

LEVYING A TAX TO PROVIDE FUNDS FOR THE PURPOSE OF GENERAL MUNICIPAL OPERATION, MAINTENANCE OF EQUIPMENT, EXTENSION, ENLARGEMENTS AND IMPROVEMENT OF MUNICIPAL SERVICES AND FACILITIES AND CAPITAL IMPROVEMENTS, ON ALL SALARIES, WAGES, COMMISSIONS AND OTHER COMPENSATIONS EARNED BY RESIDENTS OF THE VILLAGE OF BOWERSTON, OHIO; ON ALL SALARIES, WAGES, COMMISSIONS AND OTHER COMPENSATION EARNED BY NONRESIDENTS OF THE VILLAGE OF BOWERSTON FOR WORK DONE OR SERVICES PERFORMED OR RENDERED IN THE VILLAGE OF BOWERSTON; ON THE NET PROFITS EARNED ON ALL BUSINESSES, PROFESSIONS OR OTHER ACTIVITIES CONDUCTED BY THE RESIDENTS OF THE VILLAGE OF BOWERSTON; ON THE NET PROFITS EARNED ON ALL BUSINESSES, PROFESSIONS OR OTHER ACTIVITIES CONDUCTED IN THE VILLAGE OF BOWERSTON BY NONRESIDENTS, AND ON THE NET PROFITS EARNED BY ALL CORPORATIONS DOING BUSINESS IN THE VILLAGE OF BOWERSTON AS THE RESULT OF WORK DONE OR SERVICES RENDERED IN THE VILLAGE OF BOWERSTON; REQUIRING THE FILING OF RETURNS AND FURNISHING OF INFORMATION BY 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 OF BOWERSTON; PROVIDING FOR THE ADMINISTRATION, COLLECTION AND ENFORCEMENT OF SAID TAX; DECLARING VIOLATION THEREOF TO BE A MISDEMEANOR AND IMPOSING PENALTIES THEREFOR; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF BOWERSTON, OHIO THAT:

Section 1. Purpose

To provide funds for the purposes of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements of the Village of Bowerston there shall be and is hereby, levied a tax on salaries, wages, commissions and other compensations, and on the net profits as hereinafter provided.

Section 2. Definitions

As used in this ordinance, the following words shall have the meaning ascribed to them in this Section 2, except as and if the context clearly indicates or requires a different meaning.

Administrator -- The individual designated by the ordinance, whether appointed or elected to administer and enforce the provisions of the ordinance.

Assignment -- The assignment made by a resident of the Village of Bowerston of claim for refund due from another taxing municipality granting credit to nonresidents thereof.

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

Board of Review -- The Board created by and constituted as provided in Section 13 of this Ordinance.

Business -- 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.

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, commission or other type of compensation in the service of an employer.

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

Fiscal Year -- An accounting period of twelve (12) months or less ending on any day other than December 31st.

Gross Receipts -- The total income from any source whatsoever.

Net Profits -- A net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for federal income tax purposes, without deduction of taxes imposed by this ordinance, federal, state, and other taxes based on income; and in the case of an association, without deduction of salaries paid to partners, and other owners; and otherwise adjusted to the requirements of this ordinance.

Nonresident -- An individual domiciled outside of the Village of Bowerston.

Nonresident unincorporated business entity -- An unincorporated business entity not having an office or place of business within the Village of Bowerston.

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

Place of Business -- 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.

Reciprocity Credit -- The credit granted by a municipality to its residents, and to nonresidents whose city of residence grants a similiar credit to nonresidents thereof, based on 50% of the lesser of the two rates.

Resident -- An individual domiciled in the Village of Bowerston.

Resident unincorporated business entity -- An unincorporated business entity having an office or place of business within the Village of Bowerston.

Taxable Income -- Wages, salaries 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 the ordinance.

Taxable Year -- The calendar year, or the fiscal year upon the basis of which the net profits are to be computed under this ordinance 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.

Taxing Municipality -- Any municipal corporation levying a municipal income tax on salaries, wages, commissions and other compensation earned by individuals, and on the net profits earned from the operation of a business profession and/or other activity.

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

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

Section 3. Imposition of Tax

A. Basis of Imposition

Subject to the provisions of Section 16 of the ordinance, an annual tax for the purpose specified in Section 1

hereof shall be imposed on and after the 21st day of November 1980 at the rate of 1% per annum upon the following:

1. Resident Individuals

On all salaries, wages, commissions and other compensations earned during the effective period of the ordinance by the residents of the Village of Bowerston.

2. Nonresident Individuals

On all salaries, wages, commissions and other compensations earned during the effective period of the ordinance by nonresidents for work done or services rendered or performed in the Village of Bowerston.

3. Resident unincorporated business

(a) On the portion attributable to the Village of Bowerston the net profits earned during the effective period of this ordinance of all resident unincorporated businesses, professions or other entities, derived from sales made, work done, service performed or rendered and business or other activities conducted in the Village of Bowerston.

(b) On the portion of the distributive share of the net profit earned during the effective period of this ordinance of a resident partner or owner of a resident unincorporated business entity not attributable to the Village of Bowerston and not levied against such unincorporated business entity. Provided, however, that the liability of an individual partner or owner taxable hereunder on income attributable to another taxing municipality shall be subject to the Relief and Reciprocity Provisions of Section 15 hereof.

4. Nonresident unincorporated business

(a) On the portion attributable to the Village of Bowerston the net profits earned during the effective period of this ordinance of all nonresident unincorporated businesses, professions other entities, derived from sales made, work done or services performed or rendered and business or other activities conducted in the Village of Bowerston.

(b) On the portion of the distributive share of the net profit earned during the effective period of

this ordinance of a resident partner or owner of a nonresident unincorporated business entity not attributable to the Village of Bowerston and not levied against such unincorporated business entity. Provided, however, that the liability of an individual partner or owner taxable under an income attributable to another taxing municipality shall be subject to the Relief and Reciprocity Provisions of Section 15 hereof.

5. Corporations

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

B. Allocation Formula

The portion of the net profits attributable to the Village of Bowerston of a taxpayer conducting a business, profession or other activity both within and without boundaries of Bowerston shall be determined as provided in RC 718.02 and in accordance with the rules and regulations adopted by the Administrator pursuant to this ordinance.

C. Operating loss carry forward

1. The portion of a net operating loss sustained in any taxable year subsequent to the 21st day of November 1980 allocable to the Village of Bowerston may be applied against the portion of the profit of succeeding years allocable to Bowerston, until exhausted but in no event for more than five (5) taxable years. No portion of a net operating loss shall be carried back against net profits of any prior year.

2. The portion of a net operating loss sustained shall be allocated to the Village of Bowerston in the same manner as provided herein for allocating net profits to Bowerston.

3. The administrator shall provide by Rules and Regulations the manner in which such net operating loss carry-forward shall be determined.

D. Consolidated returns

1. Filing of consolidated returns may be permitted or required in accordance with Rules and Regulations prescribed by the Administrator.

2. In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directories, or some other method, or in case any person operated a division branch, factory, office, laboratory or activity within the Village of Bowers-ton constituting a portion only of its total business, the Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated in Bowers-ton. If the Administrator finds net profits are not properly allocated to Bowerston by reasons of transactions with stockholders or with other corporations related by stock ownership, interlocking directories, or transactions with such division branch, factory, office, laboratory or activity or by some other method, he shall make such allocation of net profits to the Village of Bowerston.

E. Exceptions

The tax provided for herein shall not be levied upon the military pay allowance of members of the armed forces of the United States, or upon the net profits of any civic, charitable, religious, fraternal or other organization specified in RC 718.01 to the extent that such profits are exempted from municipal income taxes under said section.

Section 4. Effective Period

Said tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensations, and with respect to the net profits of businesses, professions or other activities earned from the 21st day of November 1980.

Section 5. Return and Payment of Tax

A. Dates; exemption

Each taxpayer, except as herein provided, shall, whether or not a tax be due thereon, make and file a return on or before April 30th of the year following the effective date of this ordinance, and on or before April 30th of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four (4) months from the end of such fiscal year or period. The Administrator is hereby authorized to provide regulations that the return of an employer or employers, showing the amount of tax deducted by said employer or employers from salaries, wages, commissions or other compensation of an employee and paid by him or them to the Administrator shall be

accepted as the return required or any employee whose sole income, subject to tax under this ordinance, is such salary, wages, commissions or other compensation.

B. Returns and Content Thereof

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

1. a. The aggregate amount of salaries, wages, commissions and other compensation earned; and
- b. The gross income from a business, profession or other activity less allowable expenses incurred in the acquisition of such gross income;
- c. Such income shall include only income earned during the year, or portion thereof, covered by the return and subject to the tax imposed by this ordinance;
2. a. The amount of tax imposed by this ordinance on income reported;
- b. Any credits to which the taxpayer may be entitled under the provisions of Section 6, 7 and 15 of this ordinance; and
3. Such other pertinent statements, information, returns, or other information as the Administrator may require.

C. Extensions

The Administrator may extend the time for filing of the annual return upon the request of the taxpayer for a period not to exceed six (6) months, or one (1) month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the Federal Income Tax return. The Administrator may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due. No penalty or interest shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended.

D. Payment with returns

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

- a. The amount of tax deducted or withheld at the source pursuant to Section 6 hereof;
 - b. Such portion of the tax as has been paid on declaration by the tax payer pursuant to Section 7 hereof;
 - c. Any credit allowable under the provisions of Section 15 hereof.
2. Should the return, or the records of the Administrator, indicate overpayment of the tax to which the Village of Bowerston is entitled under the provisions of this ordinance, such overpayment shall first be applied against any existing liability and the balance, if any, at the election of the taxpayer communicated to the Administrator, shall be funded or transferred against any subsequent liability. Provided however that overpayments of less than one dollar (\$1.00) shall not be refunded.

E. Amended Returns

1. Where necessary an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund to tax overpaid, subject to the requirements and/or limitations contained in Section 11 and 15. Such amended returns shall be on a form obtained on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after date for filing the original return.
2. Within three (3) months from the final determination of any federal tax liability affecting the taxpayer's of the Village of Bowerston tax liability, such taxpayer shall make and file an amend Village of Bowerston return showing subject to the Village of Bowerston 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.

Section 6. Collection at source

- A. 1. Each employer within or doing business within the Village of Bowerston who employs one or more persons on a salary, wage, commission or other compensation basic shall, at the time of payment thereof, deduct the tax of one per cent (1%) from the gross salaries, wages, commissions or other

compensation earned by the Village of Bowerston residents regardless of where such compensation was earned and shall deduct the tax of one per cent (1%) from the salaries, wages, commissions or other compensation earned within the Village of Bowerston by nonresidents;

2. Notwithstanding the provisions of Paragraph A-1 of this Section where such employer employs a Village of Bowerston resident in and taxing municipality requiring such employer to deduct its tax from employees engaged therein, such employer shall withhold for and render to the Village of Bowerston only the difference, if any, between the tax imposed by such other taxing municipality and the tax imposed by this ordinance;
3. Each such employer shall, on or before the last day of the month following each calendar quarter, make a return and remit to the Village of Bowerston the tax hereby required to be withheld. Such return shall be on a form or forms prescribed by or acceptable to the Administrator and shall be subject to the rules and regulations prescribed therefor by the Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld whether or not such taxes have in fact been withheld.
4. On or before the 31st day of January following any calendar year such employer shall file with the Administrator an information return for such employee for whom the Village of Bowerston income tax has been, or should have been withheld, showing the name, address and Social Security number of the employee, the total amount of compensation paid during the year and the amount of the Village of Bowerston income tax withheld from such employee.

B. Employer Considered as Trustee

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

C. On or before April 30th of each year beginning with the year 1981 each employer shall file a withholding return setting forth the names and addresses of all employees

from whose compensation the tax withheld during the preceeding calendar year and the amount of tax withheld from his employees and such other information as may be required by the Administrator.

Section 7. Declarations.

1. An employee whose entire wages, salaries, or other compensation for any taxable year will be subject to the withholding provisions under Section 6 of this ordinance, No. 235, whose tax will accordingly be withheld as to his entire earnings for such year by his employer, and who during such taxable year expects to derive no other compensation or other income which is subject to tax under the ordinance, need not file a declaration as provided in this section.
2. All other taxpayers as defined in this ordinance, No. 235, and subject to the taxes imposed in Section 3 of ordinance No. 235 and every taxpayer who anticipates any income or net profits not subject to total withholding as provided in the next preceeding paragraph, shall file with the Village Tax Administrator.
3. On or before April 15th, 1981, every such calendar year taxpayer shall file a declaration of his estimated tax for the taxable period beginning January 1, 1981, and ending December 31, 1981.
4. A similar declaration shall be filed by each such calendar year taxpayer on or before April 15th of each subsequent year during the life of the Ordinance, and each such declaration shall contain a statement of the taxpayer's estimated tax for the full taxable year in which such declaration is filed.
5. Taxpayers who or which are permitted, pursuant to the provisions of Section 5 of ordinance No. 235, to return and pay their tax upon a fiscal year basis, shall file their first declaration within three and one-half months after the beginning of the first fiscal year beginning on and after January 1, 1981, and the subsequent declaration for each year thereafter on or before the 15th day of the fourth month following the beginning of each fiscal year. Those taxpayers on a fiscal year basis shall make quarterly payment on or before the 15th day of the fourth month and on or before the last day of the sixth, ninth, and twelfth month following the beginning of such fiscal year. The first installment, equal to at least one fourth of the estimated tax, must accompany the declaration.

6. The estimated tax for a calendar year taxpayer may be paid in full with the filing of the declaration or in equal installments on or before April 15, June 30, September 30, and December 31.

7. The declarations so required shall be filed upon a form furnished by or obtainable from the Village tax Administrator. Any taxpayer who has filed an estimate for Federal Income Tax purpose may, in making the declaration, required hereunder, simply state therein that the figures therein contained are the same figures used by the taxpayer in making the declaration of his estimates for the Federal Income tax. However, in addition to such statement any such taxpayer may, in such declaration, modify and adjust such declared income so as to exclude therefrom income which is not subject to tax under the Ordinance.

8. Any estimate filed hereunder may be amended by the filing of an amended estimate at the time prescribed for the payment of any installment of tax paid in accordance with subparagraph 2 of this Section.

9. At the time of filing each declaration required by this Section, each taxpayer shall pay the Village Tax Administrator one-fourth (1/4) of the amount of his estimated annual tax due after deducting:

- a) Any portion of such tax to be deducted or withheld at the source pursuant to Section 6 of this Ordinance; No. 235.
- b) Any credits allowable under the provisions of Section 15 of ordinance No. 235;
- c) Any payment of previous years tax liability which taxpayer has not elected to have refunded.

Thereafter, on or before the 30th day of June, the 30th day of September, and December of each year, such taxpayer shall pay at least a similar amount. However, if any such taxpayer shall, on or before any such payment date, file an amended declaration showing an increase or decrease of the estimated tax, the installments then and thereafter due shall be increased or diminished (as the case may be) in such manner that the balance of the estimated tax shall be fully paid on or before December 31st of the taxable year involved through the payment of quarterly installments in equal amounts during the quarterly periods remaining from and after the filing of any such amended declaration.

Taxpayers who or which are permitted to make returns and pay their tax on a fiscal basis, may make quarterly

payments on their declaration of estimated tax pursuant to subparagraph 5 of this section.

10. Annual return required. On or before the last day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the Village of Bowerston shall be paid therewith in accordance with the provisions of Section 5 hereof.

11. Failure by Individual to Pay Estimated Income Tax.

- a) Addition to the tax. In the case of any underpayment of the estimated tax by an individual, except as provided in subsection d), there shall be added to the tax under Section 3 of Ordinance No. 235 for the taxable year an amount determined at the rate of 6 percent (6%) per annum upon the amount of the underpayment (determined under subsection (b) for the period of the underpayment (determined under subsection (c)).
- b) Amount of underpayment. For purpose of subsection (a), the amount of the underpayment shall be the excess of:
 1. The amount of the installment which would be required to be paid if the estimated tax were equal to eighty (80) percent of the tax shown on the return for the taxable year or, if no return was filed, eighty (80) percent of the tax for such year, over.
 2. The amount, if any, of the installment paid on or before the last date prescribed for such payment.
- c) Period of underpayment. The period of the underpayment shall run from the date the installment was required to be paid to whichever of the following dates is the earliest:
 1. The 15th day of the fourth month following the close of the taxable year.
 2. With the respect to any portion of the underpayment, the date on which such portion is paid. For purposes of this paragraph, a payment of the estimated tax on any installment date shall be considered a payment of any previous underpayment only to the extent such payment exceeds the amount of the installment determined under subsection (b) (1) for such installment date.

d) Exception. Notwithstanding the provisions of the preceeding subsections, the addition to the tax with respect to any underpayment of any installment shall not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of such installment equals or exceeds whichever of the following is the lesser:

1. The amount which would have been required to be paid on or before such date if the estimated tax were whichever of the following is the least:

- A. The tax shown on the return of the individual for the preceeding taxable year, if a return showing a liability for tax was filed by the individual for the preceeding taxable year was a taxable year of 12 months, or
- B. The basis of the facts shown on his return for, and the law applicable to, the preceding taxable year or
- C. An amount equal to eighty (80) percent of the tax for the taxable year computed by placing on an annualized basis the taxable income for the months in the taxable year ending before the month in which the installments is required to be paid. For purposes of this subparagraph, the taxable income shall be placed on an annualized basis by:
 - (i) multiplying by 12 (or, in the case of a taxable year of less than 12 months, the number of months in the taxable year) the taxable income for the months in the taxable year ending before the month in which the installment is required to be paid,
 - (ii) dividing the resulting amount by the number of months in the taxable year ending before the month in which such installments date falls, and

2. An amount equal to eighty (80) percent of the tax computed, at the rates applicable to the taxable year, on basis of the actual taxable income for the months in the taxable year ending before the month in which the installment is required to be paid.

e) Application of section in case of tax withheld on wages. For purposed of applying this section:

1. The estimated tax shall be computed without any reduction for the amount which the individual estimates as his credit under subparagraph 9 of this Section, (relating to tax withheld at source on wages), and
2. The amount of the credit allowed under subparagraph 9 of this section, for the taxable year shall be deemed a payment of estimated tax, and an equal part of such amount shall be deemed paid on each installment date for such taxable year, unless the taxpayer establishes the dates on which all amounts were actually withheld, in which case the amounts so withheld shall be deemed payments of estimated tax on the dates which such amounts were actually withheld.
 - f) Tax computed after application of credits against tax. For purpose of subsection (b) and (d), the term "tax" means the tax imposed by section 3 of ordinance No. 235 reduced by the credits against tax allowed by ordinance No. 235 other than the credit against tax provided by subsection 9 of this section (relation to tax withheld on wages).
 - g) Short taxable year. The application of this section to taxable years of less than 12 months shall be in accordance with regulations prescribed by the Secretary or his delegate.
 - h) Applicability. This section shall apply only with respect to taxable years beginning after November 31, 1981.

Section 8. Duties of the Administrator

- A. 1. Collection responsibility
It shall be the duty of the Tax Administrator of the Village of Bowerston to receive the tax imposed by this ordinance in the manner prescribed herein from the taxpayers; to keep an accurate record there and to report all monies so received.
2. Responsibility for maintenance of records
It shall be the duty of the Administrator to enforce payment of all taxes owing the Village of Bowerston, to keep accurate records for a minimum of five (5) years showing the amount due from each taxpayer required to file a declaration and/or make any return, including taxes withheld, and to show the dates and amounts of payments thereof.
- B. Enforcement authority
Said Administrator is hereby charged with the enforcement of the provisions of this ordinance, 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 reexamination and correction of returns.

The administrator is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proved to the Administrator that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under the ordinance.

Failure to make any deferred payment when due, shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Section 11 and 12 of the ordinance shall apply.

C. Determination of taxes

In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Administrator may determine the amount of tax appearing to be due the Village of Bowerston 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. Compromise authority

Subject to the consent of the Board of Review or pursuant to regulation approved by said Board, the Administrator shall have the power to compromise any interest or penalty, or both, imposed by Section 10 of this ordinance.

Section 9. Investigative powers of the Administrator; penalty for divulging confidential information.

A. Examination of Taxpayer's records

The Administrator, or any authorized employee, is hereby authorized to examine the books, papers, records and federal income tax returns of any employer or of any taxpayer or person subject to, or whom the Administrator believes is subject to the provisions of this ordinance, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under this ordinance.

Every such employer, taxpayer or supposed taxpayer is hereby directed and required to furnish upon written request by the Administrator, or his duly authorized agent or employee, the means, facilities, and opportunity for making such examinations and investigations as are hereby authorized.

B. Appearance orders to taxpayers

The Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before him and may examine such person, under oath, concerning any income which was or should have been returned for taxation or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and federal 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. Result of refusal to submit information

The refusal to produce books, papers, records and federal income tax returns, or the refusal to submit to such examination by any employer or employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provision of this section 9 or with an order or subpoena of the Administrator authorized hereby shall be deemed a violation of this ordinance, punishable as provided in section 12 hereof.

D. Confidential nature of information

Any information gained as a result of any returns, investigations, hearings or verifications required or authorized by this ordinance shall be confidential, except for official purposes, or except in accordance with proper judicial order. Any person divulging such information in violation of this ordinance shall upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine or penalty of not more than five-hundred dollars (\$500.00) or imprisoned for not more than six (6) months, or both, each disclosure shall constitute a separate offense.

In addition to the above penalty, any employee of the Village of Bowerston who violates the provisions of the section 9 relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

- E. Retention of records
Every taxpayer shall retain all records necessary to compute his tax liability for a period of five (5) years from the date his return is filed, or the withholding taxes are paid.

Section 10. Interest and penalties

A. Interest

All taxes imposed and all monies withheld or required to be withheld by employers under the provisions of this ordinance and remaining unpaid after they become due shall bear interest at the rate of one-half (1/2) of one percent (1%) per month or fraction thereof.

B. Penalties

In addition to interest as provided in paragraph A hereof, penalties based on the unpaid tax are hereby imposed as follows:

1. For failure to pay taxes due - other than taxes withheld; one and one-half percent (1 1/2% per month or fraction thereof).
2. For failure to remit taxes withheld from employees; five percent (5%) per month or fraction thereof.

C. Exceptions

A penalty shall not be assessed on an additional tax assessment made by the Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Administrator; 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 additional tax is paid within three (3) months after final determination of the federal tax liability.

- D. Upon recommendation of the Administrator, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the Administrator to recommend abatement of penalty 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 a civil action at law. All additional assessments

shall be made and all civil actions to recover municipal income taxes and penalties and interest thereon shall be brought within three (3) years after the tax was due or the return was filed, whichever is later.

- B. Taxes erroneously paid shall be refunded when a claim for a refund is made. Claims for refund of municipal income taxes must be brought within the time limitation provided in Division A of this section.
- C. Amounts of less than one dollar (\$1.00) shall not be refunded.

Section 12. Violations; penalties

A. Any person who shall:

1. Fail, neglect or refuse to make any return or declaration required by this ordinance; or
2. Make any incomplete, false or fraudulent return; or
3. Willfully fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator; or
4. Refuse to permit the Administrator or any duly authorized agent or employee to examine his books, records, papers and profits of a taxpayer; or
5. Fail to appear before the Administrator and to produce his books, records, papers or federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator; or
6. Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer; or
7. Fail to comply with the provisions of the ordinance or any order or subpoena of the Administrator authorized hereby; or
8. Give to an employer false information as to his true name, correct social security number and residence address, or fail to promptly notify an employer of any change in residence address and state thereof; or
9. Fail to use ordinary diligence in maintaining proper records of employees' residence addresses,

total wages paid and the Village of Bowerston's income tax withheld, or knowingly give the Administrator false information; or

- 10.. Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this ordinance;

Shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six (6) months or both for each offense.

- B. Prosecutions for an offense made punishable under this section or any other provision of 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.
- C. The failure of any employer or person to receive or procure a return declaration or other required form shall not excuse him from making any information return, return or declaration, from filing such form, or from paying the tax.

Section 13. Board of Review

- A. Composition and procedures
A Board of Review, consisting of a chairman, and two other individuals each to be appointed by the chief executive officer of the Village of Bowerston, is hereby created. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board may be conducted privately and the provisions of Section 9 thereof 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. Appeals, alternative method of allocation
All rules and regulations and amendments of changes thereto, which are adopted by the Administrator under the authority conferred by this ordinance must be approved by the Board of Review before the same become effective. The Board shall hear and pass on appeals from any ruling or decisions of the Administrator, is empowered to substitute alternate methods of allocation.

- C. Time limitation for appeals; authority over Administrator's decision
Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this ordinance may appeal therefrom to the Board of Review within thirty (30) days from the announcement of such ruling or decision by the Administrator, and the Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof.

Section 14. Allocation of funds

The funds collected under the provisions of this ordinance shall be deposited in the income tax fund and shall be dispersed in the following manner, to-wit;

1. Such part thereof as shall be necessary to defray all cost of collecting the taxes and the costs of administering and enforcing the provisions thereof.
2. Not more than ninety percent (90%) of the net available income tax receipts received annually may be used to defray operating expenses of the Village.
3. At least ten percent (10%) of the net available income tax receipt received annually shall be set aside and used for capital improvements for the Village including, but not limited to, development and construction of storm sewers and street improvements; for the public building parks and playgrounds; and for equipment necessary for the police, street, traffic and safety departments.

Section 15. Credit for tax paid to another municipality

It is the intent of this Section 15 that a taxpayer, subject to tax in more than one municipality on the same income, who has complied with the provisions hereof shall not be required by this ordinance to pay a total municipal income tax on such income greater than the tax imposed at the higher rate.

Accordingly, notwithstanding any other provisions of this ordinance.

A. Residents of the Village of Bowerston, Ohio

1. When a resident of the Village of Bowerston is subject to and has paid, or has acknowledged liability for, an municipal income tax in another

municipality on the same income taxable under this ordinance and such other municipality does not allow a credit to its nonresidents, such Village of Bowerston residents may claim a credit of the amount of such tax paid to such other municipality, but not in excess of the tax assessed by this ordinance.

2. a. When a resident of the Village of Bowerston is subject to and has paid, or has acknowledged liability for, a municipal income tax in another municipality on the same income taxable under this ordinance, and such other municipality allows a credit to its nonresidents on the same basis as provided in paragraph B-1 of this Section 15, a credit shall be allowed against the Village of Bowerston income tax of fifty percent (50%) of the tax due under the ordinance of such other municipality, whichever is the lesser.
 - b. If the tax due such other municipality has been paid to or withheld in such other municipality, a resident of the Village of Bowerston may claim credit for and assign to the Village of Bowerston any claim for refund to which he may be entitled from such other municipality. In the event an amount is not received by the Village of Bowerston equal to such credit claimed by reason of tax payments made to, or withheld in, such other municipality, then the taxpayer shall be liable to the Village of Bowerston, together with penalty and interest. If satisfactory evidence is offered, however, that the taxpayer is entitled to the claim covered by the assignment, such taxpayer shall not be deprived of credit therefor because of fault or neglect on the part of either municipality.
 - c. Assignment of any claim for refund to which a Village of Bowerston resident may be entitled from another municipality shall be tentatively accepted as payment of that portion of Village of Bowerston income tax represented by such assignment provided, however, should an overpayment result from the credit allowed by reason of such assignment, no refund thereof shall be made until such assignment has been accepted for payment by such other municipality.

B. Nonresidents of the Village of Bowerston

1. When a nonresident of the Village of Bowerston is subject to the tax imposed by this ordinance

and is also subject to tax on the same income in the municipality of his residence, a credit of fifty percent (50%) of the tax due under this ordinance or fifty percent (50%) of the tax due under this ordinance of such other municipality, whichever is the lesser, shall be allowed against the tax due under this ordinance, provided:

- a. Such other municipality imposed on its residents a tax on the same income and reciprocal provision is made in the ordinance of such other municipality granting to nonresidents thereof a credit on the same basis as provided in paragraph B-1 of this section 15 against the tax levied thereby;
 - b. Such nonresident is subject to and has paid, or has acknowledged liability in the municipality of his resident for any tax due after such reciprocal credit is allowed; and
 - c. The municipality of his resident furnishes evidence of payment of tax therein or evidence of assignment by the taxpayer of his claim for reciprocal credit to such other municipality.
2. Any amount due a nonresident as a result of having overpaid the tax due the Village of Bowerston or arising from allowance of credit provided for herein may, under regulations adopted by the Administrator, be assigned to and paid to such other municipality.
- C. The credits provided for in paragraphs A and B of this Section 15 will not be allowed unless the same are claimed in a timely return or form acceptable to, and filed with the Administrator. In the event a taxpayer fails, neglects or refuses to file such timely return or form he shall not be entitled to such credits and shall be liable for the full amount of tax assessed by this ordinance as are prescribed in this ordinance.
 - D. Any claim for credit for income taxes paid another municipality on the same income taxable hereunder, or claim for an assignment of any refund due to the credit provided for herein, must be filed with the Administrator of the Village of Bowerston on or before December 31st of the year following that for which such credit is claimed. Provided, however, in the event such claim for reciprocity refund shall have been assigned to the municipality of residence, such municipality of residence must file a claim for refund with the Administrator of the Village of Bowerston on or before January 31st next following such December 31st.

Failure to file such claim for reciprocity credit or refund, or assignment thereof, within the times prescribed herein shall render such credit for refund, or assignment, null and void.

Section 16. Saving Clause

If any sentence, clause, section or part of this ordinance or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this 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 the Council of the Village of Bowerston that this ordinance have been adopted and such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

Section 17. Emergency enactment.

This ordinance is hereby declared to be an emergency measure for the immediate preservation of the public peace, health, and safety of the Village of Bowerston for the reason that there is an immediate necessity for additional income for operating expenses of the Village and for necessary capital improvements for the Village and provided it receives the affirmative vote of two-thirds (2/3) of the members elected or appointed to Council. It shall take effect and be in force immediately upon its passage and approval; likewise, it shall take effect and be in force from and after the earliest period allowed by law.

Enacted this 20th day of November, 1980.



Mayor, Village of Bowerston, Ohio

Attest:



Clerk of Council

I hereby certify that the forgoing legislation has passed Ordinance #235. Voting went as:

Dan Warner - yea
Glenn Roth - yea
Harry Huff - absent

George Copeland - yea
Kells Lindsey - yea
Joe Mehaffey - absent