be presumptive proof of receipt thereof by the addressee. The proposed assessment must indicate the amount and type of tax due, the tax year for which the tax is due, and the amount of applicable penalties and interest.
- (2) A taxpayer subject to a proposed assessment under subsection (a)(1) hereof may file a written request for a hearing with the Tax Administrator within fifteen days after receipt of the proposed assessment. Within fifteen days of receipt of the request for a hearing, the Tax Administrator shall withdraw, modify, or affirm the proposed assessment at which time the assessment shall become final.
- (3) If no request for a hearing is received as prescribed in subsection (a)(2) hereof, the proposed assessment shall become final fifteen days after being served or mailed and a notice of the final assessment shall be served upon the taxpayer in the same manner as the proposed assessment.

(b) A taxpayer shall have sixty days from the date the assessment becomes final under subsection (a)(1) or (a)(2) hereof to appeal the assessment to the Board of Review as provided at Section 197.12.

(Ord. 844-7-90. Passed 7-10-90)

197.99 PENALTY.

(a) Any person, firm or corporation who fails, neglects or refuses to make any return or declaration required by this chapter, or any taxpayer who fails, neglects or refuses to pay the tax, penalties or interest imposed by this chapter, or any person who refuses to permit the Tax Administrator, or his or her duly authorized agent or employee, to examine books, records, and papers, or who knowingly makes any incomplete, false or fraudulent return, or who attempts to do anything whatsoever to avoid the payment of the whole or any part of the tax, shall be guilty of a misdemeanor of the third degree.

(b) Whoever violates Section 197.09 is guilty of a misdemeanor of the first degree.

(c) The failure of any employer or taxpayer to receive or procure a return or declaration form shall not excuse him from making a return or declaration or from paying the tax.

(d) Criminal prosecutions hereunder must be commenced within three years from the time provided in Ohio R.C. 718.06  
(Ord. 844-7-90. Passed 7-10-90)