

**THE VILLAGE OF WEST ALEXANDRIA
TAX ORDINANCE
Chapter 880(as amended 1/2010)**

| | |
|-----------------------|--|
| Section 880.01 | Purposes |
| Section 880.02 | Definitions |
| Section 880.03 | Imposition of Tax |
| Section 880.04 | Effective Period |
| Section 880.05 | Return and Payment of Tax |
| Section 880.06 | Collection at Source |
| Section 880.07 | Declarations |
| Section 880.08 | Duties of Tax Administrator |
| Section 880.09 | Powers of Tax Administrator; Divulging Confidential Information |
| Section 880.10 | Interest and Penalties |
| Section 880.11 | Collection of Unpaid Taxes and Refunds of Overpayments |
| Section 880.12 | Violations |
| Section 880.13 | Board of Review |
| Section 880.14 | Allocation of Funds |
| Section 880.15 | Credit for Tax Paid To Another Municipality or Joint Economic Development Districts |
| Section 880.16 | Separability |
| Section 880.17 | Collection of Tax after Termination of Chapter |
| Section 880.18 | Income Tax Refund |
| Section 880.99 | Penalty |

880.01 PURPOSES.

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

880.02 DEFINITIONS.

As used in this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. 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.

“Association” means a partnership, limited partnership, limited liability company, or any other form of unincorporated enterprise, but not including S Corporations as defined in the federal tax code, 26 U.S.C. 1361.

“Board of Review” means the Board created by and constituted as provided in Section 880.13.

“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, including, but not limited to, the renting or leasing of real, personal or mixed property.

“Corporation” means a corporation, including S Corporations as defined in the federal tax code, 26 U.S.C. 1361, 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.

“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 a person who works for income, wages, salary, commission or other type of compensation in the service of and under the control of an employer.

“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 an income, salary, wage, commission or other compensation basis.

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

“Generic Form” means an electronic or paper form designed for reporting estimated municipal income taxes, and/or annual municipal income tax liability, and/or separate requests for refunds that contain all the information required on the Village of West Alexandria’s regular tax return and estimated payment forms, and are in a similar format that will allow processing of the generic forms without altering West Alexandria’s procedures for processing forms.

“Gross receipts” means the total revenue derived from sales, work done, or service rendered.

“Income” means all monies and compensation in any form, subject to limitations imposed by ORC 718, derived from any source whatsoever, including but not limited to:

(a) All income, qualifying wages, commissions, other compensation and other income from whatever source received by residents of West Alexandria.

(b) All salaries, wages, commissions, other compensation and other income from whatsoever source received by nonresidents for work done or services performed or rendered or activities conducted in West Alexandria.

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

“Joint Economic Development District” means a district created under Ohio R.C. 715.70-715.83, as amended from time to time.

“Municipality” means the Village of West Alexandria.

“Net profits” means, for taxable years prior to 2004, the net gain from the operation of a business, profession, enterprise or other activity, after provision for all ordinary, reasonable and necessary expenses, either paid or accrued in accordance with the accounting system (i.e., cash or accrual) used by the taxpayer for Federal income tax purposes, without deduction of taxes imposed by this chapter or Federal, State and other taxes based on income, exclusive of the amount of Ohio franchise tax computed on the net worth basis, and, in the case of an association, without deduction of salaries paid to partners and other owners and otherwise adjusted to the requirements of this chapter. (For taxable years 2004 and later, see “adjusted federal taxable income”.)

“Nonresident” means an individual domiciled outside the Municipality.

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

“Pass-through entity” means a partnership, S Corporation, Limited Liability Company, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code. Unless otherwise specified, for purposes of this ordinance the tax treatment for pass-throughs is the same as “Association”.

“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, 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), 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.

"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 a Municipality. This definition is effective January 1, 2004, for taxable years 2004 and later.

"Resident" means an individual domiciled in the Municipality.

"Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the Municipality.

"Tax Administrator" means the individual or entity designated by Council to collect the moneys due under this chapter.

"Taxable income" means income 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, corporation or other entity, required hereunder to file a return and/or pay a tax.

880.03 IMPOSITION OF TAX.

(a) Subject to the provisions of Section 880.17, an annual tax for the purposes specified in Section 880 .01 shall be imposed on and after January 1, 1986, at the rate of one percent (1%) per year upon the following:

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

A. For further clarification "income" includes, but is not limited to, lottery, gambling and sports winnings, and games of chance.

b. The first one thousand dollars (\$1,000) of combined income from lottery, gambling and sports winnings, and games of chance shall be exempt from West Alexandria income tax. If the income is paid to the taxpayer in installment payments over two or more years, the deduction applies only to the first year in which the income is received.

c. No deductions shall be allowed against income from lottery, gambling and sports winnings, and games of chance. However, if the taxpayer is considered a professional gambler for federal income tax purposes, related deductions as permitted by the Internal Revenue Code shall be allowed against gambling and sports winnings.

(2) On all income, qualifying wages, commissions and other compensation earned during the effective period of this chapter by non-residents for work done or services performed or rendered in the Village. Separation pay, termination pay, reduction-in-force pay, and other compensation paid as a result of an employee leaving the service of an employer shall be allocable only to the Municipality.

A. West Alexandria shall not, however, tax the compensation of a non-resident individual who will be deemed to be an occasional entrant if all of the following apply:

1. The compensation is paid for personal services performed by the individual in West Alexandria on twelve or fewer days during the calendar year, in which case the individual shall be considered an occasional entrant for purposes of West Alexandria income tax. A day is a full day or any fractional part of a day.

2. In the case of an individual who is an employee, the principal place of business of the individual's employer is located outside West Alexandria and the individual pays tax on compensation described in Section 880.03(a)(2) to the municipality, if any, in which the employer's principal place of business is located, and no portion of that tax is refunded to the individual.

3. The individual is not a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such a promoter, all as may be reasonably defined by West Alexandria.

B. Beginning with the thirteenth day an individual deemed to have been an occasional entrant to West Alexandria performs services within West Alexandria, the employer of said individual shall begin withholding West Alexandria income tax from remuneration paid by the employer to the individual, and shall remit the withheld income tax to West Alexandria in accordance with the requirements of this ordinance. Since the individual can no longer

be considered to have been an occasional entrant, the employer is further required to remit taxes on income earned in West Alexandria by the individual for the first twelve days.

C. If the individual is self-employed, it shall be the responsibility of the individual to remit the appropriate income tax to West Alexandria.

(3) A. On the portion attributable to the Village 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 the conduct of business or other activities 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 resident unincorporated business entity not attributable to this Municipality and not levied against such unincorporated business entity by the Village. Tax that is due on net profits distributed to partners or owners of unincorporated businesses and pass-through entities shall be collected and remitted to West Alexandria by the entities on behalf of its partners and owners.

(4) A. On the portion attributable to the Village 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, whether or not such unincorporated business entity has an office or place of business 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 by the Village;

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

(b) The portion of the net profits attributable to the Village of a taxpayer conducting a business, profession or other activity both within and without the boundaries of the Village 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.

- (c) (1) The portion of a net operating loss sustained in any taxable year subsequent to (effective date of "first" ordinance permitting loss carry-forwards), allocable to the Village, may be applied against the portion of the profit of succeeding years allocable to the Village, until exhausted, but in no event for more than five taxable years. 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 this Municipality in the same manner as provided herein for allocating net profits to the Village.
- (3) The Tax Administrator shall provide by rules and regulations the manner in which such net operating loss carry-forward shall be determined.
- (d) Consolidated returns may be filed as follows:
- (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 Municipality.
- (2) In the case of a corporation that carries on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, or in the case of a person who or which operates a division, branch, factory, office, laboratory or activity within the Village constituting a portion only of its total business, the Tax Administrator shall require such additional information as he or she may deem necessary to ascertain whether net profits are properly allocated to the Village. If the Tax Administrator finds that net profits are not properly allocated to this Municipality 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 or she shall make such allocation as he or she deems appropriate to produce a fair and proper allocation of the net profits to the Village.
- (e) Exemptions. The tax provided for herein shall not be levied on the following:
- (1) The Military pay or allowances of members of the Armed Forces of the United States and of members of their reserve components, including the National Guard.
- (2) The income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities and only to the extent that the said income is exempt from federal income tax.
- (3) Receipts by bona fide charitable, religious and educational organizations and associations, when those receipts are from seasonal or casual entertainment, amusement, sports events and health and welfare activities when any such are conducted by bona fide charitable, religious

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

(4) Social security benefits, unemployment compensation (excluding supplemental unemployment compensation), payments from pension plans or similar payments, including disability payments received from private industry, or local, state, or federal governments, or from charitable, religious or educational organizations, and the proceeds of sick, accident, or liability insurance policies. The disability benefits excludable must be a permanent nature as determined by a physician or government entity.

(5) Proceeds of insurance paid by reason of the death of the insured; pensions, annuities or gratuities not in the nature of compensation for services rendered, from whatever sources derived.

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

(7) Gains from involuntary conversions, cancellation of indebtedness, items of income already taxed by the State of Ohio from which the Municipality is specifically prohibited from taxing and income of a decedent's estate during the period of administration (except such income from the operation of a business).

(8) Compensation paid to a precinct election official, to the extent that such compensation does not exceed \$1,000 annually.

(9) Income of all individuals under 18 years of age, whether residents or nonresidents.

(10) Alimony and child support received.

(11) Parsonage allowance, to the extent of the rental allowance or rental value of a house provided as a part of an ordained clergy's compensation. The clergy must be duly ordained, commissioned, or licensed by a religious body constituting a religious denomination, and must have authority to perform all sacraments of the religious body.

(12) Expenses deductible on federal form 2106 in accordance with federal guidelines, and subject to audit and approval by the Tax Administrator. The 2106 expenses must be apportioned to municipalities in the same manner to which the related income is apportioned.

(13) 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, and/or is prohibited by the Constitution of the State of Ohio or any act of the Ohio General Assembly limiting the power of a municipality to impose net income taxes.

880.04 EFFECTIVE PERIOD

The tax shall be levied, collected and paid with respect to the income, salaries, wages, commissions and other compensation, and with respect to net profits of businesses, professions or other activities earned on and after January 1, 1986.

880.05 RETURN AND PAYMENT OF TAX

(a) Each resident taxpayer, and each non-resident taxpayer allocating income or loss to the Municipality, except as herein provided in Section 880.05 shall, 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 (Ordinance 479, passed May 21, 1985), and on or before April 15 for taxable years beginning after 2003. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed on or before the 15th day of the fourth month from the end of such fiscal year or period.

(b) The return shall be filed with the Tax Administrator on a form or forms furnished by or obtainable upon request from the Tax Administrator, or on an acceptable generic form as defined in this Chapter, setting forth

(1) The aggregate amount of income, salaries, wages, commissions and other compensation earned and/or received, and gross income from business, professional or other activity, less allowable ordinary, reasonable and necessary expenses incurred in the acquisition of such gross income earned during the preceding year and subject to the tax;

(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 Tax Administrator may require, including but not limited to copies of all W-2 forms, 1099 Miscellaneous Income Forms, page one of form 1040, Page One and Two of Form 1120, 1120S (including (K-1), 2106, 1065, Schedule C (including cost of goods manufactured and/or sold), Schedule E, schedule F and any other Federal Schedules, if applicable.

(c) For tax years prior to 2004, the Tax Administrator may extend the time for filing of the annual return upon the request of the taxpayer for a period 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. For taxable years 2004 and later, the extended due date for individuals shall be the last day of the month following the month to which federal income tax due date has been extended. For businesses, if the extension is filed through the Ohio Business Gateway 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. If not filed through the Ohio Business gateway 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. The Tax administrator may deny the extension if the taxpayer fails to file the request timely, fails to file a copy of the federal

extension request, or if the taxpayer's income tax account with the Municipality is delinquent in any way. The Tax 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 shall be assessed in those cases in which the return is filed and final tax paid within the period as extended.

(d) (1) The taxpayer making a return shall, at the time of filing thereof, pay to the Tax 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 880.06, or where any portion of the tax has been paid by the taxpayer pursuant to the provisions of Section 880.07, or where an income tax has been paid to another municipality and/or Joint Economic Development District, credit for the amount so paid in accordance with Section 880.15 shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing the return.

(2) A taxpayer who has overpaid the amount of tax to which this Municipality is entitled under the provisions of this chapter may have such overpayment applied against any subsequent liability hereunder or, at his or her election indicated on the return, such overpayment, or a part thereof, shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or 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 880.11 and 880.15. Such amended returns shall be on a form obtainable on request from the Tax Administrator. A taxpayer may not change the method of accounting (i.e., cash or accrual) 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 to this Municipality, such taxpayer shall make and file an amended return showing income subject to the income tax of this Municipality based upon such final determination of Federal tax liability, and pay any additional tax shown due thereon or make a claim for refund of any overpayment.

(f) With respect to any return a taxpayer fails to file on time and on/or before the deadline date under this chapter, which shall include untimely filed returns and/or federal extension requests, as well as non-filed returns and/or federal extensions not timely filed, the Tax Administrator may assess, charge, and collect a \$50.00 late and/or non-filing fee per return per taxpayer. (See Sec. 880.10(b)).

(g) Each taxpayer may offset business losses against business net profits from any business conducted in the Municipality or in any municipality that does

not levy an income tax on net profits therefrom. However, a loss from the operation of a business may not be used to offset the income on a taxpayer's W-2 Form.

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

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

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

(k) A retiree having no income taxable to west Alexandria, and taxpayers on permanent disability, shall be exempt from these filing requirements and any subsequent penalties. A retiree, and taxpayers on permanent disability, shall file an annual return for the year in which the retirement or permanent disability occurred, indicating that no tax is, or will be, due west Alexandria as a result of their retirement or permanent disability, and also indicating the date of retirement or the date on which the permanent disability began. For retirees, such exemption shall be in effect until that time in which the retiree receives taxable income for west Alexandria income tax purposes, at which time the retiree shall be required to comply with the provisions of this chapter, including the filing requirements.

880.06 COLLECTION AT SOURCE.

(a) Each employer within or doing business within this Municipality shall deduct, at the time of the payment of income, salaries, wages, commissions or other compensation, the tax of one percent (1%) of the income, salaries, qualifying wages, commissions or other compensation due by such employer to such employee and shall, on or before the last day of the month following the close of each calendar quarter, make a return and pay to the Tax Administrator the amount of taxes so deducted. Such returns shall be on a form or forms prescribed by or acceptable to the Tax Administrator and shall be subject to the rules and regulations prescribed therefore by the Tax 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.

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

(c) On or before February 28 of each year, beginning with the year 1986, each employer shall file a withholding return setting forth the names, addresses, and social security numbers of all employees from whose compensation the tax was withheld during the preceding calendar year, the amount of tax withheld from his or her employees and such other information as may be required by the Administrator. All payments not subject to withholding shall be reported on a form required by the Tax Administrator.

(d) On or before February 28 of each year all individuals, businesses, employers, brokers or other who engage persons, either on a fee or commission basis or as independent contractors and not employees (those who are not subject to withholding) must provide the Municipality with copies of all 1099 Miscellaneous Income Forms and/or a list of names, addresses, Social Security numbers or federal identification numbers and a total amount of earnings, payments, bonuses, commissions and/or fees paid to each person.

(e) All employers that provide any contractual service within the Municipality, and who employ subcontractors in conjunction with that service shall, prior to commencement of the service, provide the Municipality the names and addresses of the subcontractors. The subcontractors shall be responsible for all income tax employer requirements under this chapter.

(f) The Tax Administrator, for good cause, may require immediate returns and payments to be submitted to his or her office.

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

(h) Every owner of one or more rental units is hereby directed to furnish to the Tax Administrator a semi-annual roster of the names of all persons residing in such rental units. The semi-annual statement provided for herein shall be filed with the Tax Administrator on or before January 31 and July 31, unless an extension of time is granted by the Tax Administrator. Failure to comply with the reporting requirement by the specified dates will result in the assessment of a twenty-five dollar (\$25) penalty. This penalty shall be assessed for each instance of failure to comply with the reporting requirement.

880.07 DECLARATIONS.

(a) Every person who anticipates any taxable income which is not subject to Section 880.06 and/or from which tax will not be fully withheld, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 880.03, 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. However, if a person's income is wholly from wages from which the tax will be withheld and remitted to this Municipality in accordance with Section 880.06, such person need not file a declaration.

(b) (1) Such declaration shall be filed on or before April 15 of each year during the life of this chapter, or on or before the fifteenth day of the fourth month of the date the taxpayer becomes subject to tax for the first time.

(2) Those taxpayers reporting on a fiscal year basis shall file a declaration on or before the fifteenth day of the fourth month after the beginning of each fiscal year or period.

(c) (1) Such declaration shall be filed upon a form furnished by or obtainable from the Tax Administrator. Credit shall be taken for this Municipality's income tax to be withheld from any portion of such income. In accordance with the provisions of Section 880.15, credit may be taken for tax to be paid or to be withheld and remitted to another taxing municipality.

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

(d) Such declaration or estimated tax to be paid this Municipality shall be accompanied by a payment of at least one-fourth of the estimated non-withheld and/or under-withheld tax due.

(1) If the taxpayer is an individual, at least a similar amount shall be paid on or before the last day of the seventh (7th), tenth (10th), and thirteenth (13th) months after the beginning of the taxpayer's taxable year, provided that in case an amended declaration has been 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.

(2) If the taxpayer is a corporation or association, at least a similar amount shall be paid on or before the fifteenth day of the sixth, ninth, and twelfth months of the taxable year; provided, however, that in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

(e) No penalties or interest shall be assessed, for not filing a declaration, on any resident taxpayer who was not domiciled in the Village of West Alexandria on the first day of January in 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 and the taxpayer filed a return for that year, nor shall penalties or interest be assessed on estimated payments if the taxpayer has remitted an amount equal to ninety percent of the final tax liability for the tax year due on or before April 15th of the current year.

(f) On or before the fifteenth 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 this Municipality shall be paid therewith in accordance with the provisions of Section 880.05.

880.08 DUTIES OF TAX ADMINISTRATOR.

(a) (1) It shall be the duty of the Tax Administrator 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 moneys so received.

(2) It shall be the duty of the Tax Administrator to enforce payment of all taxes owing this Municipality and to keep accurate records for a minimum of six (6) years showing the amount due from each taxpayer required to file a declaration and/or make any return, including taxes withheld, and showing the date and amount of payment thereof.

(b) The Tax Administrator is hereby charged with the enforcement of the provisions of this chapter and is hereby authorized, 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 the requirements of this chapter and the rules and regulations.

(c) The Tax 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 Tax 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 proper returns are filed by the taxpayer for all amounts owed by him or her under this chapter. 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 880.11 and 880.12 shall apply.

(d) In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Tax Administrator may determine the amount of tax appearing to be due this Municipality 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. Such determination may be modified or amended based upon information or data subsequently secured by or made available to the Tax Administrator. If the taxpayer fails to respond to the assessment within 30 days, the tax, penalties, and interest assessed shall become due and payable and collectible as are other unpaid taxes, penalty, and interest.

(e) Subject to the consent of the Board of Review, or pursuant to regulations approved by the Board, the Tax Administrator shall have the power to compromise any interest or penalty, or both, imposed by Section 880.10.

880.09 POWERS OF TAX ADMINISTRATOR; DIVULGING CONFIDENTIAL INFORMATION.

(a) The Tax 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 Tax 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 ten (10) calendar days following a written request by the Tax Administrator, or his or her duly authorized agent or employees, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

(b) The Tax 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 or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and Federal and/or State 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 and/or State 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 any employer or person subject to the tax or required to withhold tax, or the failure of any person to comply with the provisions of this section or with an order or subpoena of the Tax Administrator authorized hereby, shall be deemed a violation of this chapter, punishable as provided in Section 880.99.

(d) Any information gained as a result of any returns, investigations, verifications or hearings before the Tax Administrator, required by this chapter or authorized by the rules and regulations, shall be confidential and no disclosure thereof shall be made, except for official purposes or as ordered by a court of competent jurisdiction. No person shall divulge such information. (See Section 880.99(b) for penalties related to divulging confidential information.)

(e) Every taxpayer shall retain all records necessary to compute his or her tax liability for a period of six (6) years from the date his or her return is filed or the withholding taxes are paid.

880.10 INTEREST AND PENALTIES.

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

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

- (1) For failure to pay tax due, other than taxes withheld, 3% per month or fraction of a month thereof; and
- (2) For failure to remit taxes withheld from employees, 5% per month or fraction of a month thereof.
- (3) For failure to file a return or extension request, or failure to timely file a return or extension request, a late penalty/fee of one hundred dollars(\$100.00) per occurrence.

(c) A penalty shall not be assessed on an additional tax assessment made by the Tax Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Tax Administrator. Further, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a Federal tax audit, provided 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 Tax Administrator, the Board of Review may abate penalty or interest, or both, and upon an appeal from the refusal of the Tax Administrator to recommend abatement of penalty and/or interest, the Board may nevertheless abate penalty or interest, or both.

880.11 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 a civil action at law. All additional assessments shall be made and all civil actions to recover municipal income taxes and penalties and interest thereon shall be brought within three years after the tax was due or the return was filed, whichever is later. However, 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 Municipal 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.

(b) Taxes erroneously paid shall not be refunded, unless a claim for a refund is made. Claims for refund of Municipal income taxes must be brought within three years after the tax was paid or the return was filed, whichever is later. In addition, 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 West Alexandria, but should have been deposited with another municipality, is allowable by the Village of West Alexandria as a refund but is subject to the three-year limitation on refunds. Income tax that should have been deposited with the Village of West Alexandria, but was deposited with another municipality, shall be subject to recovery by the Village of West Alexandria. The Village of West Alexandria will allow a non-refundable credit for any amount owed the Village of West Alexandria 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 West Alexandria's tax rate. If the Village of West Alexandria's tax rate is higher, the tax representing the net difference of the rates is also subject to collection by the Village of West Alexandria.

(d) Overpayments of withheld tax that have resulted due to incorrect withholding of an employee by an employer, and are not due as a result of excess withholding requested by the employee, shall be refunded to the employer. It shall be the responsibility of the employer, and not the Village of West Alexandria, to refund such overpayment to the employee. However, nothing in this subparagraph shall affect the right of a nonresident employee to apply directly to the Village of West Alexandria for refund of income tax withheld for days worked out of West Alexandria.

(e) Payments on delinquent amounts shall be applied in the following manner:

(1) To unpaid penalty and interest assessments in the order in which such assessments became due.

(2) To the taxes owed for any previous year in the order in which such taxes became due.

(3) To the taxpayer's current estimated tax liability.

(f) 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.

(g) Amounts of less than one dollar (\$1.00) shall not be refunded or collected.

880.12 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) Willfully fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter;

(4) Willfully fail, neglect or refuse to withhold the tax from his or her employees or remit such withholding to the Tax Administrator;

(5) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine the books, records, papers or Federal and/or State Income Tax Returns relating to income or net profits of a taxpayer;

(6) Fail to appear before the Tax Administrator and to produce his or her books, records, papers or Federal and/or State Income Tax Returns relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator;

(7) Refuse to disclose to the Tax 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 Tax Administrator authorized hereby;

(9) Give to an employer false information as to his or her true name, correct Social Security number and residence address, or fail to promptly notify an employer of any change in residence address and the date thereof; or

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

(b) Prosecutions for an offense made punishable under this chapter or any other provision of this chapter shall be commenced within three (3) years after the commission of the offense, provided that in the case of fraud, failure to file a return or the omission of twenty-five percent or more of income required to be reported, prosecutions may be commenced within six (6) years after the commission of the offense.

(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.

880.13 BOARD OF REVIEW.

(a) A Board of Review, consisting of a Chairman and two other individuals to be appointed by the Tax Administrator is hereby created. 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 880.09 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 Tax Administrator under the authority conferred by this chapter, must be approved by the Board before the same become effective. The Board shall hear and pass on appeals from any ruling or decision of the Tax Administrator and, at the request of the taxpayer or Tax Administrator, is authorized to substitute alternate methods of allocation.

(c) Any person dissatisfied with any ruling or decision of the Tax Administrator which is made under the authority conferred by this chapter and the rules and regulations, and who has filed the required returns or other documents pertaining to the contested issue, may appeal therefrom to the Board within thirty (30) days from the announcement of such ruling or decision by the Tax Administrator. The appeal shall be in writing and shall state why the decision should be deemed incorrect or unlawful. The Board shall, on hearing, have jurisdiction to affirm,

reverse or modify any such ruling or decision or any part thereof. The Board must schedule a hearing within forty-five (45) calendar days of receiving the appeal. The Board must issue a written decision within ninety (90) days after the final hearing and send a notice of its decision by ordinary mail to the taxpayer within 15 days after issuing the decision.

(d) Any person dissatisfied with any ruling or decision of the Board of Review may appeal therefrom to a court of competent jurisdiction within thirty (30) days from the announcement 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.

880.14 ALLOCATION OF FUNDS.

The allocation of funds for the purpose of general Municipal operations, maintenance, new equipment, extension and enlargement of Municipal services and facilities, and capital improvements of the Municipality, shall be determined by Council.

880.15 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY OR JOINT ECONOMIC DEVELOPMENT DISTRICTS.

(a) Where a resident of this Municipality is subject to a municipal income tax in another municipality and/or Joint Economic Development District, he or she 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 this Municipality who receives income, salaries, wages, commissions or other personal service compensation for work done or services performed or rendered outside the Village, if it is made to appear that he or she has paid a municipal income tax on the same income taxable under this chapter to another municipality and/or Joint Economic Development District, shall be allowed a credit against the tax imposed by this chapter of the amount so paid by him or her or in his or she behalf to such other municipality. The credit shall not exceed the tax assessed by this chapter on such income earned in such other municipality where such tax is paid. However, effective with tax year 2005 and for subsequent tax years, the allowable credit shall be fifty percent (50%) of the tax assessed by this chapter on such net profits, income, salaries, qualifying wages, commissions or compensation earned in such other municipality where such tax is paid.

(c) A claim for a refund or credit under this section shall be made in such manner as the Tax Administrator may by regulation provide.

880.16 SEPARABILITY

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 herein.

880.17 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER

(a) 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 or proceedings for collecting any tax so levied or enforcing any provision of this chapter are concerned, it shall continue effective until all of the taxes levied hereunder are fully paid and until any and all suits and prosecutions for the collection of the taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitations contained in Sections 880.11 and 880.12.

(b) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Sections 880.05 and 880.06 as though the same were continuing.

880.18 INCOME TAX FUND

A West Alexandria Income Tax fund is hereby created retroactive to January 1, 1981, for allocation of moneys received under this chapter.

880.99 PENALTY.

(a) Whoever violates any of the provisions of this chapter, for which no penalty is otherwise provided, shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months, or both, for each offense.

(b) Whoever violates Section 880.09 shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months, or both. Each disclosure shall constitute a separate offense. In addition, any employee of the Village who violates Section 880.09 shall be guilty of an offense punishable by immediate dismissal.