

Westfield Center Code of Ordinances

TITLE FOUR - TAXATION

Chap. 890. Earned Income Tax.

**CHAPTER 890
EARNED INCOME TAX**

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CROSS REFERENCES

Power to levy income tax - see Ohio Const., Art. XII, Sec. 8

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

890.01 PURPOSE.

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

(Ord. 1999-10. Passed 12-7-99.)

890.02 DEFINITIONS.

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

- (a) "Administrator" means the Clerk-Treasurer or his or her authorized representative.
- (b) "Assignment" means the assignment made by a resident of Westfield Center of a claim for refund due from another taxing municipality or village granting credit to nonresidents thereof.
- (c) "Association" means a partnership, limited partnership or any other form of unincorporated enterprise, owned by two or more persons.
- (d) "Board of Review" means the board created by and constituted as provided in Section 890.14.
- (e) "Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity.
- (f) "Corporation" means a corporation or joint stock association organized under the laws of the United States, the State of Ohio or any other state, territory or foreign country or dependency.
- (g) "Employee" means one who works for wages, salary, commission or other type of compensation in the service of an employer.
- (h) "Employer" means an individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission or other compensation basis.
- (i) "Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31.
- (j) "Gross receipts" means the total income from any source whatsoever.

(k) "Net profits" means 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 used by the taxpayer for Federal income tax purposes, without deduction of taxes imposed by this chapter, Federal, State and other taxes based on income, and in the case of an association, without deduction of salaries paid to partners and other owners, and otherwise adjusted to the requirements of this chapter.

(l) "Nonresident" means an individual, partnership, limited partnership, corporation, association or other entity domiciled outside the Village of Westfield Center.

(m) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Village of Westfield Center.

(n) "Other entity" means any person or unincorporated body not previously named or defined and includes, inter alia, fiduciaries located within the Village of Westfield Center.

(o) "Partnership" means an association of two or more persons to carry on, as co-owners, a business for profit.

(p) "Person" means every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person," as applied to any unincorporated entity, shall mean the partners or members thereof, and as applied to a corporation, the officers thereof.

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

(r) "Resident" means an individual, partnership, limited partnership, corporation, association or other entity domiciled in the Village of Westfield Center.

(s) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the Village of Westfield Center.

(t) "Taxable income" means wages, salaries, lottery and gambling winnings, golden parachutes/severance packages, employee bonuses and rewards, and other compensation paid by an employer or employers before any deduction and/or the net profits from the operation of a business, profession or other enterprise or activity, adjusted in accordance with the provisions of this chapter.

(u) "Taxing municipality" means any municipal corporation levying a municipal income tax on salaries, wages, commissions and other compensation earned by individuals, and on the net profits earned from the operation of a business, profession or other activity.

(v) "Taxing village" means any village levying a village income tax on salaries, wages, commissions and other compensation earned by individuals, and on the net profits earned from the operation of a business, profession or other activity.

(w) "Taxpayer" means a person, whether an individual, partnership, limited partnership, corporation, association or other entity, required hereunder to file a return or pay a tax.

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

(Ord. 1999-10. Passed 12-7-99.)

890.03 IMPOSITION OF TAX.

(a) Subject to the provisions of Section 890.16, an annual tax for the purposes specified in Section 890.01 shall be imposed on and after January 1, 2000, at the rate of one percent per annum upon the following:

(1) On all salaries, wages, commissions and other compensation earned during the effective period of this chapter by residents of the Village of Westfield Center.

(2) On all salaries, wages, commissions and other compensation earned during the effective period of this chapter by nonresidents for work done or services performed or rendered in the Village of Westfield Center.

(3) A. On the portion attributable to the Village of Westfield Center of the net profits earned during the effective period of this chapter of all resident unincorporated businesses, professions or other entities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the Village of Westfield Center.

B. On the portion of the distributive share of the net profits earned during the effective period of this chapter of a resident partner or owner of a resident unincorporated business entity not attributable to the Village of Westfield Center and not levied against such unincorporated business entity, provided, however, that the liability of an individual partner or owner taxable hereunder on income attributable to another taxing municipality or village shall be subject to the relief and reciprocity provisions of Section 890.16.

(4) A. On the portion attributable to the Village of Westfield Center of the net profits earned during the effective period of this chapter of all nonresident unincorporated businesses, professions or other entities, derived from sales made, work done or services performed or rendered and business or other activities conducted in the Village of Westfield Center, whether or not such unincorporated business entity has an office or place of business in the Village of Westfield Center.

B. On the portion of the distributive share of the net profits earned during the effective period of this chapter of a resident partner or owner of a nonresident unincorporated business entity not attributable to the Village of Westfield Center and not levied against such unincorporated business entity, provided, however, that the liability of an individual partner or owner taxable hereunder on income attributable to another taxing municipality or village shall be subject to the relief and reciprocity provisions of Section 890.16.

(5) On the portion attributable to the Village of Westfield Center of the net profits earned during the effective period of this chapter of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in the Village of Westfield Center, whether or not such corporations have an office or place of business in the Village of Westfield Center.

(b) The portion of the net profits attributable to the Village of Westfield Center of a taxpayer conducting a business, profession or other activity both within and without the boundaries of the Village of Westfield Center shall be determined as provided in Ohio R.C. 718.02 and in accordance with the rules and regulations adopted by the Administrator pursuant to this chapter.

(Ord. 1999-10. Passed 12-7-99.)

890.04 DETERMINATION OF INCOME SUBJECT TO TAX.

(a) Taxable Situs. In the taxation of income which is subject to Village income taxes, if the books and records of a taxpayer 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 the 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 of the Village for purposes of Village income taxation. In the absence of such records, net profit 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 Village income taxation in the same proportion as the average ratio of:

(1) 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 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 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.

(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 to wages, salaries and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed.

(3) 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.

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

(b) Sales Made in the Village Defined. As used in subsection (a) hereof, "sales made in the Village" means:

(1) 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.

(2) 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 sales result from such solicitation or promotion.

(3) All sales of tangible personal property which is shipped from a place within the Village to purchases 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.

(c) Operating Loss Carry-Forward.

(1) The portion of a net operating loss sustained in any taxable year subsequent to the effective date of the "first" ordinance permitting loss carry-forwards and allocable to the Village of Westfield Center, may be applied against the portion of the profit of succeeding year(s) which is allocable to the Village of Westfield Center, until exhausted, but in no event for more than five taxable years. No portion of a net operating loss shall be carried back against net profits of any prior year.

(2) The portion of a net operating loss sustained shall be allocated to the Village of Westfield Center in the

same manner as provided herein for allocating net profits to the Village of Westfield Center.

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

(d) Consolidated Returns.

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

(2) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, or in case any person operates a division, branch, factory, office, laboratory or other activity within the Village of Westfield Center constituting a portion only of its total business, the Administrator shall require such additional information as he or she may deem necessary to ascertain whether net profits are properly allocated to the Village of Westfield Center. If the Administrator finds that net profits are not properly allocated to the Village of Westfield Center by reason of transactions with stockholders or with 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 or she shall make such allocation as he or she deems appropriate to produce a fair and proper allocation of net profits to the Village of Westfield Center.

(e) Exceptions. The provisions of this chapter shall not be construed as levying a tax upon the following:

(1) Funds received from local governments or from the State or Federal Government because of service in the Armed Forces of the United States by the person rendering such service, or as a result of another person rendering such service;

(2) Poor relief, pensions, Social Security, unemployment compensation, disability benefits received from private industry, local governments, the State or Federal Government, or charitable, religious or educational organizations, and deferred compensation paid to retired individuals pursuant to a nonqualified deferred compensation plan as defined in 26 USC 3121 (v)(2)(C);

(3) Dues, contributions and similar payments received by charitable, religious, educational or literary organizations or labor unions, lodges and similar organizations;

(4) Receipts from casual entertainment, amusements, sports events and health and welfare activities conducted by bona fide charitable, religious and/or educational organizations and associations;

(5) Any association, organization, corporation, club or trust, which is exempt from Federal taxes on income by reason of its charitable, religious, educational, literary, scientific, etc., purposes;

(6) Gains from involuntary conversions, cancellation of indebtedness, interest of Federal obligations, and income of a decedent's estate during the period of administration (except such income from the operation of a business); and

(7) Earnings and income of all persons under eighteen years of age, whether residents or nonresidents.

(Ord. 1999-10. Passed 12-7-99; Ord. 2009-05. Passed 6-2-09.)

890.05 EFFECTIVE PERIOD OF CHAPTER.

This chapter shall continue effective, insofar as the levy of taxes is concerned, until changed by a vote of the Council of the Village of Westfield Center.

(Ord. 1999-10. Passed 12-7-99.)

890.06 RETURN AND PAYMENT OF TAX.

(a) Each taxpayer, except as herein provided, shall, whether or not a tax is due thereon, make and file a return on or before April 15 of the year following the effective date of this chapter and on or before April 15 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within ninety days from the end of such fiscal year or period. The Administrator is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of tax deducted by said employer or employers, from the salaries, wages, commissions or other compensation of an employee, and paid by him or her to the Administrator, shall be accepted as the return required of any employee whose sole income, subject to tax under this chapter, is such salaries, wages, commissions or other compensation.

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

(1) The aggregate amount of salaries, wages, commissions and other compensation earned and the gross income from a business, profession or other activity, less allowable expenses incurred in the acquisition of such gross income. Such income shall include only income earned during the year, or portion thereof, covered by the return and subject to the tax imposed by this chapter.

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

(3) Any credits to which the taxpayer may be entitled under the provisions of Sections 890.07, 890.08 and 890.16; and

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

(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 the filing of the Federal Income Tax Return.

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 which is extended.

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

(1) The amount of Westfield Center income tax deducted or withheld at the source, pursuant to Section 890.07;

(2) Such portion of the tax as has been paid on declaration by the taxpayer pursuant to Section 890.08;

(3) Any credit allowable under the provisions of Section 890.16.

Should the return, or the records of the Administrator, indicate an overpayment of the tax to which the Village of Westfield Center is entitled under the provisions of this chapter, such overpayment shall first be applied against any existing liability and the balance, if any, at the election of the taxpayer communicated to the Administrator, shall be refunded or transferred against any subsequent liability, provided, however, that overpayment of less than one dollar (\$1.00) shall not be refunded.

(e) (1) Where necessary, an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Sections 890.12 and 890.16. Such amended returns shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

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

(Ord. 1999-10. Passed 12-7-99.)

890.07 COLLECTION AT SOURCE.

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

(b) Notwithstanding the provisions of subsection (a) hereof, where such employer employs a Westfield Center resident in another taxing municipality requiring such employer to deduct its tax from all employees engaged therein, such employer shall withhold for and remit to the Village of Westfield Center only the difference, if any, between the tax imposed by such other taxing municipality and the tax imposed by this chapter.

(c) Each such employer shall, on or before the last day of the month following each calendar quarter, make a return and remit to the Village of Westfield Center the tax hereby required to be withheld. Such return shall be on a form or forms prescribed by or acceptable to the Administrator and shall be subject to the rules and regulations prescribed therefor 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 have in fact been withheld.

(d) On or before the thirty-first day of January following any calendar year, such employer shall file with the Administrator an information return for each employee from whom Village of Westfield Center income tax has been, or should have been, withheld, showing the name, address and Social Security number of the employee, the total amount of compensation paid during the year and the amount of Village of Westfield Center income tax withheld from such employee.

(e) Such employer, in collecting said tax, shall be deemed to hold the same, until payment is made by such employer to the Village of Westfield Center, as a Trustee for the benefit of the Village of Westfield Center, and any such tax collected by such employer from his or her employees shall, until the same is paid to the Village of Westfield Center, be deemed a trust fund in the hands of such employer.

(Ord. 1999-10. Passed 12-7-99.)

890.08 DECLARATIONS.

(a) Every person who anticipates any taxable income which is not subject to Section 890.07, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 890.03, 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 any, provided, however, that if a person's income is wholly from wages from which the tax will be withheld and remitted to the Village of Westfield Center in accordance with Section 890.07, such person need not file a declaration.

(b) Such declaration shall be filed on or before May 1 of each year during the life of this chapter, or within four months of the date the taxpayer becomes subject to tax for the first time.

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

(d) Such declaration shall be filed upon a form furnished by or obtainable from the Administrator. Credit shall be taken for the Village of Westfield Center income tax to be withheld, if any, from any portion of such income. In addition, credit may be taken for tax payable to other taxing municipalities in accordance with the provisions of Section 890.16.

(e) 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.

(f) The taxpayer making the declaration shall, at the time of the filing thereof, pay to the Administrator at least one-fourth of the estimated annual tax due, after deducting:

- (1) Any portion of such tax to be deducted or withheld at the source, pursuant to Section 890.07;
- (2) Any credits allowable under the provisions of Section 890.16; and
- (3) Any overpayment of the previous year's tax liability which the taxpayer has not elected to have refunded.

At least a similar amount shall be paid on or before the last day of the sixth, ninth and twelfth months after the beginning of a taxpayer's taxable year, provided that, in case an amended declaration has been duly filed or the taxpayer is taxable for a portion of the year only, the unpaid balance shall be paid in equal installments on or before the remaining payment dates.

(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, an annual return shall be filed and any balance which may be due the Village of Westfield Center shall be paid therewith in accordance with the provisions of Section 890.06.

(Ord. 1999-10. Passed 12-7-99.)

890.09 DUTIES OF THE ADMINISTRATOR; DEPARTMENT OF TAXATION.

(a) It shall be the duty of the Clerk-Treasurer to receive the tax imposed by this chapter in the manner prescribed

herein from the taxpayers, to keep an accurate record thereof and to report all monies so received.

(b) It shall be the duty of the Administrator to enforce payment of all taxes owing the Village of Westfield Center, to keep accurate records for a minimum of five years showing the amount due from each taxpayer required to file a declaration and/or make any return, including taxes withheld, and to show the dates and amounts of payments thereof.

(c) The Administrator is hereby charged with the enforcement of the provisions of this chapter and is hereby empowered, subject to the approval of the Board of Review, to adopt, 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.

(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 hardship conditions he or she is unable to pay the full amount of the tax due. Such authorization shall not be granted until the proper returns are filed by the taxpayer for all amounts owed by him or her under this chapter.

(e) Failure to make any deferred payment when due shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Sections 890.12 and 890.13 shall apply.

(f) 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 Westfield Center 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.

(g) Subject to the consent of the Board of Review or pursuant to regulation approved by said Board, the Administrator shall have the power to compromise any interest or penalty, or both, imposed by Section 890.11.

(h) A Department of Taxation is hereby created within the office of the Clerk-Treasurer of the Village of Westfield Center. Such Department of Taxation shall have such deputies, clerks and other employees as may be from time to time determined by the Council of the Village of Westfield Center and shall receive such salary as may be determined by Village Council. The Clerk-Treasurer shall recommend all appointments of personnel and purchase all equipment, supplies and materials for the Department of Taxation subject to the appropriation by Council. The Department of Taxation shall be charged with the administration and operation of this chapter under the direction of the Clerk-Treasurer. The Clerk-Treasurer shall prescribe the form and method of accounts and reports for said Department, as well as the forms for taxpayer returns and declarations, and he or she shall be charged with the internal examination and audit of all such accounts, and shall exhibit accurate records showing the amount received from each taxpayer and the date of such receipt. The Clerk-Treasurer shall also make a written report to Council annually of all monies collected hereunder during the preceding year.

(Ord. 1999-10. Passed 12-7-99.)

890.10 INVESTIGATIVE POWERS OF THE ADMINISTRATOR; CONFIDENTIAL INFORMATION.

(a) The Administrator, or any authorized employee, is hereby authorized to examine the books, papers, records and Federal Income Tax Returns of any employer or of any taxpayer or person subject to, or whom the Administrator believes is subject to, the provisions of this chapter, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish, upon written request by the 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.

(b) The Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before him or her and may examine such 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 Income Tax Returns 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 or information pertinent to such inquiry.

(c) The refusal to produce books, papers, records and Federal Income Tax Returns, or the refusal to submit to such examination by any employer or person subject or presumed to be subject to the tax or required to withhold tax, or the failure of any person to comply with the provisions of this section or with an order or subpoena of the Administrator authorized hereby, shall be deemed a violation of this chapter punishable as provided in Section 890.99.

(d) Any information gained as a result of the filing of any tax returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential, except for official purposes, or except in accordance with proper judicial order. No person shall divulge such information in violation of this section.

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

(Ord. 1999-10. Passed 12-7-99.)

890.11 INTEREST AND PENALTIES.

(a) All taxes imposed and all monies 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 or fraction thereof.

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

- (1) For failure to pay taxes due, other than taxes withheld: one-half percent per month or fraction thereof.
- (2) For failure to remit taxes withheld from employees: three percent per month or fraction thereof.

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

(d) Upon recommendation of the 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.

(Ord. 1999-10. Passed 12-7-99.)

890.12 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

(a) Unpaid Taxes Recoverable as Other Debts. All taxes imposed by this chapter shall be collectable, 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, provided, however, that 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) Refunds of Taxes Erroneously Paid. Taxes erroneously paid shall not be refunded unless a claim for refund is made within three years from the date on 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.

(c) Amounts of Less Than One Dollar. Amounts of less than one dollar (\$1.00) shall not be collected or refunded.

(Ord. 1999-10. Passed 12-7-99.)

890.13 VIOLATIONS.

(a) No person shall:

(1) Fail, neglect or refuse to make any return or declaration required by this chapter;

(2) Make any incomplete, false or fraudulent return;

(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 or her employees or remit such withholding to the Administrator;

(5) Refuse to permit the Administrator or any duly authorized agent or employee to examine his or her 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 to produce his or her 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 an employer false information as to his or her true name, correct Social Security number or residence address, or fail to promptly notify an employer of any change in residence address and the date thereof;

(10) Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total

wages paid and the Village of Westfield Center 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.

(b) All prosecutions under this section must be commenced within five years from the time of the offense complained of, except in the case of failure to file a return or in the case of filing a false or fraudulent return, in which event the limitation of time within which prosecution must be commenced shall be ten years from the date the return was due or the date the false or fraudulent return was filed.

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

(Ord. 1999-10. Passed 12-7-99.)

890.14 BOARD OF REVIEW.

(a) A Board of Review, consisting of three electors of the Village of Westfield Center, one to be appointed by the Mayor, one to be appointed by Council, and the third to be selected by the two so appointed, is hereby established. No member shall be appointed to the Board of Review who holds other public office or appointment. The members of the Board of Review shall constitute a quorum. The Board of Review shall adopt its own procedural rules and shall keep a record of its transactions.

(b) All hearings of the Board shall be conducted privately, and the provisions of Section 890.10, 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 of Review.

(c) 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 the Administrator, is empowered to substitute alternative methods of allocation.

(d) 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, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof.

(Ord. 1999-10. Passed 12-7-99.)

890.15 ALLOCATION OF FUNDS.

The funds collected under the provisions of this chapter shall be deposited in the General Fund, and said funds shall be distributed, from the effective date of this chapter through its termination, in the following order:

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

(2) The balance, i.e. the net available income tax receipts received annually, shall be used by the Village at the discretion of Council.

(Ord. 1999-10. Passed 12-7-99.)

890.16 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

It is the intent of this chapter that a taxpayer who is subject to tax in more than one municipality on the same income and who has complied with the provisions of this chapter shall not be required by this chapter to pay a total municipal income tax on such income greater than the tax imposed at the higher rate. Accordingly, and notwithstanding any other provisions of this chapter:

(a) When a resident of Westfield Center is subject to and has paid, or has acknowledged liability for, municipal income tax in another municipality on the same income taxable under this chapter, such Westfield Center resident may claim a credit of the amount of such tax paid to such other municipality, but not in excess of the tax assessed by this chapter.

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

(Ord. 1999-10. Passed 12-7-99.)

890.99 PENALTY.

(a) Whoever violates or fails to comply with any of the provisions of this chapter is guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months, or both, for each offense. Each disclosure of confidential information, as provided for in Section 890.10(d), shall constitute a separate offense.

(b) In addition to the penalty provided in subsection (a) hereof, an employee of the Village who violates Section 890.10(d) shall be immediately dismissed from the service of the Village.

(Ord. 1999-10. Passed 12-7-99.)

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