

RESOLUTION NO. 1968-14

A RESOLUTION ESTABLISHING RULES AND REGULATIONS PURSUANT TO THE AUTHORITY GRANTED THE VILLAGE OF SMITHVILLE, WAYNE COUNTY, OHIO TO LEVY A MUNICIPAL INCOME TAX AND DECLARING AN EMERGENCY. BE IT RESOLVED BY THE COUNCIL OF THE VILLAGE OF SMITHVILLE, WAYNE COUNTY, OHIO, THREE-FOURTHS OF THE MEMBERS CONCURRING:

ARTICLE I-1

Definitions

For the purpose of these Regulations the following terms shall have the definitions hereafter given:

- (A) The definitions of the terms "Taxpayer", "Association", "Business", "Corporation", "Employee", "Employer", "Net Profits", "Non-Resident", "Person", "Resident", "Other Entity" shall be the same as set forth in Section I of the Village of Smithville Ordinance No. 1968-13.
- (B) The term "Place of Business" means any bona fide office (other than a mere statutory office) factory, warehouse, or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his regular employee regularly in attendance. A taxpayer does not have a regular place of business outside Smithville solely by consigning goods to an independent factor or contractor outside the Village for sale.
- (C) The term "Business Allocation Percentage", as used in these Regulations, means the average percentage arrived at by applying the formula set forth in Section 2, subsection H of the Ordinance. The "Business Allocation Percentage" is the percentage which may be applied to determine the portion of the entire net profits of a taxpayer to be allocated as having been made within the Village of Smithville within the meaning of the provisions of said Section 2.
- (D) The term "The Ordinance" means Ordinance No. 1968-13 enacted by the Council of the Village of Smithville, Ohio, on November 18, 1968, and any amendments or supplements thereto. The singular shall include the plural and masculine shall include the feminine and the neuter.

ARTICLE I-2

Commencement and Duration of the Tax

The tax imposed by the Ordinance is effective as to income and profits earned or accruing on and after January 1, 1969, and payroll deductions must be made against all salaries, wages, commissions, bonuses, and other compensation earned or accruing on and after that date. The Ordinance continues effective insofar as the levy of taxes is concerned until December 31, 1972.

ARTICLE II-1

Imposition of Tax - Resident Employees

In the case of the residents of the Village of Smithville an annual tax of one and one-half percent is imposed on all salaries, wages, commissions, and other compensation earned or accrued on and after January 1, 1969. For the purpose of determining the tax on the earnings of the resident taxpayers, taxed under subsection A of Section 2 of the Ordinance, the source of the earnings and the place or places in or at which the services were rendered are immaterial. All such earnings, wherever earned or paid, are taxable. The following are items which are subject to the tax:

- (A) Salaries, wages, bonuses or incentive payments received by an individual, whether directly or through an agent and whether in cash or in property, for services rendered on and after January 1, 1969.
 - 1. As an officer, director, or employee of a corporation (including charitable and other nonprofit corporations), joint stock association or joint stock company;
 - 2. As an employee (as distinguished from a partner or member) of a partnership, limited partnership, or any other form of unincorporated enterprise owned by one or more persons;
 - 3. As an employee (as distinguished from the proprietor) of a business, trade or profession conducted by an individual owner;
 - 4. As an officer or employee (whether elected, appointed or commissioned) of a governmental administration, agency, arm, authority, board, body, branch, bureau, department, division, subdivision, section, or unit of the State of Ohio or any of the political subdivisions thereof;
 - 5. As an officer or employee (whether elected, appointed or commissioned) of a governmental administration, agency, arm, authority, board, body, branch, bureau, department, division, subdivision, section, or unit of the United States Government or of a corporation created and owned, or controlled by the United States Government or any of its agencies;
 - 6. As an employee of any other entity or person.
- (B) Wages, bonuses, or incentive payments received by an individual, whether directly or through an agent and whether in cash or in property, for services rendered on and after January 1, 1969 semimonthly, monthly, annual, unit of production or piece work rates; and
 - 1. Whether based upon hourly, daily, weekly,
 - 2. Whether paid by an individual, limited partnership, partnership, association, corporation (including charitable and other non-profit corporations), governmental administration, agency, arm, authority, board, body, branch, department, division, subdivision, section, or unit, or any other entity.
- (C) Commissions received by a taxpayer whether directly or through an agent and whether in cash or in property, for services rendered on and after January 1, 1969, regardless of how computed, by whom or wheresoever paid. If amounts received as a drawing account exceed the commissions earned, the tax is payable on the gross amounts received. Amounts received from an employer by way of expenses and not by way of compensation, and used as such by the individual receiving them, are not deemed to be compensation if the employer deducts such expense advances as such from his gross income for the purpose of determining his net profits taxable under the Ordinance. If such commissions are included in the net earnings of a trade, business, profession, enterprise or activity regularly carried on by such individual and therefore subject to tax under subsection C of Section 2 of the Ordinance they shall not again be separately taxed. In such case, such net earnings shall be taxed as provided in Article II-9 of the Regulations.
- (D) The receipt of fees and other compensation for personal services rendered shall be deemed to be subject to taxation under the Ordinance.
- (E) Domestic servants are subject to Smithville Tax under this Ordinance but are not subject to withholding provisions. That is to say, the domestic will report earnings and pay the tax directly to the Smithville Income Tax Department.

ARTICLE II-2

Imposition of Tax - Non-Residents

In the case of individuals who are non-residents of Smithville, there is imposed under the Ordinance an annual tax of one and one-half percent on all salaries, wages, commissions, and other compensation, earned or accruing on and after January 1, 1969, for work done or services performed or rendered within the Village of Smithville, whether such compensation or remuneration is received or earned directly or through an agent and whether paid in cash or in property. The items subject to tax under this section are the same as those listed and defined in Article II-1. For methods of computing the extent of such work or services performed within the Village of Smithville, and cases involving compensation for personal services partly within and partly outside the Village of Smithville, see Article IV-1.