

MARBLE CLIFF VILLAGE INCOME TAX CODES

CHAPTER 33: VILLAGE INCOME TAX

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§ 33.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. The singular shall include the plural, the masculine gender shall include the feminine and the neuter genders.

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

BUSINESS. An enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, fiduciary, trust, association, corporation or any other entity.

CORPORATION. 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.

EMPLOYEE. One who works for wages, salary, commissions or other type of compensation in the service and under the control of an employer.

EMPLOYER. An individual, partnership, association, corporation, governmental body, unit or agency or any other entity, whether or not organized for profit, that employs one or more persons on a salary, wage, commission, or other compensation basis.

FISCAL YEAR. An accounting period of 12 months or less ending on any day other than December 31.

GROSS RECEIPTS. The total income from any source whatsoever.

NET PROFITS. The net gain from the operation of a business, profession, enterprise or other activity (whether or not such business, profession, enterprise or other activity is conducted for profit or is ordinarily conducted for profit) 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 or 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.

NONRESIDENT INDIVIDUAL. An individual who is not domiciled in the Village and whose usual place of abode is outside the Village.

NONRESIDENT UNINCORPORATED BUSINESS ENTITY. An unincorporated business entity not having an office or place of business within the Village.

PERSON. Every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, the term as applied to any unincorporated entity shall mean the parties or members thereof, and as applied to corporations, the officers thereof.

PLACE OF BUSINESS. Any bona fide office (other than a mere statutory office), factory, warehouse or other place which is occupied and used by the taxpayer in carrying on any business activity individually or through any one or more of his regular employees regularly in attendance.

RESIDENT INDIVIDUAL. Any individual who is domiciled in the Village or whose usual place of abode is in the Village.

RESIDENT UNINCORPORATED BUSINESS ENTITY. An unincorporated business entity having an office or place of business within the Village.

TAXABLE INCOME. Wages, salaries, commissions and other compensation paid by an employer or employers before any deductions 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.

TAXABLE YEAR. 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.

§ 33.02 IMPOSITION OF TAX.

To provide for the purposes of general Village operations, maintenance, new equipment and capital improvements of the Village, there is hereby levied a tax at the rate of 1% per annum until January 1, 2000, at which time the rate will be 2%, upon the following:

- (A) On all salaries, wages, commissions and other compensation earned by residents of the Village.
- (B) On all salaries, wages, commissions and other compensation earned by nonresidents of the Village for work done or services performed or rendered in the Village.
- (C) Net profits.
 - (1) On the net profits earned of all unincorporated businesses, professions, or other activities conducted by residents of the Village.
 - (2) On the net profits earned of all unincorporated businesses, professions, or other activities conducted in the Village by nonresidents.
 - (3) For the purposes of divisions (C)(1) and (2) of this section, an association shall be taxed as an entity, on the net profits of the association derived from work done or services performed or rendered and business or other activities conducted in the Village, whether or not such association has its principal or any place of business located in the Village, effective for all accounting periods commencing on or after January 1, 1991.

- (4) For the purposes of paragraph (C)(1) above, a resident of the Village who is a member of an association is taxed individually on that resident's entire share, whether distributed or not, of the annual net profits of the association which are not subject to entity filing under division (C)(3) above, effective for all accounting periods commencing on or after January 1, 1991.
- (D) On the net profits of all corporations, estates, and trusts, derived from work done or service performed or rendered and business or other activities conducted in the Village, whether or not such corporations, estates, and trusts have their principal or any place of business located in the Village.
- (E) The tax upon all of the income specified in paragraphs (A), (B), (C), and (D) hereof shall remain in effect for the purpose of filing returns and collection of the tax at the rate of 1% with regard to all income earned prior to January 1, 2001 and at the rate of 2% with regard to all income earned after January 1, 2001.

§ 33.03 ALLOCATION OF NET PROFITS.

- (A) In the taxation of income which is subject to the tax, if the books and records of a taxpayer conducting a business or profession both within and without the of the Village shall disclose with reasonable accuracy what portion of its net profit is attributable to that part of the business or profession conducted within the boundaries of the Village, then only such portion shall be considered as having a taxable situs in the Village for purposes of the tax. In the absence of such records, net 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 the tax 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 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.
- (B) In the event that the foregoing allocation formula does not produce an equitable result, another basis may, under uniform regulations, be substituted by the Clerk-Treasurer so as to produce such result.
- (C) As used in this section, 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 solicitations or promotion.
 - (3) All sales of tangible personal property which is shipped from a place within the Village to purchasers outside the Village regardless of where title passes if the sale is not generated through solicitation or promotion by an employee of the taxpayer at the place where delivery is made.

§ 33.04 LEVY OF TAX.

- (A) The income tax at the rate of 1% shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation earned on or before December 31, 2000 and with respect to the net profits of businesses, professions or other activities earned on or before December 31, 2000. The income tax at the rate of 2% shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation earned on and after January 1, 2001, and with respect to the net profits of businesses, professions or other activities earned on and after January 1, 2001. Where the fiscal year of the business, profession or other activity differs from the calendar year, the tax at the rate of 1% shall be applied to that part of the net profits for the portion of the fiscal year occurring before January 1, 2001. The tax at the rate of 2% shall be applied to that portion of the fiscal year occurring on and after January 1, 2001.
- (B) Where the fiscal year of a business, profession or other activity is other than a calendar year, in computing the tax, the profits of such taxpayer shall be determined by dividing the annual profits by 12 and multiplying the quotient by the number of months of the fiscal year before January 1, 2001, and multiplying the quotient by the number of months of the fiscal year between January 1, 2001, and thereafter and applying the appropriate tax rate to each.

§ 33.05 RETURN AND PAYMENT OF TAX.

- (A) Each taxpayer who engages in business, or whose salaries, wages, commissions and other compensation are subject to the tax imposed by this chapter shall, whether or not a tax be due thereon, make and file a return on or before April 15 of each year with the Clerk-Treasurer on a form furnished by or obtainable from the Clerk-Treasurer, setting forth the aggregate amount of salaries, wages, commissions and other compensation earned and/or net profits earned and/or gross income from such business less allowable expenses in the acquisition of such gross income earned during the preceding year and subject to the tax, together with such other pertinent information as the Clerk-Treasurer may require. Provided, however, that when the return is made for a fiscal year or other period different from the calendar year, the return shall be made on or before the fifteenth day of the fourth month after the close of said fiscal year or other period.

- (B) Commencing with taxable years beginning subsequent to December 31, 1981, the net loss from an unincorporated business activity may not be used to offset salaries, wages, commissions or other compensation. However, if a taxpayer is engaged in two or more taxable business activities to be included in the same return, the net loss of one unincorporated business activity (except any portion of a loss separately reportable for municipal tax purposes to another taxing entity) may be used to offset the profits of another for purposes of arriving at overall net profits. A husband and wife in any taxable year may elect to file separate or joint returns.
- (C) If a net operating loss has been sustained in any taxable year such losses may not be carried forward or backward to any other taxable year.
- (D) Affiliated corporations may not deduct a loss from any other corporation having a taxable profit. Operations of any affiliated corporation may not be taken into consideration in computing net profits or the business allocation percentage formula of another.
- (E) The taxpayer making a return shall, at the time of the filing thereof, pay to the City Auditor the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of § 33.07, or where any portion of said tax has been paid by the taxpayer pursuant to the provisions of § 33.08, or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with § 33.12 hereof, shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing said return.
- (F) A taxpayer who has overpaid his income tax in any taxable year may request a refund provided, however, there is no other tax liability and provided, further, that no amount of less than \$1 will be refunded or collected.
- (G) The Clerk-Treasurer shall have the authority to extend the time for filing of the annual return provided the request of the taxpayer for extension is made in writing and received on or before the original due date of the return. The extension period requested may not exceed six months. The Clerk-Treasurer may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon on or before the original due date. No penalty shall be assessed, in those cases in which the return is filed and the final tax paid within the period as extended.

- (H) When the last day for filing a return falls upon a Saturday, Sunday or federal holiday, the taxpayer shall be permitted to file on or before the first business day following the Saturday, Sunday or federal holiday without penalty.

§ 33.06 AMENDED RETURN AND REFUNDS FOR OVERPAYMENT.

- (A) Where 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 § 33.05(E), such amended return shall be on a form obtainable on request from the Clerk-Treasurer. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.
- (B) Within three months from the final determination of any federal tax liability affecting the taxpayer's Village tax liability, such taxpayer shall make and file an amended Village return showing income subject to the Village tax based upon such final determination of federal tax liability, and pay any additional tax shown due thereon or make a claim for refund of any overpayment.
- (C) No refund shall be allowed unless a written request be presented to the Clerk-Treasurer within three years of the date the taxes were due.

§ 33.07 COLLECTION AT SOURCE.

- (A) Each employer within or doing business within the Village shall deduct at the time of payment of such salaries, wages, commissions or other compensation, the tax of 1% (until January 1, 2001 at which time the tax shall be 2%) of the gross salaries, wages, commissions or other compensation due by the employer to said employee and shall, on or before the last day of the month following the close of each calendar quarter, make a return showing the amount of taxes deducted and a record of payments showing that all taxes deducted during the quarter have been paid to the Village in accordance with the payment schedule prescribed by divisions (B)(1), (2) and (3) of this section. The 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. Every employer or officer of a corporation is deemed to be a trustee for this Village in collecting and holding the tax required under the

ordinance to be withheld and the funds so collected by such withholding are deemed to be trust funds.

- (B) Employers shall pay to the Village all income taxes withheld or required to be deducted and withheld on either a semi-monthly, monthly, or quarterly basis depending on the amount of taxes involved according to the following payment schedule:
 - (1) Semi-monthly payments of the taxes deducted are to be made by an employer if the total taxes deducted in the prior calendar year were \$12,000 or more, or the amount of taxes deducted for any month in the preceding quarter exceeded \$1,000. Such payment shall be paid to the Village within five banking days after the fifteenth and the last day of each month.
 - (2) Monthly payments of taxes withheld shall be made by an employer if the taxes withheld in the prior calendar year were less than \$12,000 but more than \$2,399 or if the taxes withheld during any month for the preceding quarter exceeded \$200. Commencing with taxable years subsequent to December 31, 1998, monthly payments of taxes withheld shall be made by an employer if the taxes withheld in the prior calendar year were less than \$12,000 but more than \$3,599 or if taxes withheld during any month for the preceding quarter exceeded \$300. Such payments shall be paid to the Village within 15 days after the close of each calendar month. However, those taxes accumulated for the third month of the calendar quarter by employers making monthly payments pursuant to this division need not be paid until the last day of the month following such quarter.
 - (3) All employers not required to make semimonthly or monthly payments of taxes withheld under (1) and (2) above shall make quarterly payments no later than the last day of the month following the end of each quarter.
- (C) Each employer who maintains a place of business in the Village and another branch within the metropolitan area of the Village shall also withhold the tax from the employees residing in the Village but working at the employer's metropolitan area branch, even though the payroll records and place of payment are outside the Village.
- (D) The employer shall make and file a return on a form furnished by the Clerk-Treasurer, showing the amount of tax deducted by the employer from the salaries, wages, commissions or other

compensation of any employee and paid by the employer to the Clerk-Treasurer. Such employer's return shall be accepted as the return required of an employee whose sole income subject to the tax under this chapter is the salaries, wages, commissions and other compensation returned by said employer.

- (E) Each employer on or before January 31, unless written request for 30 days' extension is made to and granted by the Clerk-Treasurer, following any calendar year in which such deductions have been made, or should have been made by such employer, shall file with the Clerk-Treasurer an information return (Marble Cliff Withholding Statement of Wages Paid, and Marble Cliff Income Tax Withheld), for each employee from whom income tax has been or should have been withheld showing the name and address of the employee, the total amount of salaries, wages, commissions and other compensation paid the employee during the year, and the amount of Village income tax withheld from each employee.
- (F) Where a resident of the Village performs service for his employer in another municipality, which services are subject to withholding in the other municipality, the employer shall have the authority to reduce the withholding to the Village to the extent of the tax liability in the other municipality.
- (G) The officer or the employee having control or supervision of or charged with the responsibility of filing the report and making payment, is personally liable for failure to file the report or pay the tax due as required by this section. The dissolution of a corporation does not discharge an officer's or employee's liability for a prior failure of the corporation to file returns or pay tax due.

§ 33.08 DECLARATIONS.

- (A) Every person who anticipates any taxable income which is not subject to § 33.07, or who engages in any business, profession, enterprise or activity subject to the tax imposed by § 33.02(C) and (D), 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, if a person's income is wholly from wages, salaries, commissions or other compensation from which the tax will be withheld and remitted to the Village in accordance with § 33.07, such person need not file a declaration.

- (B) 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 the taxpayer becomes subject to tax for the first time.
- (C) 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.
- (D) Such declaration shall be filed upon a form furnished by or obtainable from the Clerk-Treasurer, provided, however, credit shall be taken for the Village tax to be withheld from any portion of such income. In accordance with the provisions of § 33.07 of this chapter, credit may be taken for tax to be paid to or to be withheld and remitted to another taxing municipality.
- (E) The original declaration (or any subsequent amendment thereof) may be increased or decreased on or before any subsequent quarterly payment day as provided for herein.
- (F) Such declarations of estimated tax to be paid the Village shall be accompanied by a payment of at least one fourth of the estimated annual tax and at least a similar amount shall be paid on or before the fifteenth day of the sixth, ninth, and twelfth months after the beginning of the taxable year. Provided, however, that in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.
- (G) 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 the Village shall be paid therewith in accordance with the provisions of § 33.05 of this chapter.
- (H) A declaration of estimated tax which is less than 80% of the tax shown on the final return shall not be considered filed in good faith. The difference shall be subject to penalties and interest as provided for in § 33.15.

§ 33.09 DUTIES AND POWERS OF CLERK-TREASURER.

- (A) It shall be the duty of the Clerk-Treasurer to collect and receive the tax imposed by this chapter in the manner prescribed by this chapter, and it shall also be his duty to keep an accurate record showing the payment received by him from each taxpayer and the date of payment.
- (B) The Clerk-Treasurer is hereby charged with the administration and enforcement of the provisions of this chapter and he is hereby empowered to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this chapter, including provisions for the re-examination and correction of returns and payments.
- (C) In any case where a taxpayer has failed to file a return or failed to pay the tax due on a return or has filed a return which does not show the proper amount of tax due, the Clerk-Treasurer may determine the amount of tax appearing to be due the Village 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.
- (D) The Clerk-Treasurer 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 who the Clerk-Treasurer believes is subject to the provisions of this chapter for the purposes of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under this chapter, and every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish upon written request by the Clerk-Treasurer or his duly authorized agent or employee, at the reasonable time and place designated, the opportunity for making such examinations and investigations as are hereby authorized.
- (E) The Clerk-Treasurer is hereby authorized to order any person presumed to have knowledge of the facts to appear before him and may examine such person, under oath, concerning any income which was or would 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 income tax returns and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such

persons have knowledge of such income or information pertinent to such inquiry.

- (F) No person upon written order shall fail to appear before the Clerk-Treasurer or his authorized employee on the date, time and place designated in the written order.

§ 33.10 TAX INFORMATION CONFIDENTIAL.

Any information gained as the result of any 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. The Clerk-Treasurer or his delegate may furnish the Bureau of Internal Revenue, Treasury Department of the United States with copies of the returns filed. Any person divulging such information, except as hereinbefore authorized, shall be subject to the penalty provided in § 33.99.

§ 33.11 COLLECTION OF UNPAID TAXES.

- (A) All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable.
- (B) The Clerk-Treasurer or his delegate is authorized to institute civil law suit to collect delinquent taxes due and owing the Village by virtue of the provisions of this chapter. The Clerk-Treasurer or his delegate is authorized to waive penalties and interest and compromise tax liability and the right to accept waiver of state statutes of limitations.

§ 33.12 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

Every individual taxpayer who resides in the Village but who received net profits, salaries, wages, commissions or other compensation for work done or services performed or rendered outside of the Village, if it be made to appear that he has paid a municipal income tax or excise tax based on income on such net profits, salaries, wages, commissions or compensation in another municipality, shall be allowed a credit for the amount so paid by him or in his behalf in such other municipality, this credit to be applied only to the extent of the tax assessed by this chapter, by reason of such net profits, salaries, wages, commissions or compensation earned in such other municipality where such tax is paid.

§ 33.13 EXEMPTIONS.

- (A) The provisions of this chapter shall not be construed to tax the military pay or allowances of members of the armed forces of the United States, or 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.
- (B) The tax provided for herein shall not be levied on the personal earnings of any natural person under 18 years of age.
- (C) Mentally retarded and developmentally disabled employees earning less than the minimum hourly wage while employed at government-sponsored sheltered work-shops shall be exempt from the levy of the tax provided herein.

§ 33.14 CONTRACT PROVISIONS.

No contract on behalf of the Village for works or improvements of the Village shall be binding or valid unless such contract contains the following provisions:

“Said hereby further agrees to withhold all Village income taxes due or payable under the provisions of Chapter 33, Village of Marble Cliff Code, for wages, salaries and commissions paid to its employees and further agrees that any of its subcontractors shall be required to agree to withhold any such Village income taxes due under the chapter for services performed under this contract.”

§ 33.15 INTEREST AND PENALTIES.

- (A) All taxes imposed by § 33.02 and collected by § 33.05 and § 33.08 of this chapter, which remain unpaid after they become due shall result in the assessment of an penalty of 10% of the amount of unpaid tax. A penalty shall not be assessed on an additional tax assessment made by the Clerk-Treasurer when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Clerk-Treasurer; provided further, that, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, providing an amended return is filed and the additional tax is paid within three months after final determination of the federal tax liability.

- (B) In the event that a taxpayer has a duty as imposed by § 33.05 or § 33.07 of this code, to file a return and does not do so, a penalty of \$25 per month shall be assessed the day after the due date of the filing and for each month thereafter, not to exceed \$150. This penalty shall not apply to taxpayers required to file an individual separate or individual joint return.
- (C) In the event that the taxpayer has properly requested an extension of filing time, no penalty shall be assessed in those cases in which the return is filed and the final tax, if any, is paid within the period as extended.
- (D) All taxes imposed by this chapter and remaining unpaid after they become due shall bear interest, in addition to the amount of the unpaid tax. Such interest shall be computed by using the federal short-term rate, rounded to the nearest whole number percent plus 3% for interest that accrues during the following calendar year.
 - (1) Such interest rate shall be made public on the thirtieth day of October of each year.
 - (2) Such interest rate computation shall be utilized for all taxes due on or after January 1, 1991.
- (E) All taxes deducted by an employer or required to be deducted and withheld by an employer pursuant to § 33.07 of this chapter remaining unpaid after they become due shall result in the assessment of a penalty of 50% of the amount of the unpaid tax.
- (F) All taxes deducted by an employer or required to be deducted and withheld by an employer and remaining unpaid after they become due pursuant to § 33.07(B)(1), (2) or (3) shall bear interest on the amount of unpaid tax. Such interest shall be computed by using the federal short-term rate, rounded to the nearest whole number percent plus 3% for interest that accrues during the following calendar year.
 - (1) Such interest rate shall be made public on the thirtieth day of October of each year.
 - (2) Such interest rate computation shall be utilized for all taxes due on or after January 1, 1991.
- (G) As used in this section, FEDERAL SHORT-TERM RATE means the rate of the average market yield on outstanding marketable obligations of the United States with remaining periods of maturity

of three years or less, as determined under Section 1274 of the "Internal Revenue Code of 1966", 100 Stat. 2085, 26 USC 1274, for July of the current year.

§ 33.16 ALLOCATION OF FUNDS.

The funds collected under the provisions of this chapter shall be applied for the following purpose and in the following order:

- (A) Such part thereof as shall be necessary to defray all costs of collecting the taxes levied by this chapter and enforcing the provisions hereof.
- (B) Such part thereof as Council may appropriate to the General Fund for the purpose of paying the cost of general municipal operations.
- (C) Such part thereof as Council may appropriate for the purpose of paying the cost of maintenance of equipment, and the purchase of new equipment, motorized or other.
- (D) Such part thereof as the Council may appropriate for the purpose of paying the cost of the acquisition, construction, repair and/or maintenance of streets and/or other permanent improvements.
- (E) In any event, at least 25% of all monies collected under this chapter shall be deposited in a special fund to be used only for the payment on interest and principal on bonds and notes issued by the Village. Interest and principal due on bonds and notes issued in excess of the 1% limitations as authorized by Article XII, Section 2, of the Constitution of the State of Ohio, shall be first paid from said fund before any payment may be made on interest or principal due on other notes or bonds. Provided, however, that in any year when monies are used to pay interest or principal on bonds or notes other than those issued in excess of the 1% limitations, as authorized by Article XII, Section 2, of the Constitution of the State of Ohio, the additional monies accruing to the general fund thereby shall be used only for permanent improvements as defined in R.C. § 133.01. Provided, further, that monies deposited in the special fund created by the authority of this subsection may be appropriated to defray the cost of engineering plans and specifications for federal-aid highways. However, at such time as the Council of the Village of Marble Cliff issues bonds to construct the aforesaid federal-aid highways, the special fund created by this division shall be reimbursed, from said bond issues in an amount equal to that appropriated for said engineering plans and specifications for

federal-aid highways. Except with regard to interest and principal due on bonds and notes issued in excess of the 1% limitation, as authorized by Article XII, Section 2, of the Constitution of the State of Ohio, no monies from the special fund created in this division shall be expended without special authorization of Council.

§ 33.17 INCOME TAX REGULATION.

Where compensation is paid or received in property or the use thereof, its fair market value shall be subject to the tax and/or to withholding (deduction of tax at source), and shall be included in earnings at fair market value to the same extent and at the same time that all such items are or may be taxable under the Federal Internal Revenue Code as it exists now or is hereinafter amended. The value finally accepted for the purposes of Federal Internal Revenue Code will be accepted by the Clerk-Treasurer and shall be used by the taxpayer. This provision only provides for the valuation of income paid or received in property or the use thereof and shall not be interpreted to adopt or refer to any other provision of the Federal Internal Revenue Code. For purposes of this regulation the phrase "income paid or received in property or use thereof" shall not include any deferred income currently taxed by the Village of Marble Cliff Income Tax Code.

§ 33.18 VIOLATIONS.

- (A) No person subject to the provisions of this chapter shall do any of the following:
 - (1) Fail, neglect or refuse to make and file any return or declaration.
 - (2) Fail, neglect or refuse to pay the tax, interest or penalty imposed by this chapter.
 - (3) Being a corporation or business association fail, neglect or refuse to permit the Clerk Treasurer or his duly authorized agent or employee the opportunity to examine their books, records and papers by failing to produce such information at the reasonable time and place designated pursuant to § 33.09 of this chapter.
 - (4) Knowingly make and file an incomplete, false or fraudulent return.

- (B) No employer shall fail, neglect or refuse to deduct and withhold the taxes or pay the taxes imposed by this chapter.
- (C) The failure of an employer or taxpayer to receive or procure a return or declaration form shall not excuse either one from making a return or declaration or paying the tax levied under this chapter.

§ 33.99 PENALTY.

- (A) Whoever violates any provision of this chapter shall be guilty of a misdemeanor of the fourth degree and upon conviction thereof, shall be fined in a sum not to exceed \$250 or imprisoned for a period not to exceed 30 days or both for first offense, and shall be fined not more than \$1,000 or imprisoned not more than six months for a second or subsequent conviction.
- (B) Whoever violates the provisions of § 33.10, upon conviction thereof, shall be deemed guilty of a misdemeanor and shall be subject to a fine of not more than \$500 or imprisoned for not more than six months, or both. Each disclosure shall constitute a separate offense.