

AN ORDINANCE PROVIDING FOR MUNICIPAL INCOME TAX FOR THE VILLAGE OF UNION CITY, OHIO, AND DECLARING AN EMERGENCY

Levying a tax to provide funds for the purpose of general municipal operation, maintenance of equipment, extension, enlargement and improvement of municipal services and facilities and capital improvements, on all salaries, qualifying wages, commissions, and other compensations earned by residents of the village; on all salaries, qualifying wages, commissions, and other compensation earned by non-residents of the village; for work done or services performed or rendered in the village; on the net profits earned on all businesses, professions, or other activities conducted by residents of the village; on the net profits earned on all businesses, professions or other activities conducted in the village by non-residents, and on the net profits earned by all corporations doing business in the village as the result of work done or services performed or rendered in the village; requiring the filing of returns and furnishing of information by the employers and all those subject to said tax; imposing on employers the duty of collecting the tax at the source and paying the same to the village; providing for the administration, collection and enforcement of said tax; declaring violation thereof to be a misdemeanor and imposing penalties thereof.

BE IT ORDAINED BY the Council of the Village of Union City, State of Ohio, that:

SECTION 1. PURPOSE

To provide funds for municipal purposes there shall be and is hereby levied a tax on qualifying wages, commissions and other compensation and on net profits and other taxable income as hereinafter provided.

SECTION 2. DEFINITIONS

- A. As used in this Section the following words shall have the meanings ascribed to them in this section, except as and if the context clearly indicates or requires a different meaning.
 - 1. "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 section 5745.03 or to the net profit from a sole proprietorship.

2. "ASSOCIATION" means a partnership, limited partnership, S Corporation or any other form of unincorporated enterprise, owned by one or more persons.
3. "Board of Review" means the Board created by and constituted as provided for in Section 13 of this ordinance.
4. "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 property, real, personal or mixed.
5. "Corporation" means a corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory, or foreign country or dependency.
6. "Domicile" means a principal residence that the taxpayer intends to use for an indefinite time and to which whenever he is absent he intends to return. A taxpayer has only one domicile even though he may have more than one residence.
7. "Employee" means one who works for wages, salary, commission or other types of compensation in the services of an employer.
8. "Employer" means an individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profits, who or that employs one or more persons on a salary, wage, commission or other compensation basis.
9. "Fiscal year" means an accounting period of twelve (12) months or less ending on any day other than December 31.
10. "Form 2106" means Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
11. "Generic form" means an electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability or for filing a refund claim that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation's tax on income. Any municipality that requires taxpayers to file income tax returns, reports, or other documents shall, accept for filing a generic form of such a return, report, or document if the generic form, once completed and filed, contains all of the information required to be, submitted with the municipality's prescribed returns, reports, or documents.
12. "Gross receipts" means total income of taxpayers from whatever source derived.
13. "Income from a pass-through entity" means partnership income of partners, membership interests of members of a limited liability company, distributive shares of shareholders of an S corporation, or other distributive or proportionate ownership shares of income from other pass-through entities.
14. "Intangible income" means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, tradenames, investments in real estate investment trusts,

investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings or other similar games of chance.

15. "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.
16. "Internet" means the international computer network of both Federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork known as the World Wide Web.
17. "Limited liability Company" means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.
18. "MUNICIPAL INCOME TAX" means an income tax imposed by a municipality.
19. "Municipality" means the Village of Union City.
20. "Net profit" for a taxpayer other than an individual means adjusted federal taxable income and "net profit" for a taxpayer who is an individual means the individual's profit, other than amounts described in division (F) of Section 3, required to be reported on schedule C, schedule E, or schedule F.
21. "Nonqualified deferred compensation plan" means a compensation plan described in section 3121 (v)(2)(C) of the Internal Revenue Code.
22. "Nonresident" means an individual, partnership, association, corporation or other entity, domiciled outside the Municipality.
23. "Nonresident incorporated business entity" means an incorporated business entity not having an office or place of business within the Municipality.
24. "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Municipality.
25. "Other payer" means any person, other than an individual's employer or the employer's agent that pays an individual any amount included in the federal gross income of the individual. ,
26. "Owner" means a partner of a partnership, a member of a limited liability company, a shareholder of an S corporation, or other person with an ownership interest in a pass-through entity.
27. "Owner's proportionate share", with respect to each owner of a pass-through entity, means the ratio of (a) the owner's income from the pass-through entity that is subject to taxation by the municipal corporation, to (b) the total income from that entity of all owners whose income from the entity is subject to taxation by that municipal corporation.
28. "Pass-through entity" means a partnership, Limited Liability Company, S Corporation, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code.
29. "Person" includes individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities, and any other entity.

30. "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 regular employees regularly in attendance.
31. "Principal place of business" means in the case of an employer having headquarters' activities at a place of business within a taxing municipality, the place of business at which the headquarters is situated. In the case of any employer not having its headquarters' activities at a place of business within a taxing municipality, the term means the largest place of business located in a taxing municipality.
32. "Qualified plan" means a retirement plan satisfying the requirements under section 401 of the Internal Revenue Code as amended.
33. "Qualifying wages" means wages, as defined in section 3121 (a) of the Internal Revenue Code, without regard to any wage limitations, adjusted in accordance with section 718.03(A) of the Ohio Revised Code.
34. "Resident" means an individual, partnership, association, corporation or other entity, domiciled in the Village of Union City, Ohio.
35. "Resident incorporated business entity" means an incorporated business entity whose office, place of operations or business sites is within the Municipality.
36. "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the Municipality.
37. "Return preparer" means any person other than a taxpayer that is authorized by a taxpayer to complete or file an income tax return, report, or other document for or on behalf of the taxpayer.
38. "Rules and Regulations" means the Rules and Regulations as set forth in this Chapter.
39. "Schedule C" means Internal Revenue Service schedule C filed by a taxpayer pursuant to the Internal Revenue Code.
40. "Schedule E" means Internal Revenue Service schedule E filed by a taxpayer pursuant to the Internal Revenue Code.
41. "Schedule F" means Internal Revenue Service schedule F filed by a taxpayer pursuant to the Internal Revenue Code.
42. "S Corporation" means a corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.
43. "Tax Administrator" means the person appointed to administer the Municipality's Income Tax Ordinance and to direct the operation of the Municipal Income Tax Department or the person executing the duties of the Tax Administrator.
44. "Taxable income" means qualifying wages paid by an employer or employers, compensation for personal services, other income defined by statute as taxable, and/or adjusted federal taxable income from the operation of a business, profession, or other enterprise or activity adjusted in accordance with the provisions of this Chapter.

45. "Taxable year" means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.
46. "Taxing municipality" means a municipality levying a tax on income earned by nonresidents working within such municipality or on income earned by its residents.
47. "Taxpayer" means a person subject to a tax on income levied by a municipal corporation. "Taxpayer" does not include any person that is a disregarded entity or a qualifying subchapter S subsidiary for federal income tax purposes, but "taxpayer" includes any other person who owns the disregarded entity or qualifying subchapter S subsidiary.
48. "Village" means the Village of Union City, OH.

B. The singular shall include the plural, the masculine shall include the feminine and the neuter, and all periods set forth shall be inclusive of the first and last mentioned dates.

SECTION 3. IMPOSITION OF TAX.

- A. Basis of Imposition. Subject to provisions of Section 16, an annual tax shall be, and is hereby, levied on and after January 1, 1988, at the rate of one per cent (1%) per annum upon the following:
1. On all qualifying wages, commissions, compensation, and other taxable income earned or received by residents of the Municipality;
 2. On all qualifying wages, commissions, compensation, and other taxable income earned or received by nonresidents for work done, or services performed or rendered, in the Municipality;
 3. On the portion attributable to the Municipality of the net profits earned by all resident unincorporated businesses, pass-through entities, professions or other activities, derived from work done or services performed or rendered, and business or other activities conducted in the Municipality. On the portion of the distributive share of the net profits earned by a resident owner of a resident unincorporated business entity or pass-through entity not attributable to the Municipality and not levied against such unincorporated business entity or pass-through entity.
 4. On the portion attributable to the Municipality on the net profits by all nonresident unincorporated businesses, pass-through entities, professions or other activities, derived from work done or services performed or rendered and business or other activities conducted in the Municipality, whether or not such unincorporated business entity has an office or place of business in the Municipality. On the portion of the distributive share of the net profits earned by a resident owner of a nonresident unincorporated business entity or pass-through entity not attributable to the Municipality and not levied against such unincorporated business entity or pass-through entity.

5. On the portion attributable to the Municipality of the net profits earned by all corporations that are not pass-through entities from work done or services performed or rendered and business or other activities conducted in the Municipality, whether or not such corporations have an office or place of business in the Municipality.
6. On all income received as gambling winnings as reported on IRS Form W-2G, Form 5754 and or any other Form required by the Internal Revenue Service that reports winnings from gambling, prizes and lottery winnings.

B. Businesses Both In and Outside the Municipal Boundaries. This section does not apply to taxpayers that are subject to and required to file reports under Chapter 5745, of the Ohio Revised Code. Except as otherwise provided in division (D) of this section, net profit from a business or profession conducted both within and without the boundaries of a municipal corporation shall be considered as having a taxable situs in such municipal corporation for purposes of municipal income taxation in the same proportion as the average ratio of the following:

1. Multiply the entire net profits of the business by a business apportionment percentage to be determined by:
 - a. The average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in such municipal corporation during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

As used in the preceding paragraph, real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight

- b. Qualifying wages and other compensation paid during the taxable period to persons employed in the business or profession for services performed in such municipal corporation to wages, salaries, and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed, excluding compensation that is not taxable by the municipal corporation under section 718.011 of the Ohio Revised Code;
- c. Gross receipts of the business or profession from sales made and services performed during the taxable period in such municipal corporation to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.
- d. Adding together the percentages determined in accordance with subsections B. 1. a. b. and c. hereof, or such of the aforesaid percentages as are applicable to the particular taxpayer and dividing the total so obtained by the number of percentages used in deriving such total.

.1 A factor is applicable even though it may be apportioned entirely in or outside the Municipality.

.2 Provided however, that in the event a just and equitable result cannot be obtained under the formula provided for herein, the Tax Administrator, upon application of the taxpayer, shall have the authority to substitute other factors or methods calculated to effect a fair and proper apportionment.

C. As used in division (B) of this section, "sales made in a municipal corporation" mean:

1. All sales of tangible personal property delivered within such municipal corporation regardless of where title passes if shipped or delivered from a stock of goods within such municipal corporation;
2. All sales of tangible personal property delivered within such municipal corporation regardless of where title passes even though transported from a point outside such municipal corporation if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such municipal corporation and the sales result from such solicitation or promotion;
3. All sales of tangible personal property shipped from a place within such municipal corporation to purchasers outside such municipal corporation regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

D. Except as otherwise provided in division (E) of this section, net profit from rental activity not constituting a business or profession shall be subject to tax only by the municipal corporation in which the property generating the net profit is located.

E. This section does not apply to individuals who are residents of the Municipality and, except as otherwise provided in section 718.01 of the Ohio Revised Code, the Municipality may impose a tax on all income earned by residents of the Municipality to the extent allowed by the United States Constitution.

F. Net Operating Loss (NOL).

1. The portion of a net operating loss sustained in any taxable year, beginning with the year 1988 apportioned to the Municipality may be applied against the portion of the profit of succeeding tax years apportioned to the Municipality, until exhausted, but in no event for more than three (3) taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.
2. The portion of a net operating loss sustained shall be apportioned to the Municipality in the same manner as provided herein for apportioning net profits to the Municipality.
3. The Tax Administrator shall provide by Rules and Regulations the manner in which such net operating loss carry forward shall be determined.
4. The net operating loss of a taxpayer that loses its legal identity, by any means such as merger or consolidation, shall not be allowed as a carry forward loss deduction to the surviving or new taxpayer.
5. The net operating loss sustained by a business or profession, including rental properties is not deductible from employee earnings, but may be carried forward as provided in subsection F. 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 reportable for municipal income tax purposes to another municipality) may not be used to offset the profits of another for purposes of arriving at overall net profits.

G. Consolidated Returns.

1. A consolidated return may be filed by a group of corporations who are affiliated through stock ownership if that affiliated group filed for the same tax period a consolidated return for Federal income tax purposes pursuant to section 1501 of the Internal Revenue Code. A consolidated return must include all companies that are so affiliated.
2. Once a consolidated return has been filed for any taxable year, consolidated returns shall continue to be filed in subsequent years unless the applicable requirements of the Rules and Regulations for discontinuing the filing of consolidated returns have been met.

H. Exclusions.

The provisions of this Chapter shall not be construed as levying a tax upon the following:

1. Proceeds from welfare benefits, unemployment insurance benefits, social security benefits, and qualified retirement plans as defined by the Internal Revenue Service.
2. Proceeds of insurance, annuities, workers' compensation insurance, permanent disability benefits, compensation for damages for personal injury and like reimbursements, not including damages for loss of profits and wages.
3. Dues, contributions and similar payments received by charitable, religious, educational organizations, or labor unions, trade or professional associations, lodges and similar organizations.
4. Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations and income of a decedent's estate during the period of administration (except such income from the operation of a business).
5. Alimony received.
6. Compensation for damage to property by way of insurance or otherwise.
7. Interest and dividends from intangible property.
8. Military pay or allowances of members of the Armed Forces of the United States and of members of their reserve components, including the Ohio National Guard (ORC718.01).
9. Income of any charitable, educational, fraternal or other type of nonprofit association or organization enumerated in Ohio Revised Code 718.01 to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.
10. Any association or organization falling in the category listed in the preceding paragraph receiving income from non-exempt real estate, tangible or intangible personal property, or business activities of a type ordinarily conducted for profit by taxpayers operating for profit shall not be excluded hereunder.
11. In the event any association or organization receives taxable income as provided in the preceding paragraph from real or personal property ownership or income-producing business located both within and without the corporate limits of the Municipality, it shall calculate its income apportioned to the Municipality under the method or methods

provided above.

12. If exempt for federal income tax purposes, fellowship and scholarship grants are excluded from Municipal income tax.
13. The rental value of a home furnished to a minister of the gospel as part of his compensation, or the rental allowance paid to a minister of the gospel as part of his compensation, to the extent used by him to rent or provide a home pursuant to section 107 of the Internal Revenue Code.
14. Compensation paid under section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct official, to the extent that such compensation does not exceed one thousand dollars (\$1,000) annually. Such compensation in excess of one thousand dollars may be subjected to taxation. The payer of such compensation is not required to withhold Municipal tax from that compensation.
15. Compensation paid to an employee of a transit authority, regional transit authority, or a regional transit commission created under Chapter 306 of the Ohio Revised Code for operating a transit bus or other motor vehicle for the authority or commission in or through the Municipality, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such tax by reason of residence or domicile in the Municipality, or the headquarters of the authority or commission is located within the Municipality.
16. The Municipality shall not tax the compensation paid to a nonresident individual for personal services performed by the individual in the Municipality on twelve (12) or fewer days in a calendar year unless one of the following applies:
 - a. The individual is an employee of another person, the principal place of business of the individual's employer is located in another municipality in Ohio that imposes a tax applying to compensation paid to the individual for services paid on those days; and the individual is not liable to that other municipality for tax on the compensation paid for such services.
 - b. The individual is a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such promoter, all as may be reasonably defined by the Municipality.
17. The income of a public utility, when that public utility is subject to the tax levied under section 5727.24 or 5727.30 of the Ohio Revised Code, except a municipal corporation may tax the following, subject to Chapter 5745 of the Ohio Revised Code:
 - a. The income of an electric company or combined company;
 - b. The income of a telephone company.

As used in division (F)(17) of this section, "combined company", "electric company", and "telephone company" have the same meanings as in section 5727.01 of the Ohio Revised Code.
18. An S corporation shareholder's distributive share of net profits or losses of the S corporation
19. Generally the above noted items in this section are the only forms of income not subject to the tax. Any other income, benefits, or other forms of compensation shall be taxable.

I. Mandatory Registration

1. Each new resident of the Village of Union City shall register with the Village Income Tax Department within (30) days of residency in the Village.
2. All employers, contractors or subcontractors who do work in the Village shall register with the Tax Administrator when work begins and shall present him/her with a list of all employees, subcontractors or others who may do work for them that are not already registered with the Village or whose profits, wages or earnings are not presently subject to withholdings of the Village of Union City income tax.
3. Every owner of one or more rental units is hereby directed to furnish to the Administrator a semi-annual roster of the names of all persons residing in such rental units and shall also file a statement of any changes in the roster at the end of each month. The semi-annual statement provided for herein shall be filed with the Administrator on or before January 31 and July 31, unless the Administrator grants an extension of time.
4. Any person who violates this section shall be subject to the provisions of Section 12 of the Village of Union City Income Tax Ordinance.

SECTION 4. EFFECTIVE PERIOD

Said tax shall be levied, collected and paid with respect to the salaries, qualified wages, commissions and other compensation earned or received and shall be levied with respect to the net profits of the businesses, professional or other activities earned from and after the effective date of this Tax Code.

SECTION 5. RETURN AND PAYMENT OF TAX.

- A. On or before **April 15** of each year, every resident subject to the provisions of Section 3, paragraph A through E inclusive, of the Ordinance shall, except hereinafter provided, make and file with the Tax Administrator a Municipal tax return on a form prescribed by and acceptable to the Tax Administrator, whether or not a tax is due. 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 **fifteenth (15th) day of the fourth (4) month following the end of such fiscal year or period**. The Tax Administrator is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of Municipal tax deducted by said employer or employers from the qualifying wages, commissions, compensation, and other taxable income of a nonresident employee, and paid by him or them to the Tax Administrator may be accepted as the return required of a nonresident employee whose sole income, subject to tax under this Tax Code, is such qualifying wages, commissions, compensation, and other taxable income.
- B. A husband and wife may file either separate returns or a joint return for municipal

purposes, even though one of the spouses has neither taxable income nor deductions included on the Municipal return regardless of whether their federal and state returns were filed separately or jointly. If a joint city return is made, the tax shall be computed on the aggregate taxable income and the liability with respect to the tax shall be joint and several.

- C. 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 a generic form, if the generic form, when completed and filed, contains all of the information required to be submitted with the Municipality's prescribed return and, if the taxpayer or return preparer filing the generic form otherwise complies with the Tax Code governing the filing of returns.
- D. The return shall set forth:
 - 1. The aggregate amounts of qualifying wages, commissions or compensation received, allocated, apportioned or set aside, other income defined by statute as taxable, and gross income from any business, profession or other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to said tax; and
 - 2. The amount of the tax imposed by this Ordinance on such earnings and profits; and
 - 3. Such other pertinent statements, information returns, copies of federal or state tax returns and/or schedules, or other information as the Tax Administrator may require, including a statement that the figures used in the return are the figures used for federal income tax adjusted to set forth only such income as is taxable under the provisions of this Ordinance.
- E.
 - 1. Any taxpayer that has requested an extension for filing a federal income tax return may request an extension for the filing of a Municipal Income Tax Return by filing a copy of the taxpayer's federal extension request with the Municipal Tax Division. Any taxpayer not required to file a federal income tax return may request an extension for filing a Municipal Income Tax Return in writing. The request for extension must be filed on or before the original due date for the annual return. If the request is granted, the extended due date of the municipal income tax 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.

2. The Tax Administrator may deny a taxpayer's request for extension if the taxpayer:
 - a. fails to timely file the request; or
 - b. fails to file a copy of the federal extension request, (if applicable); or
 - c. owes the Municipality any delinquent income tax, penalty, interest or other charge for the late payment or nonpayment of income tax; or
 - d. has failed to file any required income tax return, report, or other related document for a prior tax period.

3. The granting of an extension for filing a Municipal tax return does not extend the due date as provided in this section for payment of the tax; hence, penalty and interest may apply to any unpaid tax during the period of extension at the rate set out by Section 10. No penalty shall be assessed in those cases in which the return is filed and the final tax paid within the extension period provided all other filing and payment requirements of the Ordinance have been met. Any extension by the Tax Administrator shall be granted upon the condition that declaration filing and payment requirements have been fulfilled; however, if, upon further examination it then becomes evident that declaration filing and payment requirements have not been fulfilled, penalty and interest may be assessed in full and in the same manner as though no extension had been granted.

F. PAYMENTS WITH RETURNS.

1. The taxpayer making a return shall, at the time of the filing thereof, pay to the Tax Administrator the amount of taxes shown as due. However, credit shall be allowed for:
 - a. Any portion of the tax so due which shall have been deducted at the source pursuant to the provisions of Section 6; and
 - b. Any portion of said tax which shall have been paid by the taxpayer pursuant to the provisions of Section 7.

2. Subject to the limitations contained in Section 11 of this Ordinance, any taxpayer who has overpaid the amount of tax to which the Municipality is entitled under the provisions of this Ordinance may have such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such overpayment (or part thereof) shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$1) shall be collected or refunded.

G. AMENDED RETURNS.

1. Where necessary, an amended return shall 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 Section 11. The Tax Administrator shall provide by regulation the format in which such amended return shall be filed. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

2. Within three (3) months from the final determination of any federal tax liability affecting the taxpayer's Municipal tax liability, such taxpayer shall make and file an amended Municipal return showing income subject to the Municipal tax based upon such final determination of federal tax liability and pay any additional tax shown due thereon or make claim for refund of any overpayment.
- H. Information returns, schedules and statements required to support tax returns which are incomplete without such information shall be filed within the time limits set forth for the filing of the tax returns and the failure to file such information returns, schedules and statements shall be a violation of this Ordinance. Provided, however, that the taxpayer shall have ten (10) days after notification by the Tax Administrator, or his authorized representative, to file the items required by this paragraph.

SECTION 6 COLLECTION AT SOURCE

- A. Withholding by Employer. Each employer within, or doing business within, the Municipality who employs one or more persons on a salary, qualifying wage, commission or other compensation basis shall deduct, when such salary, qualifying wage, commission or other compensation is paid, allocated, apportioned or set aside, the tax at the rate provided in Section 3 hereof on the qualifying wages due by such employer to each such employee and shall, on or before the last day of the month following such withholding, make a return and pay to the Tax Administrator the amount of taxes so deducted. The return 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 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. An employer is not required to make any withholding with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of the corporation with respect to whose stock the option has been issued.
- C.
 1. An employee is not relieved from liability for a tax by the failure of the employer to withhold the tax as required by a municipal corporation or by the employer's exemption from the requirement to withhold the tax.
 2. The failure of an employer to remit to the municipal corporation the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer in connection with the failure to remit the tax withheld.
- D. So long as the taxes withheld by an employer for the Municipality during the measurement period are less than one thousand (\$1000) per month, payments may be made quarterly on or before the last day of the month following the end of each quarter, subject to the approval of the Tax Administrator. The Tax Administrator may revoke the approval of quarterly filing and payments whenever the Tax Administrator has reason to believe that the conditions for granting such authorization have changed, were judged incorrectly, were not met, or when it is in the best interest of the Municipality to do so. Notice of withdrawal shall be made in writing and, in such case, the employer must begin to file in accordance with this section.
- E. Employer Considered as Trustee. Each employer in collecting such tax shall be deemed to hold the same, until payment is made by such employer to the Municipality, as a trustee for the benefit of the Municipality, and any such tax collected by such employer from his

employees shall, until the same is paid to the Municipality, be deemed a trust fund in the hands of such employer. Each employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such tax, in fact, has been withheld.

- F. Any person who is required to withhold tax from qualifying wages shall pay all such tax to the Municipality in accordance with the provisions of this section. In the event taxes withheld from the qualifying wages of employees are not paid to the Municipality in accordance with the provisions of this section, all officers, members, managers, employees, and trustees having control or supervision of or charged with the responsibility of filing the return and making payment are jointly and severally personally liable for the tax not returned or paid to the Municipality as well as any related interest and penalties, and are also liable under the provisions of Section 12 hereof. The dissolution, termination, or bankruptcy of a corporation, limited liability company, or business trust does not discharge an officer's, member's, manager's, employee's, or trustee's liability for a failure of the corporation, limited liability company, or business trust to file returns or pay said taxes.

- G. Withholding Return; List of Employees. Each employer shall file a withholding tax reconciliation showing the sum total of all compensation paid all employees, the portion of which, (if any) was not subject to withholding along with an explanation for same, and the portion of which was subject to withholding, together with the amount of such withholdings remitted. Such return shall include information concerning each employee from whom the Municipal tax was withheld, showing the name, address, zip code and social security number of each such employee, the total amount of compensation paid during the year and the amount of Municipal tax withheld. The withholding tax reconciliation shall be filed by each employer on or before February 28 following the end of such calendar year. In place of the list a copy of the employee's W-2 form may be submitted.

- H. In addition to the wage reporting requirements of this section, any person required by the Internal Revenue Service to report on Form 1099-Misc. payments to individuals not treated as employees for services performed shall also report such payments to the Municipality when the services were performed in the Municipality. The information may be submitted on a listing, and shall include the name, address and social security number (or federal identification number), and the amount of the payments made. Federal form(s) 1099 may be submitted in lieu of such listing. The information shall be filed annually on or before February 28 following the end of such calendar year.

- I. Domestic Servants. No person shall be required to withhold the tax on the qualifying wages, commissions, of other compensation, and other taxable income paid domestic servants employed exclusively in or about such person's residence. However, such domestic servants shall be responsible for filing and paying their own returns and taxes.

SECTION 7. DECLARATIONS

A. Requirement for Filing.

Every person who anticipates any taxable income which is not subject to Section 6 or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 3, 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 qualifying wages from which the tax will be withheld and remitted to this Municipality in accordance with sections 6 hereof, such person need not file a declaration.

B. Dates for Filing.

1. Such declaration shall be filed on or before April 15 of each year during the life of this Ordinance, or on or before the fifteenth (15th) day of the fourth (4th) month following the date the taxpayer becomes subject to tax for the first time.
2. Those taxpayers having a fiscal year or period differing from the calendar year shall file a declaration on or before the fifteenth (15th) day of the fourth (4th) month following after the start of each fiscal year or period.

Forms

1. Such declaration shall be filed upon a form furnished by or obtainable from the Tax Administrator or an acceptable generic form,
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.
3. For taxpayers who are individuals, such declaration of estimated tax to be paid the Municipality shall be accompanied by a payment of at least **twenty-two and one-half percent (22.5%) of the estimated annual tax and at least a similar amount shall be paid** on or before the last day of the seventh, tenth and thirteenth months after the beginning of the taxable year.
4. For taxpayers that are not individuals, such declaration of estimated tax to be paid the Municipality shall be accompanied by a payment of at least **twenty-two and one-half percent (22.5%) of the estimated annual tax and at least a similar amount shall be paid** on or before the fifteenth (15th) day of the sixth, ninth and twelfth months after the beginning of the taxable year.

The mere submission of a declaration estimating a tax liability shall not constitute filing unless accompanied by the required payment.

Amended Declaration.

1. A declaration may be amended at any time.
2. In the event that 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. Annual Return Required.

On or before the 15th day of the fourth month of the calendar or fiscal year, an annual return shall be filed and any balance that may be due the Municipality shall be paid therewith in accordance with the provisions of Section 5.

SECTION 8. APPOINTMENT AND DUTIES OF TAX ADMINISTRATOR

- A. 1. It shall be the duty of the Tax Administrator to collect and receive the tax imposed by this Ordinance in the manner prescribed therein, to keep an accurate record thereof, and to report all monies so received.
2. It shall be the duty of the Tax Administrator to enforce payment of all income taxes owing the Municipality, to keep accurate records for a minimum of six (6) years, showing the amount due from each taxpayer required to file a declaration or make any return, including a return of taxes withheld, and to show the dates and amounts of payments thereof.
- B. The Tax Administrator is hereby charged with the enforcement of the provisions of this Ordinance, including the interpretation and enforcement of the Rules and Regulations, and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and the administration and enforcement of the provisions of this Ordinance, including provisions for the re-examination and correction of returns.
- C. 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 the Municipality from the taxpayer and may send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any,
- D. Subject to the consent of a majority of the Board of Review, the Tax Administrator shall have the power to compromise any liability imposed by this Ordinance.
- E. Upon the demonstration and documentation of good cause, the Tax Administrator shall have the power to compromise penalty and interest liabilities imposed by this Ordinance, consistent with this Ordinance and the Rules and Regulations

SECTION 9. INVESTIGATIVE POWERS OF TAX ADMINISTRATOR; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION

- A. The Tax Administrator, or any of his authorized agents, is hereby authorized to examine the books, papers, records and federal income tax returns of any employer, taxpayer, or any person subject to, or whom the Tax Administrator believes is subject to, the provisions of this ordinance for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax or withholdings due under this Ordinance. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish, upon written request of the Tax Administrator, or his duly authorized agent or employee, the means, facilities and opportunities 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 at the office of the Tax Administrator and to examine such person, under oath, concerning any income which was or should have been reported for taxation, or withheld, 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.
- C. The refusal to produce books, papers, records or federal income tax returns, or the refusal to submit to such examination by any employer or person subject, or presumed to be subject, to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax, or the failure of any person to comply with the provisions of this section or with an order or subpoena of the Tax Administrator authorized hereby, shall be deemed a violation of this Ordinance punishable as provided in Section 12.
- D. Every taxpayer shall retain all records necessary to compute his tax liability for a period of **six (6)** years from the date his return is filed or the taxes required to be withheld are paid.
- E. Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by this Ordinance shall be confidential and no person shall disclose such information except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of the municipal corporation as authorized by this Ordinance. The Tax Administrator of the municipal corporation may furnish copies of returns filed under this Ordinance to the Internal Revenue Service and to the State Tax Commissioner.
- F. Any person divulging such information shall be guilty of a misdemeanor punishable by a maximum fine of five hundred dollars (\$500.00) or imprisonment for not more than six (6) months, or both.
- G. In addition to the above penalty, any employee of the Municipality who violates the provisions of this section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

SECTION 10. INTEREST AND PENALTIES.

- A. All taxes imposed and monies withheld or required to be withheld by employers under the provisions of this ordinance and remaining **unpaid five (5) days after they become due shall bear interest at the rate of one-half of one percent (1/2%) per month or fraction thereof.**
- B. In addition to interest as provided in Paragraph A hereof, penalties are hereby imposed as follows based on the *tax remaining* unpaid after it becomes due:
- 1 For failure to pay *taxes* due, other than *taxes* withheld, ten (10%) percent of the unpaid balance,
 2. For failure to remit *taxes* withheld or required to be withheld from employees; five percent (5%) per month or fraction thereof,
 3. Any person required to file a return as set forth in this Ordinance who fails to file or make payment as set forth herein shall pay a penalty of twenty-five dollars (\$25.00) if return and/or payment is filed **between April 16th and May 15th. In the event the return and/or payment are filed after May 15th; said person shall pay** a penalty of Fifty dollars (\$50.00). It shall be no defense in the payment of such penalty that no tax shall be due to be paid to the Village, or that a refund is due to be paid to the taxpayer, as the result of the filing of such return.
- C. Exceptions. 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; and 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 (3) months after the 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, or upon an appeal from the refusal of the Tax Administrator to recommend abatement of penalty and interest concerning an item of income or expense, the Board may nevertheless abate penalty or interest, or both.

SECTION 11. COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

- A. All taxes imposed by this Ordinance shall be collectible, together with any interest and penalties thereon, by suit as other debts of like amount are recoverable. No additional assessment shall be made after three (3) years from the time the tax was due or the return was filed, whichever is later; provided however, there shall be no period of limitation on an additional assessment in a case of a return that omits gross income in excess of twenty-five per cent (25%) of that required to be reported or in the case of filing a false or fraudulent return with intent to evade the tax, or in the case of failure to file a return. In those cases in which the 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 Tax Administrator shall be extended one (1) year from the time of the final determination of the federal tax liability.
- B. Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date on which such payment was made or the return was due, or within three (3) months after final determination of the federal tax liability, whichever is later.

- C. Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment, with the following exception: No interest shall be allowed on any overpayment that is refunded within ninety (90) days after the final filing date of the annual return or ninety (90) days after the complete return is filed, whichever is later. For purposes of computing the payment of interest on overpayments, no amount of tax for any taxable year shall be treated as having been paid before the date on which the tax return for that year was due without regard to any extension of time for filing that return. The interest shall be paid at the rate of interest prescribed by Ohio R.C. 5703.47.
- D. Amounts of less than-one-dollar (\$1.00) shall not be collected or refunded.

SECTION 12. VIOLATIONS AND PENALTIES

A. Any person who shall:

1. Fail, neglect or refuse to make any return or declaration required by this Ordinance; or
2. Knowingly make an incomplete, false or fraudulent return; or
3. Willfully fail, neglect or refuse to pay the tax, penalties or interest imposed by this Ordinance; or
4. Fail, neglect or refuse to withhold the tax from his employees and remit such withholding tax to the Tax Administrator; or
5. Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his or her employer's books, records, papers, or federal income tax returns; or
6. Fail to appear before the Tax Administrator and to produce his employer's books, records, papers or federal income tax returns upon order or subpoena of the Tax Administrator; or
7. Refuse to disclose to the Tax Administrator any information with respect to such person's or such person's employer's income or net profits; or
8. Willfully give to an employer by an employee false information as to his true name, correct social security number and residence address, or the failure of such employee to promptly notify an employer of any change in residence address and date thereof; or
9. Failure on the part of any employer to maintain proper records of employees' residence addresses, total wages paid and Municipal tax withheld, or to knowingly give the Tax Administrator false information; or
10. Fail to comply with the provisions of this Ordinance or any order or subpoena of the Tax Administrator; or
11. Fail to cause the tax withheld from the qualifying wages of the employees pursuant to this Ordinance to be paid to the Municipality in accordance with the provisions of Section 6; or
12. Attempt to do anything whatever to avoid the payment of the whole or any part of the

tax, penalties or interest imposed by this Ordinance;

for which violation no penalty is otherwise provided, is guilty of a minor misdemeanor on a first offense and shall be fined not more than one hundred fifty dollars (\$150.00); on a second offense within two years after the first offense, such person is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty (60) days, or both, for each offense; on each subsequent tax code violation within two years after the first offense such person is guilty of a misdemeanor of the third degree, and punished as provided for herein.

B. Statute of Limitations.

1. Civil actions to recover Municipal income taxes and penalties and interest on Municipal income taxes shall be brought within three (3) years after the tax was due or the return was filed, whichever is later.

2. Prosecutions for an offense made punishable under this Ordinance 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 (25%) or more of income required to be reported, prosecutions may be commenced within six (6) years after the commission of the offense. (ORC 718.12)

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

D. The term "person" as used in this section shall, in addition to the meaning prescribed in Section 2, include in the case of an association or corporation not having any partner, member or officer within the Municipality, any employee or agent of such association or corporation who can be found within the corporate limits of the Municipality.

SECTION 13. BOARD OF REVIEW.

A. A Board of Review, consisting of three (3) members to be appointed by the Mayor and approved by Council, is hereby created and shall be maintained to hear appeals. The members of the Board of Review shall be appointed for a term of three (3) years; however, the members of the first Board of Review shall be appointed for (one, two and three years respectively). 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 9 with reference to the confidential character of information required to be disclosed by the Ordinance shall apply to such matters as may be heard before the Board 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 Ordinance, must be approved by the Board of Review before the same become effective. After such approval, such rules, regulations, amendments and changes shall be filed with the Fiscal Officer and shall be open to public inspection. 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 empowered to substitute alternate methods of apportionment.

C. Whenever the Tax Administrator issues a decision regarding an income tax obligation

that is subject to appeal as provided in this section, or in an ordinance or regulation of the Municipality, the Tax Administrator shall notify the taxpayer in writing at the same time of the taxpayer's right to appeal the decision and of the manner in which the taxpayer may appeal the decision.

- D. Any person who is aggrieved by a decision by the Tax Administrator and who has filed with the Municipality the required returns or other documents pertaining to the municipal income tax obligation at issue in the decision may appeal the decision to the Board of Review by filing a request with the Board. The request shall be in writing, shall state with particularity why the decision should be deemed incorrect or unlawful, and shall be filed within thirty (30) days after the Tax Administrator has issued the decision.
- E. The imposition of penalty and interest as prescribed in the codified ordinance of the Municipality is not a sole basis for an appeal.
- F. The Board of Review shall schedule a hearing within forty-five (45) days after receiving the request, unless the taxpayer waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the Board and may be represented by an attorney at law, certified public accountant or other representative.
- G. The Board may affirm, reverse, or modify the Tax Administrator's decision or any part of that decision. The Board shall issue a decision on the appeal within ninety (90) days after the Board's final hearing on the appeal, and send notice of its final decision by ordinary mail to all of the parties to the appeal within fifteen (15) days after issuing the decision. The taxpayer or the Tax Administrator may appeal the Board's decision as provided in section 5717.011 of the Ohio Revised Code.
- H. Each Board of Review created pursuant to this section shall adopt rules governing its procedures and shall keep a record of its transactions. Such records are not public records available for inspection under section 149.43 of the Ohio Revised Code. Hearings requested by a taxpayer before a Board of Review created pursuant to this section are not meetings of a public body subject to section 121.22 of the Ohio Revised Code.

SECTION 14. ALLOCATION OF FUNDS

The funds collected under the provisions of this ordinance shall be deposited on receipt in the General Fund, Income Tax Account, and shall be appropriated by the Village Council.

SECTION 15. SAVING CLAUSE

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

SECTION 16. COLLECTION OF TAX AFTER TERMINATION OF ORDINANCE

- A. This Ordinance 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 provisions of this ordinance are concerned, it shall continue effective until all of said taxes hereunder are fully paid and any and all suits and prosecutions for the collection of said taxes or for the punishment of violations of this ordinance shall have been fully terminated, subject to the limitations contained in Section 11 and 12 hereof.

SECTION 17. EMERGENCY CLAUSE

This ordinance is hereby declared an emergency measure necessary for the immediate preservation of public peace, health, and safety and it shall go into effect immediately. The reason for the said emergency is the immediate necessity of levying the tax provided for herein in order to provide funds for the purposes of general municipal operations, maintenance, new equipment, extensions and enlargement of municipal services and facilities and capital improvements of the Village of Union City, Ohio, during the year 1988 and thereafter.

First Reading_____

Second Reading_____

Passed this_____day of _____ 2004.

Approved:

Attest:

Mayor Scott Stahl

Fiscal Officer Judy Henry

