

ORDINANCE NO. 17-2006

Offered by All of Council

AN ORDINANCE REPEALING EXISTING CHAPTER 191 ("INCOME TAX") AND ENACTING A NEW CHAPTER 191, BEING SECTIONS 191.01 THROUGH 191.16 MAKING RECOMMENDED CHANGES TO THE VILLAGE'S INCOME TAX CODE

WHEREAS, this Council has previously enacted existing Chapter 191 ("Income Tax") to provide funds for the General Fund, capital improvements, special projects and recreation of the Village of Richfield; and

WHEREAS, this Council wishes to repeal existing Chapter 191 and enact a new Chapter 191, being Sections 191.01 through 191.16, making modifications, corrections and upgrades to the Village's Income Tax Code.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Richfield, Summit County, State of Ohio:

SECTION 1. That Sections 191.01 through 191.16 of the Administrative Code ("Income Tax") be amended to read as follows:

SEE EXHIBIT "A" ATTACHED HERETO

SECTION 2. That existing Chapter 191 being Section 191.01 through 191.16 be, and the same hereby are, repealed as of the effective date of this Ordinance.

SECTION 3. This Ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED: 3/21/06

[Signature]
President of Council

[Signature]
Mayor

Dated: 3/21/06

ATTEST:
[Signature]
Clerk of Council

VILLAGE of RICHFIELD

TITLE NINE – Taxation
Chap. 191. Income Tax
Chap. 193. Hotel and Motel Tax
Chap. 195. Motor Vehicle License Tax

Chapter 191
Income Tax

- 191.01 PURPOSE
- 191.02 DEFINITIONS
- 191.03 IMPOSITION OF INCOME TAX
- 191.04 DETERMINATION OF ALLOCATION OF TAX
- 191.05 EXEMPTIONS
- 191.06 RETURNS
- 191.07 PAYMENT OF TAX, COLLECTION AT SOURCE, AND
DECLARATIONS
- 191.08 INTEREST AND PENALTIES
- 191.09 COLLECTION OF UNPAID TAXES AND REFUNDS OF
OVERPAYMENTS
- 191.10 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY
- 191.11 DISBURSEMENT OF RECEIPTS OF TAX COLLECTION
- 191.12 DUTIES AND INVESTIGATIVE POWERS OF THE
ADMINISTRATOR
- 191.13 RESERVED
- 191.14 RESERVED
- 191.15 BOARD OF REVIEW
- 191.16 OTHER PROVISIONS

191.01 PURPOSE

To provide funds for the General Fund, capital improvements, special projects and recreation of the Village of Richfield, there is hereby levied a tax on all income, salaries, qualifying wages, commissions and other compensation, and on net profits as hereinafter provided in Ordinance 92-2002, passed 12-3-02, and as subsequently amended or replaced. This Ordinance replaces Ordinance 29-1969, and amendments thereto.

191.02 DEFINITIONS

As used in this chapter, the terms, phrases, words and their derivatives shall have the following meanings. The singular shall include the plural, and the masculine shall include the feminine and the neuter.

“Adjusted Federal Taxable Income” means a “C” corporation’s federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, but including subsequent adjustments from required additions and deductions. Pass-through entities must compute “Adjusted Federal Taxable Income” as if the pass-through entity was a “C” corporation. This definition does not apply to any taxpayer required to file a return under Ohio Revised Code (ORC) section 5745.03 or to the net profit from a sole proprietorship. This definition is effective for tax years beginning on or after January 1, 2004.

“**Administrator**” means the individual designated to administer and enforce the provisions of the Village of Richfield Income Tax. The Director of Finance or his appointee shall serve as Administrator.

“**Association**” means any partnership, limited partnership, limited liability company (including a single-owner LLC), Chapter S Corporation as defined in the Federal tax code, 26 U.S.C. 1361, or any other form of unincorporated enterprise

“**Board of Review**” or “**Board**” means the Board created by and constituted as provided in Section 191.15.

“**Business**” means any 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**” means a corporation or joint stock association organized under the laws of the United States, the State or any other state, territory or foreign country or dependency, but not including Chapter S Corporations.

“**Domicile**” means the permanent legal residence of a taxpayer. A taxpayer may have more than one residence but not more than one domicile.

“Employee” means one who works for wages, salary, commission or other type of compensation in the service of any employer.

“Employer” means an individual, partnership, association, corporation, government body, unit or agency, or any other entity, whether or not organized for profit, who employs one or more persons on a salary, wage, commission or other basis of compensation.

“Fiscal year” means an accounting period of twelve months or less, ending on any day other than December 31.

“Gross receipts” means the revenue derived from sales, work done, or services rendered before any deductions, exceptions, or credits are claimed.

“Income” shall include all monies derived from any source whatsoever, including but not limited to:

(A) All salaries, wages, commissions, other compensation and other income from whatever source received by residents of Richfield.

(B) All salaries, wages, commissions, other compensation and other income from whatever source received by nonresidents attributable to Richfield because the work done or services performed or rendered or other activities are conducted in Richfield or are sufficiently related to or integral to the operations conducted in Richfield that the work done or services performed or rendered or other activities bear a fiscal relationship to the Village of Richfield.

(C) The portion attributable to The Village of Richfield of the net profits of all unincorporated businesses, associations, professions, corporations, or other entities from sales made, work done, services performed or rendered, and business or other activities conducted in Richfield.

“Joint Economic Development District” means Districts created under Ohio Revised Code Sections 715.70 through 715.83, as amended from time to time.

“Net profits” means, for taxable years prior to 2004, a net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary and necessary expenses, either paid or accrued in accordance with the accounting system (i.e., either cash or accrual) used by the taxpayer for Federal income tax purposes without deducting taxes imposed by this chapter, Federal, state and other taxes based on income; and in case of an association, without deduction of salaries paid to partners and other owners; and otherwise adjusted to the requirements of this chapter and the rules & regulations promulgated by the Administrator.

Net profits shall include any amount or value received, realized, or recognized in a sale or other disposition of tangible personal property or real property used in business, in excess of book value. (For taxable years 2004 and later, see “adjusted federal taxable income”.)

“Nonresident” means an individual domiciled outside the Village of Richfield.

“Nonresident unincorporated business entity” means an unincorporated business entity not having an office or place of business within the Village of Richfield.

“Person” means every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, “person” as applied to any unincorporated entity; means the partners or members thereof, and as applied to corporations, the officers thereof.

“Place of business” means any bona fide office, other than a mere statutory office, a 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 regular employees regularly in attendance.

“Qualifying wage” means Wages as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, but including subsequent adjustments from required additions and deductions. “Qualifying wage” represents employees’ income from which municipal tax shall be deducted by the employer, and any wages not considered a part of “qualifying wage” shall not be taxed by the Village of Richfield. This definition is effective January 1, 2004.

“Resident” means an individual domiciled in the Village of Richfield.

“Resident unincorporated business entity” means an unincorporated business entity having an office or place of business within the Village of Richfield.

“Rules & Regulations” means the rules & regulations promulgated by the Administrator and approved by the Board of Review as authorized by Section 191.12C of this chapter, and to which rules & regulations taxpayers must comply.

“Taxable income” means income (including income from gaming, wagering and lotteries) minus the deductions and credits allowed by this Chapter. (See “Income” definition.)

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

“Taxpayer” means a person, whether an individual, partnership, association, or any corporation or other entity, required hereunder to file a return or pay a tax.

“Village” means the Village of Richfield, Ohio.

191.03 IMPOSITION OF INCOME TAX

A. An annual tax for the purposes specified in Section 191.01 hereof shall be imposed on and after July 1, 1969, at the rate of one percent (1%) per annum; July 1, 1983, at the rate of one and one-half percent (1.5%) per annum; and on and after July 1, 1992, at the rate of two percent (2%) per annum upon the following:

1. On all income, qualifying wages, commissions and other compensation earned and/or received during the effective period of this chapter by residents of the Village of Richfield.
2. On all income, qualifying wages, commissions and other compensation earned and/or received during the effective period of this chapter by nonresidents of the Village of Richfield.
3. (a) On the portion attributable to the Village on the net profits earned and/or received during the effective period of this chapter of all resident associations, unincorporated business entities, professions or other activities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the Village.
(b) On the portion of the distributive share of the net profits earned and/or received during the effective period of this chapter of a resident unincorporated business entity not attributable to the Village and not levied against such unincorporated business entity. Pass-through entities (i.e., associations) doing business within the Village shall, on behalf of each shareholder, collect and remit the tax due on the distributive shares in accordance with the provisions of this chapter and the rules and regulations.
4. (a) On the portions attributable to the Village of Richfield of the net profits earned and/or received during the effective period of this chapter of all nonresident associations, unincorporated business entities, professions or other activities, derived from sales made, work done, services performed or rendered and business and other activities conducted in the Village.
(b) On the portion of the distributive share of the net profits earned and/or received during the effective period of this chapter of a resident partner or owner of a nonresident unincorporated business entity not attributable to the Village and not levied against such unincorporated business entity. Pass-through entities (i.e., associations) doing business within the Village shall, on behalf of each shareholder, collect and remit the tax due on the distributive shares in accordance with the provisions of this chapter and the rules and regulations.
5. On the portion attributable to the Village of the net profits earned and/or received during the effective period of this chapter of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in the Village of Richfield, whether or not such corporations have an office or place of business in the Village.
6. On the portion attributable to depreciations recaptured relative to capital gains taxable as ordinary income for Federal purposes.

7. On all proceeds from lotteries, gaming, wagering or schemes of chance including the Ohio State Lottery received by residents of the Village, or received by nonresidents on the basis of activity conducted within the Village of Richfield.
8. Effective for tax years 2004 and later, the distributive share of income paid to an S corporation shareholder shall be taxable in the following manner:
 - (a) If no portion of the net profits of the S corporation are allocated or apportioned to the State of Ohio, the distributive share is taxable only to the extent that it represents wages or net earnings from self-employment.
 - (b) If any portion of the profits of the S corporation are allocated or apportioned to the State of Ohio, the full amount of the distributive share is taxable.
 - (c) Resident S corporations and non-resident S corporations doing business within the Village shall, on behalf of each shareholder, collect and remit the tax due on the distributive shares in accordance with the provisions of this chapter and the rules and regulations.
- B. The tax shall be levied, collected and paid with respect to the income, salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professions or other activities earned and/or received during the effective period of this chapter on and after July 1, 1969.

191.04 DETERMINATION OF ALLOCATION OF TAX

Net profit from a business or profession conducted both within and without the boundaries of the City shall be considered as having a taxable situs in the Village of Richfield for purposes of income taxation in the same proportion as the average ratio of:

1. The average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in the Village of Richfield, during the taxable period, to the average original cost of all real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.
As used in the preceding paragraph, real property includes property rented or leased by the taxpayer, and the value of such property shall be determined by multiplying the annual rental thereon by eight.
2. Wages, salaries and other compensation paid during the taxable period to persons employed in the business or profession for services performed in the Village of Richfield to wages, salaries and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed. Wages, salaries, and other compensation shall be included to the extent that they represent qualifying wages.
3. Gross receipts of the business or profession from sales made and services performed during the taxable period in the Village of Richfield to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

In the event that the foregoing apportionment formula does not produce an equitable result, another basis may, under uniform regulations, be substituted so as to produce such result.

- B. As used in Section 191.04 A.3, "sales made in the Village of Richfield," means:
1. All sales of tangible personal property which is delivered within the Village of Richfield, regardless of where title passes, if shipped or delivered from a stock of goods within the Village of Richfield.
 2. All sales of tangible personal property which is delivered within the Village of Richfield regardless of where title passes even though transported from a point outside the Village if the taxpayer is regularly engaged through his own employees in the solicitation or promotion of sales within the Village of Richfield and the sales result from such solicitation or promotion.
 3. All sales of tangible personal property which is shipped from a place within the Village of Richfield to purchasers outside the Village regardless of where title passes if the taxpayer is not, through his own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.
 4. Add together the percentages determined in accordance with Section 191.04 A.1, 2, and 3, or such of the aforesaid percentages as are applicable to the particular taxpayer, and divide the total so obtained by the number of percentages used in deriving this total in order to obtain the business allocation percentage referred to in Section 191.04 A. A factor is applicable even though it may be allocable entirely in or outside the Village of Richfield.
- C. Rental income received by a taxpayer shall be included in the computation of net profits from business activities under Section 191.03 A.3, 4, and 5, only if and to the extent that the rental ownership, management or operations of the real estate from which such rentals are derived, whether so rented, managed or operated by a taxpayer individually, or through agents or other representatives, constitutes a business activity of the taxpayer in whole or in part. Landlords must furnish a list of tenants' names, addresses and phone numbers when requested by the Administrator, but not more often than once a year.
1. Where gross monthly rental of any and all properties, regardless of number and value, aggregates in excess of two hundred fifty dollars (\$250.00) per month, it shall be prima-facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental property shall be subject to tax; provided that, in the case of commercial property the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the

- lessee, whether or not such rental exceeds two hundred fifty dollars (\$250.00) per month.
2. In the case of farm property the owner shall be considered engaged in a business activity when he share in crops or when the rental is based on a percentage of the gross or net profits derived from the farm, whether or not the gross income exceeds the two hundred fifty dollars (\$250.00) per month.
 3. A person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds two hundred fifty (\$250.00) per month.
- D. Operating loss carryforward.
1. The portion of a net operating loss sustained in any taxable year subsequent to July 1, 1969, allocable to the Village of Richfield, may be applied against the portion of the profit of succeeding tax years allocable to the Village until exhausted, but in no event for more than five taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.
 2. The portion of net operating loss sustained shall be allocated to the Village of Richfield in the same manner as provided herein for allocating net profits to the Village.
 3. Business losses cannot be used to offset Federal W-2 salaries, wages and other compensation.
 4. The Administrator shall provide by rules and regulations, the manner in which such net operating loss carry-forward shall be determined.

191.05 EXEMPTIONS

The tax provided for in this chapter shall not be levied on the following:

A. Pay or allowance of active members of the armed forces of the United States and of members of their reserve components, including the Ohio National Guard.

B. 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.

C. Unemployment insurance benefits, payments from pensions or similar payments, including social security and disability benefits received from local, State or Federal governments or charitable, religious or educational organizations.

D. Proceeds of insurance paid by reason of the death of the insured; pensions, disability benefits, annuities or gratuities not in the nature of compensation for services rendered from whatever source derived.

E. Receipts from seasonal or causal entertainment, amusements, sport events and health and welfare activities when such are conducted by a bona fide charitable, religious or educational organizations and associations.

F. Alimony received.

G. Personal earnings of any natural person under eighteen years of age.

H. Compensatory damages for personal injuries or for damages to property by way of insurance or otherwise.

I. Expenses deductible on federal form 2106, subject to audit and approval by the Administrator.

J. Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations, items of income already taxed by the State from which the Village is specifically prohibited from taxing and income of a descendant's estate during the period of administration, except such income from operation of a business.

K. Compensation paid under section 3501.28 or 3501.36 of the Revised Code to a person serving as a precinct election official, to the extent that such compensation does not exceed one thousand dollars annually.

L. Parsonage allowance, to the extent of the rental allowance or rental value of a house provided as a part of an ordained minister's compensation. The minister must be duly ordained, commissioned, or licensed by a religious body constituting a church or church denomination, and be permitted to perform all sacraments of the religious body, including performing marriage ceremonies.

M. Income, 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.

N. Income, salaries, wages, commissions and other compensation 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 the Municipality to impose net income taxes.

191.06 RETURNS

A. Except as herein provided each taxpayer shall, for years prior to taxable year 2004, whether or not a tax is due thereon, make and file a return on or before April 30 of the year following the effective date of this chapter (July 1, 1969), and on or before April 30 of each year thereafter, and on or before April 15th for taxable years 2004 and later. 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 for years prior to taxable year 2004, and within 105 days for taxable years 2004 and later. A retiree having no taxable income to the Village of Richfield shall be exempt from these filing requirements, and any subsequent filings, upon noting this exemption on the most recent annual return received by the retiree. Should a retiree subsequently receive income taxable to the Village of Richfield, the retiree shall again be required to comply with the provisions of this chapter, including the filing requirements.

B. The return shall be filed with the Administrator on a form or forms furnished by or obtainable upon request from such Administrator or on other forms deemed acceptable by the Administrator, setting forth:

1. The aggregate amounts of income, salaries, wages, commissions and other compensation earned or received, and gross receipts from business, profession

or other activity, less allowable expenses incurred in the acquisition of such gross receipts earned during the preceding year and subject to the tax, and for taxable years 2004 and later, less expenses allowable in the calculation of Adjusted Federal Taxable Income, and as further adjusted by audit;

2. The amount of the tax imposed by this chapter on such earnings and profits; and
3. Such other pertinent statements, information returns or other information as the Administrator requires, including but not limited to copies of all W-2 forms, 1099 Miscellaneous Income Forms, and all applicable federal schedules.

C. The Administrator may extend the time for filing of the annual return upon the request of the taxpayer for a period of not to exceed six months, or one month beyond any extension requested of or granted by the Internal Revenue Service for filing of the Federal income tax return for taxable years prior to 2004. For taxable year 2004 the extended due date shall be the last day of the month following the month to which the due date of the federal income tax return has been extended. For taxable years subsequent to 2004 the extended due date shall be the last day of the month to which the due date of the federal income tax return has been extended. The Administrator may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due. No penalty or interest shall be assessed in those cases in which the return is filed and the final tax paid within the period extended. The Administrator may deny the extension if the taxpayer's income tax account with the Village is delinquent in any way.

D. Consolidated returns.

1. Any affiliated group which files a consolidated return for federal income tax purposes pursuant to section 1501 of the Internal Revenue Code, may file a consolidated return with the Village of Richfield. However, once the affiliated group has elected to file a consolidated return or a separate return with the village, the affiliated group may not change their method of filing in any subsequent tax year without written approval from the Village.
2. In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within the Village of Richfield constituting a portion only of its total business, the Administrator shall require such additional information as he deems necessary to ascertain whether net profits are properly allocated the Village of Richfield. If the Administrator finds that the profits are not properly allocated the Village by reason of transactions with stockholders or other corporations related by stock ownership, interlocking directorates or transactions with such division, branch, factory, office, laboratory or activity, or by some other method, he shall make such allocation as he deems appropriate to produce a fair and proper allocation of net profits to the Village.

E. Amended returns.

1. Where necessary an amended return must be filed in order to report additional income and pay an additional tax due, or claim a refund of tax overpaid, subject to the requirements, limitations or both, contained in Sections 191.09 and 191.10. Such amended return 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 the filing of the original return.
2. Within three months from the final determination of any Federal tax liability affecting the taxpayer's Village of Richfield tax liability, such taxpayer shall make and file an amended Village return showing income subject to the Village tax based upon such final determination of Federal tax liability and pay any additional tax shown due thereon or make claim for refund of any overpayment.

F. Any business, profession, association or corporation reporting a net loss is subject to the filing requirements of this chapter.

191.07 PAYMENT OF TAX, COLLECTION AT SOURCE, AND DECLARATIONS

A. The taxpayer making a return shall, at the time of the filing thereof, pay to the Administrator the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due has been deducted at the source pursuant to the provisions of Section 191.07C, or where any portion of the tax has been paid by the taxpayer pursuant to the provisions of Section 191.07F, or whether an income tax has been paid to another municipality or Joint Economic Development District, credit for the amount so paid in accordance with Section 191.10 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 this return.

B. A taxpayer who has overpaid the amount of tax to which the Village of Richfield is entitled under the provisions of this chapter may have such overpayment applied against any subsequent liability hereunder or, at his election, so indicated on the return, such overpayment, or part thereof, shall be refunded, provided that no additional taxes or refunds of less than one dollar and one-cent (\$1.01) shall be collected or refunded.

C. Collection at source.

1. In accordance with the rules and regulations prescribed by the Administrator, each employer within or doing business within the Village of Richfield shall deduct at the time of payment of such income, salary, wages, commissions or other compensation, the tax of two percent (2%) per annum of the gross

receipts, income, salaries, wages, commissions or other compensation due by the employer to such employee and shall make a return and pay to the Administrator the amount of taxes so deducted, subject to the provisions of subsections 2 (a), (b), and 3 hereof. Such returns 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 whether or not such taxes in fact have been withheld.

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

(a) Such employer who deducts the tax in an amount of two hundred fifty dollars (\$250.00) or more in any month shall, on or before the 20th day of the following month, pay to the Administrator the amount of taxes so deducted. Such employer shall then continue to deduct and remit taxes on a monthly basis. However, an employer required to file monthly can subsequently request permission of the Administrator in writing to file on a quarterly basis. The request shall include the employer's justification for filing on a quarterly basis. The Administrator shall, in writing, approve or deny the request.

(b) Such employer who makes payment on a quarterly basis shall pay such tax deducted by the 20th of the month following the end of the quarter.

3. The payment shall be on a form or forms furnished by or obtainable from the Administrator upon request, setting forth the amount of tax deducted for the month or quarter.

D. The employer of a domestic servant shall be required to withhold the tax on wages or other compensation paid domestic servants employed by him exclusively in such employer's residence.

E. All employers that provide any contractual service within the Village and who employ subcontractors in conjunction with that service, shall provide the Village the names and addresses of the subcontractors. The subcontractors shall be responsible for all income tax withholding requirements under this chapter.

F. Declarations.

1. Every person who anticipates any taxable income which is not subject to Section 191.07C, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 191.03, 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 a person's income is wholly from wages from which the tax will be withheld and remitted to the Village of Richfield in accordance with Section 191.07C, such person need not file a declaration.

2. The declaration required by Section 191.07 F.1 above shall be filed on or before April 30th of each year, and on or before April 15th for taxable years 2005 and later, during the effective period set forth in Section 191.03B, except that no penalties or interest shall be assessed, for not filing a declaration, on any resident taxpayer who was not domiciled in the Village on the first day of January of the year in which they became subject to estimated payments, nor shall penalties or interest be assessed on estimated payments if the taxpayer has remitted an amount equal to one hundred percent of the previous year's tax liability, provided that the previous year reflected a twelve-month period.
3. Those taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year and within 105 days for taxable years 2005 and later.
4. The declaration required by Section 191.07F shall be filed upon a form furnished by or obtainable from the Administrator or on other forms deemed acceptable by the Administrator; provided, however, credit shall be taken for Village of Richfield tax to be withheld from any portion of such income. In accordance with the provisions of Section 191.10, credit may be taken for tax to be paid or to be withheld and remitted to another taxing municipality or Joint Economic Development District.
5. 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.
6. Such declaration of estimated tax to be paid to the Village by individuals shall be accompanied by a payment of at least one-fourth of 90% of the estimated annual tax and at least a similar amount shall be paid on or before July 31st and October 31st of the taxable year, and January 31st of following 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.
7. Effective January 1, 2003, such declaration of estimated tax to be paid to the Village by corporations and associations shall be accompanied by a payment of at least one-fourth of 90% of the estimated annual tax and at least a similar amount shall be paid on or before June 15, September 15 and December 15. In the case of a fiscal year taxpayer the second, third, and fourth quarterly estimated payments shall be due on the fifteenth day of the sixth, ninth, and twelfth months of the taxable year, respectively.

G. On or before the last day of the fourth month of the year following that for which such declaration or amended declaration was filed, and within 105 days for taxable years 2004 and later, an annual return shall be filed and any balance which may be due the Village shall be paid therewith in accordance with the provisions of Section 191.07A hereof.

H. The Administrator may extend the time for filing of any return required, making of any payment or performing any other act required by Section 191.07 for a period of not to exceed six months beyond the original required date.

191.08 INTEREST AND PENALTIES

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

B. In addition to interest as provided in Section 191.08A, penalties are hereby imposed as follows:

1. For failure to pay taxes due, other than taxes withheld, one percent (1%) per month.
2. For failure to remit taxes withheld from employees, ten percent (10%) per month.
3. Any person required to withhold the tax who knowingly fails to withhold such tax or pay over such tax or knowingly attempts in any manner to evade or defeat such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty equal to the total amount of the tax evaded or not withheld or not paid over. No other penalty under this section shall be applied to any offense to which this penalty is applied.
4. For failure to make a return within the time required, twenty-five dollars (\$25.00).

C. No penalty shall be assessed on an additional tax assessment made by the Administrator against a taxpayer when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Administrator; and provided further, that, in 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 months after a 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 an appeal from the refusal of the Administrator to recommend abatement of penalty and interest, the Board may nevertheless abate penalty or interest, or both, for good cause shown.

E. Violations.

No person shall:

1. Fail, neglect or refuse to make any return or declaration required by this chapter;
2. Make an incomplete, false or fraudulent return;
3. Fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter;

4. Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator;
5. Refuse to permit the Administrator, or any duly authorized agent or employee to examine his books, records, papers and Federal income tax returns relating to the income or net profits of a taxpayer;
6. Fail to appear before the Administrator and produce his books, records, papers or Federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator;
7. Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer;
8. Fail to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized hereby;
9. Give to any employer false information as to his true name, correct social security number and residence address or fail to promptly notify an employer of any change in residence address and date of change;
10. Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and Village tax withheld, or knowingly give the Administrator false information; or
11. Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter.

F. Whoever violates any provision of this section shall be fined not more than seven hundred fifty dollars (\$750) or imprisoned not more than 90 days, or both, for each offense, which is a second degree misdemeanor.

G. All prosecutions under this chapter must be commenced within time limits specified by Ohio R.C. 718.12.

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

191.09 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS

A. All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable. Except in the case of fraud, omission of a substantial portion of income subject to this tax, or failure to file a return, an additional assessment shall not be made after three years from the time the return was due or filed, whichever is later. In the case of fraud, omission of 25% or more of income subject to this tax, or failure to file a return, all additional assessments shall be made and all prosecutions to recover Village of Richfield income taxes and penalties and interest thereon shall be brought within six (6) years after the tax was due or the return was filed, whichever is later. In those cases in which a 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 Administrator shall be one year from the time of the final determination of the Federal tax liability.

B. Taxes erroneously paid shall not be refunded unless a claim for refund is made within three years from the date which such payment was made or the return was due, or within three months after the final determination of the Federal tax liability, whichever is later. However, the following shall apply regarding refunds of tax withheld from non-qualified deferred compensation plans (NDCP):

1. A taxpayer may be eligible for a refund if the taxpayer has suffered a loss from a NDCP. The loss will be considered sustained only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to the NDCP. Full loss is sustained if no distribution of money and property will be made by the NDCP.
2. A taxpayer who receives income as a result of payments from a NDCP, and that income is less than the amount of income deferred to the NDCP and upon which municipal tax was withheld, then a refund will be issued on the amount representing the difference between the deferred income that was taxed and the income received from the NDCP. If different tax rates applied to the tax years in which deferrals, a weighted average of the different tax rates will be used to compute the refund amount.
3. Refunds shall be allowed only if the loss is attributable to the bankruptcy of the employer who had established the NDCP, or the employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified compensation.

C. Income tax that has been deposited with the Village of Richfield, but should have been deposited with another municipality, is allowable by the Village of Richfield as a refund but is subject to the three-year limitation on refunds. Income tax that should have been deposited with the Village of Richfield, but was deposited with another municipality, shall be subject to recovery by the Village of Richfield. The Village of Richfield will allow a non-refundable credit for any amount owed the Village of Richfield that is in excess of the amount to be refunded by the other municipality, as long as the tax rate of the other municipality is the same or higher than the Village of Richfield's tax rate. If the Village of Richfield's tax rate is higher, the tax representing the net difference of the rates is also subject to collection by the Village of Richfield.

D. Those officers or employees having control or supervision of, or charged with, the responsibility of filing the return and making payments for a corporation or association shall be personally liable for failure to file the return or pay the taxes and penalties and interest due as required. The dissolution, bankruptcy, or reorganization of any employer does not discharge the officers' or employees' liability for a prior failure of such business to file a return or pay the taxes due.

E. Amounts of less than one dollar and one-cent (\$1.01) shall not be collected or refunded.

191.10 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY

A. When a resident of the Village of Richfield is subject to a municipal income tax in another municipality or Joint Economic Development District he shall not pay a total municipal income tax on the same income greater than the tax imposed at the higher rate.

B. Every individual taxpayer who resides in the Village of Richfield but receives net profits, income, salaries, qualifying wages, commissions, other personal service compensation, or a distributive share of net profits from a resident or nonresident unincorporated business entity of which he is a partner or owner, for work done, or services performed or rendered outside of the Village of Richfield, if it appears that he or such business entity has paid a municipal income tax on or with respect to the same income taxable under this chapter to another municipality or Joint Economic Development District, shall be allowed a credit against the tax imposed by this chapter in the amount so paid by him, in his behalf or by such business entity, to such other municipality or Joint Economic Development District. In no event, however, shall any such municipal income tax or Joint Economic Development District income tax to the extent paid to another municipality or Joint Economic Development District and allowed as a credit hereunder be deductible in computing the net profit of such taxpayer or such business entity. In addition, such credit shall not exceed the tax assessed by this chapter on such income earned in such other municipality or municipalities or Joint Economic Development Districts where such tax is paid.

C. In the event a Richfield resident is entitled to credit for taxes paid another municipality or Joint Economic Development District, such Richfield resident is required to file a return or form in such manner as the Administrator prescribes.

191.11 DISBURSEMENT OF RECEIPTS OF TAX COLLECTION

The funds collected under this chapter shall be disbursed in the following manner:

A. First, the funds collected pursuant to Ordinance 19-1983 shall be paid into the income tax fund, and applied in the Appropriation Resolution to General Fund/Safety for the following purposes: police, fire and rescue.

B. Second, such portion thereof as shall be necessary to defray all expenses of collecting the tax and of administering and enforcing the provisions of this chapter shall be paid.

C. The sums, specified in the Appropriation Resolution that is passed each year by Council, shall be deducted from total income tax collections for the corresponding tax year, and allocated in accordance with the provisions of the Appropriation Resolution.

D. After deducting payment of expenses in subsections B and C, the balance of the total income tax collections shall be transferred to the Capital Improvements Fund.

191.12 DUTIES AND INVESTIGATIVE POWERS OF THE ADMINISTRATOR

A. The Administrator shall receive the tax imposed by this chapter in the manner prescribed herein from the taxpayer, keep an accurate record thereof, and report all moneys so received.

B. The Administrator shall enforce payment of all taxes owing to the Village of Richfield, keep accurate records for a minimum of six years showing the amount due from each taxpayer required to file a declaration and made any return, or both, including taxes withheld, and show the dates and amounts of payments thereof.

C. The Administrator is charged with the enforcement of this chapter and is hereby empowered, subject to the approval of the Board of Review, to adopt, 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 correction of returns. Taxpayers are hereby required to comply with said rules and regulations.

D. 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 hardships and 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 this chapter. Failure to make any deferred payment when due shall cause the total unpaid amount, including penalty and interest, to become due and payable upon demand, and the provisions of Section 191.09A and 191.08E shall apply.

E. Authority to determine amount of tax due.

1. 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 the Village of Richfield from the taxpayer, and shall send to such taxpayer a written statement showing the amount of tax so determined together with interest and penalties thereon, if any.
2. A taxpayer may, within fifteen days after the date the proposed assessment was served or mailed, file a written protest with the Administrator. Within fifteen days after receipt of the protest, the Administrator shall give the protestant an opportunity to be heard; provided further that the Administrator may extend the date of hearing for good cause shown. After the hearing the Administrator shall withdraw the assessment or shall adjust or reaffirm the assessment and it shall then become final. If no protest is filed as herein provided, such proposed assessment shall become final fifteen days after being served.
3. A taxpayer shall have thirty days after the date the final assessment was served or mailed within which to file written notice of appeal with the Board of

Review, and the appeal shall be handled in accordance with Section 191.15. If no protest is filed as herein provided, such proposed assessment shall become final thirty days after being served.

F. The Administrator, or any authorized employee, is hereby authorized to examine the books, papers, records and 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 the provisions of this chapter, for the purpose of verifying the accuracy of any return made or, if no return was made, to ascertain the tax due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer, is hereby directed and required to furnish within fifteen (15) calendar days following a 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.

G. 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 and State 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.

H. The refusal to produce books, papers, records and Federal income tax return, or the refusal to submit to such examination by any employer or persons subject or presumed 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 chapter or with an order or subpoena of the Administrator authorized hereby, shall be deemed a violation of this chapter, punishable as provided in Section 191.08E.

I. Any information gained as the result of any returns, investigations, hearings or verifications required or otherwise authorized by this chapter shall be confidential except for official tax purposes, or except in accordance with proper judicial order. Whoever divulges such information in violation of this section shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months, or both. Each disclosure shall constitute a separate offense.

In addition to the above penalty, any employee of the Village of Richfield who violates this section relative to disclosures of confidential information shall be punished by immediate dismissal.

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

K. The Mayor may enter into an agreement on behalf of the Village with any other municipal corporation, firm or private corporation to permit such other corporation to act as agent for the Village for the purpose of administering the Village income tax laws and providing a central collection facility for the collection of the income tax on behalf of the Village of Richfield. Such agreement shall be approved by Council.

L. In the event the Mayor, on behalf of the Village, enters into an agreement with any other municipal corporation, firm or private corporation, to act as agent for the Village of Richfield for the purpose of administering the Village income tax laws and providing a central facility for the collection of the income tax, as provided in Section 191.12K, then all or part of the duties and authority of the Administrator may be assigned by such agreement to such other corporation. Such agreement shall be approved by Council.

191.13 RESERVED

_____ THIS SECTION RESERVED FOR FUTURE USE.

191.14 RESERVED

_____ THIS SECTION RESERVED FOR FUTURE USE.

191.15 BOARD OF REVIEW

A. A Board of Review, consisting of the Chairman of the Finance Committee of Council or a person designated by him, the Director of Law, and a resident elector appointed by Council is hereby created. The Board shall select, each year for a one-year term, one of its members to serve as Chairman and one to serve as Secretary. 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 shall be conducted privately and the provisions of Section 191.12I hereof with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as may be heard before the Board on appeal.

B. All rules and regulations and amendments or changes thereto, which are adopted by the Administrator under the authority conferred by this chapter, 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 Administrator and, at the request of the taxpayer or Administrator, 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, and who has filed with the Village

the required return or other documents pertaining to the municipal income tax obligation at issue, may appeal therefrom to the Board of Review within thirty days from the announcement of such ruling or decision by the Administrator. The Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decisions, or any part thereof. Such hearing shall be scheduled within 45 days from the date of appeal. The Board's ruling must be made within 30 days from the date of the closing of the record, shall be in writing and filed with the Administrator, and within 15 days of its decision shall send notice of its decision by ordinary mail to the taxpayer making the appeal. Any person dissatisfied with any ruling or decision of the Board may appeal therefrom to a court of competent jurisdiction by perfecting the appeal as required by state law within 30 days from the filing of such ruling or decision. For matters relating to tax years beginning on or after January 1, 2004, any ruling or decision of the Board of Appeal may be appealed to a court of competent jurisdiction or to the State Board of Tax Appeals.

191.16 OTHER PROVISIONS

A. 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 had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included therein.

- B. 1. This chapter shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions and proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of the taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of such taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitations contained in Sections 191.08G, and 191.09.
2. Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Section 191.06 as though the same were continuing.