

ORDINANCE NO. 2005-01
AN ORDINANCE AMENDING CERTAIN SECTIONS OF THE INCOME TAX
CODE AS ENACTED BY ORDINANCE 88-04 AND DECLARING AN
EMERGENCY

WHEREAS, recently enacted laws by the State of Ohio have created uniform Provisions for municipal income tax laws;

NOW THEREFORE, BE IT RESOLVED that the Village's income tax code shall be Amended as follows:

SECTION I

"taxable income for net profits tax returns" shall be defined as; the Federal Taxable Income (FTI), before net operating losses and special deductions, (currently line 2S of the federal 1120) subject to following adjustments:

- i. Deduct intangible income to the extent it is included in FTI,
- ii. Add 5% of the amount deducted as intangible income, but not the portion of the intangible income related to the sale, exchange or disposition of property described in section 1221 of the Internal Revenue Code (IRC);
- iii. Add any losses allowed in the computation of FTI if the losses relate to the sale, exchange or disposition of an asset described in section 1221 or 1231 of IRC;
- iv. Except for depreciation recapture described in section 1245 or 1250 of IRC, deduct income and gain included in FTI to the extent the income and gain relate to the sale, exchange or disposition of an asset described in section 1221 or 1231 of IRC;
- v. Add taxes on or measured by net income allowed as a deduction in the computation of FTI;
- vi. In the case of a real estate investment trust or regulated investment company, add all dividends, distributions, or amounts set aside for the benefit of investors and allowed as a deduction in the computation of FTI;
- vii. In the case of a taxpayer that is not a C corporation and is not an individual, the taxpayer shall compute FTI as if the taxpayer were a C corporation and, in addition to the above adjustments, shall not be allowed a deduction for guaranteed payments, payments to a qualified selfemployed retirement plan, payments for health or life insurance for an owner or owner-employee, or federal self-employment tax.
- viii. Uses apportionment formula to apportion profit to each municipality using an equally weighted formula of property, payroll, and sales (the property factor uses original cost instead of net book value). If the apportionment formula does not produce an equitable result, another basis may be substituted, under uniform regulations. (Sections _____)

SECTION II

A uniform withholding base / Employee compensation tax base is hereby Adopted – The tax and withholding base begins with the Medicare wage base (Box 5) and makes the following mandatory adjustments:

- i. Add supplemental unemployment compensation benefits described in section 3402(o)(2) of IRC;
- ii. Add compensation of pre-1986 employees exempt from Medicare that is not in the Medicare wage base solely because of the Medicare grandfathering provision.
- iii. Please note that IRC section 125 cafeteria plans are not taxable.

The required base may be modified, on a municipality-by-municipality basis, if the municipality, by resolution or ordinance, exempts from the tax and from withholding (i) stock options and/or (ii) non-qualified deferred compensation amounts. (Sections _____)

SECTION III

The de minimis withholding safe harbor is hereby eliminated beginning in tax year 2004. A municipality can require a nonresident employer (not situated in the municipality) to withhold tax from employee compensation regardless of the amount required to be withheld from all the employer's employees in that municipality. (Sections _____)

SECTION IV

Unless extended, all due dates will be the fifteenth day of the fourth month following the end of the taxpayer's taxable year (personal income and net profits tax). (Sections _____)

SECTION V

Extensions – A federal extension will extend the municipal due date to the last day of the month following the month to which the due date of the federal return has been extended. A copy of the federal extension must be filed with the appropriate local tax administrator on or before the original due date for filing the return. Beginning January 1, 2005, Ohio Revised Code Section 718.051(B) provides that the due date for net profits tax returns will be extended to the last day of the month to which the due date of the federal return has been extended, provided the taxpayer notifies the tax commissioner of the federal extension through the Ohio Business Gateway on or before the original due- date for filing the return. In that situation, nothing needs to be filed with the local tax administrator to obtain the extension. Furthermore, please note that subsequent legislation may be introduced to correct this unintended discrepancy between the extension period allowed with respect to a paper request and the extension period allowed with respect to an electronic request. (Sections _____)

SECTION VI

Appeals – Following an appeal to a local board of appeal, a municipal income tax appeal may be made to either common pleas court or to the Ohio Board of Tax Appeals. (Sections _____)

SECTION VII The following forms may be filed through the Ohio Business Gateway:

- i. Extension requests – beginning January 2005.
- ii. Estimated net profits payments – beginning January 2005,
- iii. Net profits tax returns – beginning January 2006.
- iv. Employer withholding returns – beginning January 2007. (Sections _____)

The foregoing Ordinance was adopted and all actions and all deliberations of the Village of Hopedale, Harrison County, Ohio relating thereto were conducted in open meetings to the public in compliance with all applicable legal requirements including Section 121.22 of the Ohio Revised Code.

The Ordinance hereby is declared an emergency measure necessary for the immediate preservation and protection of the health, welfare and safety of the citizens of the Village of Hopedale, Ohio, to allow for timely compliance with state statutes for the current tax year and to allow Council to amend certain sections of the Village's income tax code. Upon two-thirds affirmative vote of the members of Council, this Resolution shall become effective upon signature by the Mayor. Otherwise, this Resolution shall become effective at the earliest date provided by law.

