

VILLAGE OF EAST CANTON INCOME TAX ORDINANCE
ORDINANCE 189 ADOPTED: December 15, 1958

Levying taxes to provide funds for the Village operation levying the same on all salaries, wages, commissions and other compensation earned by residents of the Village of East Canton, on all salaries, wages and commissions and other compensation earned by non-residents of the Village of East Canton for work done and services performed or rendered in the Village of East Canton: on the net profits earned on all transactions, professions, or other activities conducted by residents of the Village of East Canton as the result of work done or services performed or rendered in the Village of East Canton, requiring the filing of returns in furnishing of information by employers and all those subject to said tax, imposing on employers the duty to collect the tax at the source and paying the same to the Village of East Canton, providing for the administration, collection, and enforcement of said tax; declaring violation thereof to be a misdemeanor and imposing penalties therefore, and providing that this measure shall be an emergency measure.

Be it ordained by the Council of the Village of East Canton, State of Ohio
Section I Definitions

As used in this ordinance, the following words shall have the meaning ascribed to them in this Section, except as and if the context clearly indicates or requires a different meaning. The singular shall include the plural, and the masculine shall include the feminine and the neuter.

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 12 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, co-partnership, corporation, or any other entity.

BUSINESS ALLOCATION----the portion of net profits to be allocated to the Village of East Canton as having been made herein pursuant to Section 2 of this Ordinance.

CITY----the Village of East Canton.

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 types of compensation in the service of an employer. Any person upon whom an employer is required to withhold federal income or social security or whose account payments are made under the Workmen's Compensation Law shall prima facie be an employee.

EMPLOYER----An individual, co-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 ending on any day other than December 31st.

INCOME TAX DIRECTOR---- the Income Tax Director of the Income Tax Department of the Village of East Canton, or the person executing the duties of the afore-said director.

NET-PROFITS---- the net gain from the operation of a business, profession, or enterprise, after provision for all costs and expenses incurred in the conduct thereof including reasonable allowance for depreciation, depletion, amortization, and reasonable additions to reserves for bad debts, either paid or accrued in accordance with recognized principles of accounting applicable to the method of accounting regularly employed and without deduction of Federal taxes based on income and without deducting taxes imposed by this Ordinance.

NON-RESIDENT----a person, whether an individual, association, corporation, or other entity, domiciled outside the Village of East Canton.

OTHER ENTITY----any person or unincorporated body not previously named or defined, and includes inter alia fiduciaries.

PERSON----every natural person, co-partnership, fiduciary, association, or corporation, or other entity, whenever used in any clause prescribing and imposing a penalty, the term "Person" as applied to associations, shall mean the partners, or members thereof, and as applied to corporation, the officers thereof.

RESIDENT---a person, whether an individual, association, corporation, or other entity, domiciled in the Village of East Canton.

TAX PERIOD---the period beginning January 1, 1959, and continuing thereafter, until repealed.

TAXABLE YEAR~ the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the net profit 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 made. Unless approved by the Income Tax Director, the taxable year of any individual shall be a calendar year.

TAXPAYER~ an association, business, corporation, employer, person, or other entity, required by the Ordinance to file on earnings, or net profits, or to pay a tax thereon.

SECTION 2 IMPOSITION OF TAX

A. Subject to the provision of Section 15, of this Ordinance, an annual tax for the purpose of providing funds for the operation of the Village of East Canton. Therefore, shall be levied on and after January 1, 1959, at the rate of six-tenths of one-percent (6/10 of 1%) per annum upon the following:

1. On salaries, wages, commissions, and other compensation earned on and after January 1, 1959 by residents of the Village of East Canton.
2. On all salaries, wages, commissions, and other compensation earned on and after January 1, 1959, by non-residents for work done or services performed or rendered in the Village of East Canton
3. (A) On the portion attributed to Village of East Canton of the net profits earned on and after January 1, 1959, of all resident associations, unincorporated businesses, professions, or other activities conducted in the Village of East Canton.

(b) On a residents partner's or owner's share of the net profits of a resident association or other unincorporated business entity not attributed to the Village of East Canton, and not levied against such association, or other unincorporated business entity.

4. (A) On the portion attributable to the Village of East Canton of the net profits earned on and after January 1, 1959, of all non-resident associations, unincorporated business, professions, or other activities derived from sales made, work done, or services performed, or rendered, or business or other activities conducted in the Village of East Canton, whether or not such association or incorporated business entity has an of fice or place of business in the Village of East Canton.

(b) On a resident partner's or owner's share of the net profits of a non-resident association, or other unincorporated business entity not attributed to the Village of East Canton and not levied against such association or other unincorporated business entity.

5. On the portion attributable to the Village of East Canton of the net profits earned on and after January 1, 1959, of all corporations derived from sales made, work done, or services performed or rendered, and business or other activities conducted in the Village of East Canton, whether or not such corporations have an office in the Village of East Canton.

B. An employee who pays his business expenses from his commissions, or other compensations, without reimbursement from his employer may deduct from his gross commissions or other compensation business expenses allowed by the Internal Revenue for Federal Income Tax purposes, but only to the extent said expenses are incurred in earnings, commissions, or other compensations subject to the tax imposed by this Ordinance.

C. ALLOCATION OF NET PROFITS: where a person conducts a business, both within and outside the Village of East Canton, the portion of the entire net profits of such business to be allocated as having been made within the Village of East Canton, may be determined from the records of such business. If such business has bona fide records which disclose with reasonable accuracy what portion of its net profits is attributed to that part of its activities conducted within the Village of East Canton. or at the option of the taxpayer, may be determined by the following formula, which shall be used if taxpayer has not bona fide records showing net profit from East Canton business activities, subject, however, to the provisions of sub-paragraph C 2 hereof.

1. Multiply the entire net profits of the business by a business allocation percentage to be determined by:

(a) Ascertain the percentage which the average net book value of the real and tangible personal property owned or used in the business and situated within the Village of East Canton, during the period covered by the return, is of the average net book value of all the real and tangible personal property owned or used in the business, wherever situated, during such period. 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) Ascertain the percentage which the gross receipts of the business from sales made and services performed in the Village of East Canton, during the period covered by the return, are of the total gross receipts from all sales and services wherever made or performed during such period.

(1) Sales made within the Village of East Canton shall be deemed to include all sales of tangible personal property which is delivered within the Village of East Canton, regardless of where title passes if shipped or delivered from a stock of goods within the Village of East Canton.

(2) All sales of tangible personal property which is delivered within the Village of East Canton, regardless of where title passes, even though transported from a point outside the Village of East Canton. if the taxpayer is regularly engaged through its own employees in the solicitation or promotions of sales within the Village of East Canton and the sales result from such solicitation or promotion.

(3) All sales of tangible personal property which is shipped from a place within the Village of East Canton to purchasers outside the Village of East Canton, regardless of where title passes if the taxpayer is not through its own employees regularly engaged in the solicitation or promotions of sales at the place where delivery is made.

(c) Ascertain the percentage, which the total wages, salaries, and other compensation paid during the period covered by the return to employees for services performed in the Village of East Canton.

(d) Adding together the percentage determined in accordance with subparagraphs (a), (b), and (c) above, or such of the aforesaid percentages, as are applicable to the particular taxpayer, and dividing the total so obtained by the number of percentage used in deriving said total.

A factor is applicable, even though it may be allocable entirely in or outside the Village of East Canton.

C. Provided, however, that in the event a just and equitable result cannot be obtained under the formula provided for herein, the Board of Review, upon application of the taxpayer to the Village Clerk, shall, under uniform regulations adopted by the Board have the authority to substitute other factors or methods calculated to affect a fair and proper allocation.

D. EXEMPTIONS---- The tax provided for herein shall not be levied on the following:

1. Funds received from local, state, or federal governments because of service to the Armed Forces of the United States by the person rendering such service, or as a result of another person rendering such service.

2. Poor relief, pensions, unemployment compensation, or similar payments, including disability benefits received from private industry or local, state, or federal governments, or from charitable religious or educational organizations.

3. Alimony received.

4. Income Dues, contributions, receipts from casual entertainment, amusements, sports events, and health and welfare activities sponsored by religious, fraternal, charitable, scientific, literary, educational institutions, or organizations, labor unions, lodges and similar organizations.

5. Any association, organization, corporation, club, or trust, which is exempt from federal taxes on income by reason of the charitable, religious, educational, literary, scientific, etc., purposes.

6. Gains from involuntary conversion cancellation of indebtedness, interest on federal obligations, items of income already taxed by the State of Ohio and income of a decedent's estate during the period of administration (except such income from the operation of business)

7. The first \$100.00 per month net income under accepted methods of accounting from the rental of real estate.

SECTION 3--EFFECTIVE DATE-----Said tax shall be levied, collected, and paid with respect to the salaries, wages, commissions, and other compensation earned on and after January 1, 1959 and with respect to the net profits of businesses, professions, or other activities earned on and after January 1, 1959.

SECTION 4- RETURN AND PAYMENT OF TAX

Each person who engages in business, or whose salary, wages, commission and other compensation, are subject to the tax imposed by this Ordinance shall, whether or not a tax be due thereon make and file on, or before April 30th in each year, beginning with 1960 a return with the Village of East Canton, on a form or forms, furnished by, or obtainable upon request setting forth.

1. The aggregate amount of salaries, wages, commissions, and other compensation, earned by him, and income from such business, less allowable expenses incurred in the acquisition of such gross income during the preceding year, and subject to the said tax.

2. The amount of the tax imposed by this Ordinance, and

3. Such other pertinent statements, information, returns, or other information returns, or other information as the Income Tax Director may require, including a statement that the figures used in the return are the figures used in the Federal Income Tax, adjusted to set forth only such income as is taxable under the provision of this Ordinance.

B. A taxpayer on a fiscal year accounting basis for Federal Tax purpose shall, beginning with his first fiscal year, any part of which falls within the tax period, pay the tax on the basis of his fiscal year, and shall file his annual returns within four (4) months from the end of his fiscal year.

C. The Income Tax Director may extend the time for filing of the annual return, upon the written request of the taxpayer, for a period not to exceed three (3) months, or (1) month beyond any extension requested of, and granted by the Internal Revenue Service for the filing of the Federal Income Tax return. Extensions may be granted beyond the above subject to approval of the Board of Review. No penalty or interest shall be assessed in those cases in which the return is filed, and the final tax paid within the period extended.

D. The taxpayer, making such return shall, at the time of the filing thereof, pay to the Village of East Canton the amount of taxes shown as due thereon, provided, however, that where any portion of the tax so due shall have been deducted at the source, pursuant to the provisions of Section 5 of this Ordinance, or where any portion of said tax shall have been paid by the taxpayer, pursuant to the provisions of Section 6 of this Ordinance, credit for the amount so paid shall be deducted from the amount shown to be due, and only the balance, if any, shall be due and payable at the time of filing said return. Should it then appear that the taxpayer has paid more than the amount of tax which the Village of East Canton is entitled, under the provisions of this Ordinance, such overpayment shall be refunded, or at the option of the taxpayer, credited to his next year's tax liability, provided, however, that no additional taxes or refunds of less than one dollar (\$ 1.00) shall be collected or refunded. Within three (3) months, from the final determination of any Federal Tax liability and pay any additional tax shown due thereon or make claim for refund of any overpayment.

E. The Village Clerk is hereby authorized to accept the return of any employer or employee, showing the total of tax deducted by said employer, or employers, from the salaries, wages, commissions, or other compensation of employees, and paid by him or them to the Village of East Canton Income Tax Department, as the return required of any employee whose sole income, subject to the tax, or taxes under this Ordinance. In such salary, wages, commissions, or other compensation.

F. A corporation which owns or controls at least eighty per-cent (80%) of the common stock of another corporation of corporations, may at its option make a consolidated return, provided, however, that affiliated corporations which do no business within the United States, shall not be included in such consolidated return. In the case of a corporation that carried on transactions with its stockholders, or with other corporations related by stock ownership, interlocking directorships, or some other method, the Village Clerk shall require such additional information as may be necessary to ascertain whether net profits allocable to the Village of East Canton are being distorted by the shifting of income, apportionment of expenses or other devices available to a common control.

If the Village Clerk finds a corporation's net profits allocable to the Village of East Canton are distorted of transactions with stockholders, or with other corporations related by stock ownership, interlocking directories, or some other method, he shall adjust said transactions so as to produce a fair and proper allocation of net profits to the Village of East Canton. If necessary, the Village of East Canton may require the filing of a consolidated return.

Section 5: COLLECTION AT SOURCE

A. Each employer within, or doing business within the Village of East Canton. who employs one or more persons, on a salary, wage, commission, or other compensation basis, shall deduct at the time of the payment of such salary, wage, commission, or other compensation by said employer to said employee, and shall on or before the last day of April, July, October and January of each year, make a return, and pay to the Village of East Canton, Income Tax Department, the amount of taxes so deducted during the preceding calendar quarter. Said return shall be on a form or forms, provided by, or acceptable in the Income Tax Department, and shall be subject to the rules and regulations prescribed therefore by the Village Council.

B. Such employer in collecting said tax shall be deemed to hold the same until payment is made by such employer, in the Village of East Canton, as Trustee, for the benefits of the Village of East Canton, and any such tax collected by such employers shall until the same is paid to the Village of East Canton, be deemed a trust fund, in the hands of each employer.

C. Provided however, that no person shall be required to withhold the tax on the wages, or other compensation paid domestic servants employed exclusively in, or about such person's residence.

Section 6:DECLARATIONS---

A. Every person who anticipates any taxable income, which is not subject to the provisions of Section 5 hereof, or who engages in any business shall file a declaration setting forth such estimated income, or the estimated profit or loss, from such business, during the year covered by the declaration, together with the estimated tax due thereon, if any.

B. Exclusive of taxpayers, filing on a fiscal basis such declaration shall be filed on or before April 20th of each year, beginning with the year 1959. In each case of a person starting in business, such declaration shall be filed within four months of the date he starts such business.

C. Such declaration shall be filed upon a form or forms furnished by, or obtainable upon request, from the Income Tax Department, which form or forms may contain as statement, that the figures used in making such declaration are the figures used in making the declaration of the estimate, for the Federal Income Tax adjusted, to set forth only such income as is taxable under the provision of this Ordinance.

D. Such declaration of estimated tax, to be paid to the Village of East Canton, shall be accompanied by a payment of at least one fourth (1/4) of the estimated tax.

1 Exclusive of taxpayers filing on a fiscal basis, at least a similar amount shall be paid on, or before April 30, July 31, October 31, and January 31, of each year. Such estimate may be amended at any time.

E. A taxpayer reporting on a fiscal year basis, shall file, beginning with his first fiscal year, any part of which falls within four months (4) after the start of each fiscal year, accompanied by a payment of at least one fourth (1/4) of the estimated tax shows, due thereon. at least a similar amount shall be paid on or before the last day of each three-month period thereafter.

F. On or before April 30th. of the year, following that for which s declaration was filed, or in the case of a fiscal year taxpayer, on or before the fourth month, after the close of a fiscal year, for which a declaration was filed, an annual return shall be filed, and any tax which may be due shall be paid in accordance with the provision of Section 2 thereof.

Section 7- DUTIES OF TREASURER, VILLAGE CLERK AND INCOME TAX DIRECTOR

A. It shall be the duty of the Village Clerk to prescribe the form and method of keeping the accounts and reports to be rendered, in his office, and shall maintain accurate records showing the amount received from such taxpayer, and the date of said receipt. The Village Clerk is hereby charged with the internal audit of all accounts and returns, including the re-examination and correction of the returns. The Village Clerk shall further fix the amount of the tax due from a taxpayer who fails to file a return, or who has filed a return which does not show the proper amount of the tax due, after he has established the same from an audit or examination of the taxpayers income, and shall send to the taxpayer, by certified mail a written statement showing the amount of the tax, so fixed together with the interest and penalties thereon, if any.

B. The Village Treasurer shall demand, and receive all taxes due the Village of East Canton, and shall make a written report to Council each quarter of all monies collected, during the preceding quarter.

C. The tax shall be administered by the Income Tax Director, who shall be administrative head of the Income Tax Department, and shall further be administered by such officers, deputy clerks, cashiers, investigators, collectors, and other employees, as they may from time to time be determined by the council for the Village of East Canton and shall receive such salary as may be determined by the Village Council.

Section 8.

The Village Clerk, or any authorized employee is hereby authorized to examine the books, papers, and records of any employer, or of any taxpayer, or person subject to the tax, for the purpose of verifying the accuracy of any return made of, if no return was made to ascertain the tax due. Every such employer, supposed employer, taxpayer, or supposed taxpayer, is hereby directed and required to furnish the Village Clerk or his duly authorized agent or employee the means, facilities, an opportunity for making such examinations and investigations, as are hereby authorized.

The Village Clerk or his duly authorized agent or employee, is hereby authorized to examine any person, employer, or employee under oath, concerning any income which was, or should have been retained for taxation, and for this purpose may compel the production of books, papers, and records, and the attendance of all persons before him, whether as parties, or witnesses, wherever he believes such persons have knowledge of such income. The refusal of such examination by any employer or persons subject, or presumed subject, to the tax shall be deemed a violation of this Ordinance

Tax returns, and all audit papers, and information connected therewith, are confidential, and shall be carefully preserved, so that they shall not be available for inspection by anyone, other than the proper agents of the Village of East Canton, for official purposes.

A. Any information gained as a result of any returns, investigations, hearing, or verification required, or authorized, by this Ordinance shall be confidential, and no disclosure, thereof, shall be made, except to municipal, county, state, or federal taxing agencies, or unless ordered by a court of competent jurisdiction, or unless disclosure is necessary to the of a hearing before the Board of Review. Any person divulging such information in violation of the section shall, be subject to a fine or penalty, of not more than five hundred dollars (\$500.00), or imprisoned not more than six (6) months, or both. Each disclosure shall constitute a separate offense.

Section 9. INTEREST AND PENALTIES

A. All taxes imposed, and monies withheld, or required to be withheld by the employer under the provisions of this ordinance, and remaining unpaid after they become due, shall bear interest at the rate of six percent (6%) per annum.

B. In addition to interest, as provided in paragraph I hereof, penalties for failure to pay taxes and withholding pursuant to the provisions of this ordinance are hereby imposed as follows:

1. In case of taxpayers failing to pay the full amount of tax due, a penalty of one-half of one percent (1/2%) per month, or fraction thereof, of the amount of unpaid tax.

2. In the case of employers, who fail to withhold, or remit the taxes withheld, or taxes which should have been withheld from employees, a penalty of three percent (3%) per month, or fraction thereof, of the unpaid sums due the Village of East Canton.

3. No penalty shall be assessed on any additional tax assessment, when a return has been filed, in good faith, and the tax paid thereon, within the time prescribed herein, 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 final determination of the Federal tax liability.

C. Upon an appeal from the refusal of the Income Tax Director, to recommend abatement of penalty and interest, the Board of Review may abate such penalty or interest, or both.

Section 10. COLLECTION OF UNPAID TAXES

All taxes imposed by this Ordinance shall be collectible together with any interest and penalties thereon, by suit as other debts of like amounts are recoverable. No additional assessment shall be made after three years, from the time of payment of any tax due hereunder, 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 (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 Income Tax Director shall be extended three years from the time of the final determination, of the federal tax liability and except, further, that taxes erroneously paid, shall not be refunded, unless a claim for refund is made within three years from the time of the payment, thereof, or within three years after final determination of the federal tax liability.

Section H. VIOLATION PENALTIES

A. Any person who shall:

1. Fail, neglect, or refuse to make any return or declaration required by this Ordinance; or

2. Shall knowingly make any incomplete, false, or fraudulent return; or

3. 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, or remit such withholding tax to the Village of East Canton, Income Tax Department; or

5. Refuse to permit the Village Clerk or any authorized agent, or employee, to examine his books, receipts, or papers; or

6. Fail to appear before the Village Clerk, and to produce his books, receipts, or papers; or

7. Refuse to disclose to the Village Clerk any information with respect, in such person's earned income or net

profits:

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

The term "person" as used in this section, shall, in addition to the meaning prescribed in Section 1, of this Ordinance, include in the case of an association, or corporation not having any partner, member, or officer, within the Village of East Canton, an employee or agent of such association, or corporation who can be found within the corporate limits of the Village of East Canton.

B. All prosecutions, under this section must be commenced within five (5) years, from the time of the offense complained of.

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, or declaration, from filing such form or from paying the tax.

Section 12. BOARD OF REVIEW

A Board of Review consisting of the Mayor, the Village Clerk, and the Village Treasurer, is hereby created. Any person dissatisfied with any ruling, or decision of the Income Tax Director, which is made under the authority conferred by this Ordinance, may appeal therefore to the Board of Review within thirty (30) days from the announcement of such ruling, or decision by the Income Tax Director, and the Board of Review shall, on hearing, have jurisdiction to affirm, reverse, or, modify any ruling or decision, of any part thereof.

A majority of the members of the Board of Review adopt its own procedural rules, and shall keep a record of its proceeding. All hearings of the board shall be conducted privately, unless the taxpayer involved requests a public hearing. The provisions of Section 8, hereof, with reference to the confidential character of information required to be disclosed by this Ordinance, shall apply to such matters as may be heard before the Board of Review on appeal.

Section 13. ALLOCATION OF FUNDS

The funds collected under the provisions of the within Ordinance, shall be deposited in a special fund known as "Income Tax Revenue Fund", and said funds shall be distributed in the following manner.

1. First, such part thereof, as shall be necessary to defray all expenses of collecting the tax, and of administering and enforcing the provisions of the within Ordinance shall be paid.

2. The balance remaining after payment of the expense referred to in Paragraph I above shall be deposited in the General Fund.

Section 14. CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES

Every individual taxpayer who resides in the Village of East Canton, but receives net profits, salaries, wages, commissions, or other personal service compensation for work done, or services performed or rendered outside of said Village, if it be made to appear that he has paid a municipal income tax on such net profits, salary, wages, commissions, or other compensation, to another municipality, shall be allowed a credit on the tax imposed by this Ordinance of the amount so paid by him, or in behalf to such other municipality. The credit shall not exceed the tax assessed by this Ordinance on such net profit, salary, wages, commissions, or compensation earned in such other municipality, or municipalities, where such tax is paid.

Notwithstanding, the provisions contained in Section 10 hereof, or any other provisions inconsistent herewith, a claim for refund of credit, under his section shall be made in such manner as Council may by regulation provide.

Section 15. SAVING CLAUSE

This Ordinance shall not apply to any person, firm, or corporation, or in 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 exemption 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 Village of East Canton, that this Ordinance would have been adopted has such unconstitutional, illegal, or invalid sentence, or part thereof, not been included, herein.

Section 17.

This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety, and shall go into effect forthwith. The reason for said emergency is the immediate necessity, of levying the tax provided for herein, in order to obtain revenue for the operation of the Village government, during the year of 1959, and thereafter.

Passed December 15, 1958

Louis Meiser, Mayor

Attest:

Carmen E. Glass, Clerk

Published in the East Canton News, December 18, 25, 1958

See the following amendrments to Village of East Canton Income Tax Ordinance. 189

Ordinance #305

Passed November 25,1968

Amending Ordinance providing for the levying of an income tax for the Village of East Canton, Ohio.

Be, it ordained by the Council of the Village of East Canton, Stark County, and Ohio:

Section 1: That sections 2 and 3 of Ordinance 189 of the Ordinances of the Village of East Canton be and are hereby amended as follows:

Section 2: Imposition of Tax

A. Subject to the provision of Section 15 of this ordinance, an annual tax for the purpose of providing funds for the operation of the Village of East Canton, thereof, shall be levied on and after January 1, 1969, at the rate of 1 per cent (one percent) per annum upon the following:

1. On all salaries, wages, commissions and other compensation earned on and after January 1, 1969, by residents of the Village of East Canton.

2. On all salaries, wages, commissions and other compensation earned on and after January 1, 1969, by non-residents of the Village of East Canton.

3. (a) On the portion attributable to Village of East Canton of the net profits earned on and after January 1, 1969, of all resident associations, unincorporated business, professions or other activities conducted in the Village of East Canton.

(b) On a resident partner's or owner's share of the net profits of a resident association or other unincorporated business entity not attributed to the Village of East Canton and not levied against such association or other unincorporated business entity.

4. (a) On the portion attributable to the Village of East Canton of the net profits earned on and after January 1, 1969, of all non-resident association, unincorporated business, professions or other activities derived from sales made, work done or services performed or rendered or business or other activities conducted in the Village of East Canton, whether or not such association or unincorporated business entity has an office or place of business in the Village of East Canton.

(b). On a resident partner's or owner's share of the net profits or a non-resident association or other unincorporated business entity not attributed to the Village of East Canton and not levied against such association or unincorporated business entity.

5. (a) On the portion attributable to the Village of East Canton of the net profits earned on and after January 1, 1969, of all corporations derived from sales made, work done or services performed or rendered and business or other activities conducted in the Village of East Canton, whether or not such corporations have an office or place of business in the Village of East Canton.

(b) An employee who pays his business expenses from his commissions or other compensation without reimbursement from his employer, may deduct from his gross commissions or other compensation business expenses allowed by the Internal Revenue Service for Federal Income Tax purposes but only to the extent said expenses are incurred in earning commissions or other compensation subject to the tax imposed by this ordinance.

(c) Allocations of Net Profits: where a person conducts a business both within and outside the Village of East Canton, the portion of the entire net profits of such business to be allocated as having been made within the Village of East Canton, may be determined from the records of such business. If said business has bona fide records which disclose with reasonable accuracy what portion of its net profits is attributable to that part of activities conducted within the Village of East Canton, or at the option of the taxpayer, may be determined by the following formula, which shall be used if taxpayer has not bona fide records showing net profit from East Canton business activities, subject however, to the provisions of subparagraph C2 hereof.

1. Multiply the entire net profits of the business by a business allocation percentage to be determined by:

(a) Ascertaining the percentage which the average net book value of the real and tangible personal property owned or used in the business and situated within the Village of East Canton, during the period covered by the return, is of the average book value of all the real and tangible personal property owned or used in the business, wherever situated, during such period. 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) Ascertaining the percentage which the gross receipt of the business from sales made and services performed in the Village of East Canton, during the period covered by the return, are of the total gross receipts from all sales and services, wherever made or performed, during such period. 1. Sales made within the Village of East Canton shall be deemed to include all sales of tangible personal property which is delivered with the Village of East Canton regardless of where title passes if shipped or delivered from a stock of goods within the Village of East Canton. 2. All sales of tangible personal property which is delivered within the Village of East Canton regardless of where title passes even though transported from a point outside the Village of East Canton if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the Village of East Canton, and the sales result from such solicitation or promotion. 3. All sales of personal property which is shipped from a place within the Village of East Canton to purchasers outside the Village of East Canton 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.

(C) Ascertaining the percentage which the total wages, salaries and other compensation paid, during the period covered by the return, to employees for services performed in the Village of East Canton is of the total wages, salaries, commissions and other compensation paid, during such period to all employees within and outside the Village of East Canton.

(D) Adding together the percentage determined in accordance with sub-paragraphs (a) (b) and (c) above or such of the aforesaid percentages are applicable to the particular taxpayer and dividing the total so obtained by the number or percentages used in deriving such total.

A factor is applicable even though it may be allocable entirely in or outside the Village of East Canton.

2. Provided, however, that in the event a just and equitable result cannot be obtained under the formula provided herein, the Board of Review upon application of the Taxpayer to the Village Clerk, shall, under uniform regulations adopted by the Board, have the authority to substitute other factors or methods calculated to effect a fair and proper allocation.

(D)EXEMPTIOS: The tax provided for herein shall not be levied on the following:

1. Funds received from local, state or federal governments because of service in Armed forces of the United States by the person rendering such service, or as a result of another person rendering such service.
2. Poor relief, pensions, unemployment compensation or similar payments, including disability benefits received from private industry or local, state or federal governments or from charitable, religious or educational organizations.
3. Alimony received.
4. Income, dues, contributions, receipts from casual entertainment, amusements sports events and health and welfare activities sponsored by religious, fraternal, charitable, scientific, literary, educational institutions or organizations, labor unions, lodges and similar organizations
5. Any association organization, corporation, club or trust, which is exempt from federal taxes on income by reason of its charitable, religious, educational, literary, scientific, etc. purposes.
6. Gains from involuntary conversion cancellation of indebtedness, interest on Federal obligations, items of income already taxed by the State of Ohio, and income of a decedent's estate during the period of administration (except such income from the operation of a business).
8. The first \$100.00 per month net income under accepted methods of accounting from the rental of real estate.

SECTION 3: EFFECTIVE DATE:

Said tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation earned on and after January 1, 1969, and with respect to the net profits of business, professions, or other activities earned on and after January 1, 1969.

Section 2: This ordinance shall be effective on and after January 1, 1969.

Section 3. That all ordinances or parts of ordinances inconsistent hereby are hereby repealed.

Section 4. The amendments to this ordinance are hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety, and shall go into effect January 1, 1969. The reason for said emergency is the immediate necessity of levying the tax provide for herein in order to obtain revenue for the operation of the Village government during the year 1969 and thereafter.

Adopted November 25, 1968 Mayor, Larry Becker---Clerk-Treas. Carmen E. Glass

Ordinance #512 Passed: November 28, 1977

Amending Ordinance providing for the levying of Income Tax for the Village of East Canton

Be it ordained by the Council of the Village of East Canton, State of Ohio:

Section 1: That Section 2, paragraph (D) 8 of Ordinance 189 of the Ordinances of the Village of East Canton.

(D) Exemptions- the tax provided for herein shall be levied on the following:

8. The first \$ 100.00 per month net income accepted methods of accounting from the rental of real estate,

Be hereby repealed,

Section 2: This ordinance shall be effective on and after January 1, 1978 and net income under accepted accounting methods from the rental of real estate shall be subject to Village Income Tax.

Section 3: That all ordinances or parts of ordinances inconsistent herewith are hereby repealed.

Section 4: The amendments to this ordinance are hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety, and shall take effect January 1, 1978. The reason for said emergency is the immediate necessity of levying the tax provide for herein in order to obtain revenue for the operation of the Village government during the year 1978 and thereafter.

Adopted: November 28, 1977. Mayor G.C Darrah Attest: Carmen Glass, Clerk-Treas.

Ordinance #084-003 Passed: March 27, 1989

An ordinance requiring owners of rental or leased property with municipal corporation of the Village of East Canton, Ohio, to provide the Village Clerk Treasurer with information of tenants and establishing a penalty for failure to comply.

Whereas: The Village of East Canton is entitled to collect a municipal income tax on all salaries, wages, commissions and other compensation earned by residents, and,

Whereas: some of the Village's residents are tenants who rent or lease residential premises, and,

Whereas: The Village's Clerk-Treasurer must secure certain information of Village residents who are tenants to enable proper and equitable administration of the municipal income tax ordinance.

Be it ordained by the Council of the Village of East Canton, Stark County, Ohio:

Section 1: On or before August 1, 1989, all property owners of rental or leased property who rent to tenants of residential premises shall file with the Clerk-Treasurer of the Village of East Canton, Ohio, a report showing the names, addresses and social security number of each tenant who occupies residential premises within the corporation limits of the Village of East Canton, Ohio, as of July 1, 1989.

Section 2: On August 1st and on February 1st of each year commencing with year 1989 all property owners of rental or leased residential property located within the corporate limits of the Village who rent to tenants shall file with the Clerk-Treasurer of the Village of East Canton, a report showing the names and addresses of each tenant who occupies residential premises within the corporate limits of the Village of East Canton, Ohio.

Section 3: For the purposes of this ordinance, "Tenant" shall mean:

A. If there is a written lease or rental agreement, the person or persons who sign the written lease or rental agreement with the owner.

B. If there is an oral lease or rental agreement, the person or persons with whom the owner enters into the oral lease or rental agreement,

Section 4: Whosoever shall violate the provision of this ordinance shall:

For a first offense: Pay a fine of not more than fifty dollars.

For a second offense: Pay a fine of not more than one hundred dollars.

For a third offense: Pay a fine for not more than two hundred dollars.

Section 5: Sections and subsections of this ordinance and the several parts and provision thereof are hereby declared to be independent sections, subsections, parts and provisions, and the holding of any such section, subsection, part or provision thereof to be unconstitutional, void or ineffective for any cause, shall not affect nor render invalid any other such section, subsection, part or provision thereof. Section 6: This ordinance shall be effective upon its adoption and the earliest date permitted by law.

Adopted: March 27, 1989 James Fisher, Mayor---Ruth Baum, Clerk-Treasurer.

Ordinance # 092-022 Passed: December 14, 1992

Amendment to Ordinance # 189 and its subsequent amendments to authorize the Village of East Canton, Stark County, Ohio to levy taxes on gambling and or any lottery winners.

Be it ordained by the Council of the Village of East Canton, Stark County, Ohio:

Section 1: That Ordinance # 189 and its subsequent amendments be further amended whereby this amendment permits the Village of East Canton, Ohio to levy taxes on Gambling and/or any Lottery Winnings to those previously taxable under Ordinance # 189 and its subsequent amendments.

Section 2: All ordinances or parts of ordinances inconsistent herewith are hereby repealed, otherwise to remain in full force and effect.

Section 3: This ordinance is hereby declared to be an emergency measure, and its passage is necessary for the preservation of the public peace, health, and safety for the residents of the Village of East Canton, Ohio, and shall take effect from and after its passage and at the earliest date allowable by law.

Adopted: December 14, 1992 Mayor, George Darrah---Clerk-Treasurer, Barbara S. Hall

Ordinance # 095-014

An amendment to Ordinance # 189 and its subsequent amendments to authorize the Village of East Canton, Stark County, Ohio to alter parts of its initial ordinance.

Be it ordained by the Council of the Village of East Canton, Stark County, Ohio

Section 1: That parts A. B (1) and B (2) of Section 9, Interest and Penalties be deleted and replaced with the following:

Section 9-- 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 after they become due shall bear interest at the rate of twelve percent (12%) annum.

B. In addition to interest as provide in paragraph I hereof, penalties for failure to pay taxes and withholding pursuant to the provisions of this ordinance are hereby imposed as follows:

1. In case of the taxpayers failing to pay the full amount of tax due, a penalty of one (1) percent per month, or fraction thereof, of the amount of the unpaid tax.

2. In case of the employers who fail to withhold or remit the taxes withheld or taxes which should have been withheld from employees, a penalty of three per cent (3) per month or fraction thereof, of the unpaid sums due to the Village of East Canton.

Section 2: That ordinance No. 189 and its subsequent amendments be further amended whereby Section 12 (A), Board of Review, shall consist of the Mayor, the Clerk-Treasurer and the President of Council Protem..

Section 3: All ordinances or parts of ordinances inconsistent herewith are hereby repealed, otherwise to remain in full force and effect.

Section 4: This ordinance is hereby declared to be an emergency measurer, and its passage is necessary for the preservation of the public peace, health and safety of the residents of the Village of East Canton, Ohio, and shall take effect fro and after its passage and at the earliest date allowable by law.

Adopted: December 11, 1995 Mayor, George Darrah---Clerk-Treasurer, Barbara S. Hall

Ordinance 099-013

Passed: January 3,2000

AN AMEDEMMENT TO INCOME ORDINANCE NO. 095-014

