

ORDINANCE NO. 1968-13

AN ORDINANCE levying a tax to provide funds for the purpose of general municipal operations, maintenance of equipment, new equipment, extension, enlargement and improvement of municipal services and facilities and capital improvement, on all salaries, wages, commissions and other compensation earned by residents of the Village of Smithville; on all salaries, wages, commissions and other compensation earned by non-residents of the Village of Smithville for work done or services performed or rendered in the Village of Smithville; on the net profits earned on all businesses, professions, or other activities conducted in the Village of Smithville by non-residents, and on the net profits earned by all corporations doing business in the Village of Smithville as the result of work done or services performed or rendered in the Village of Smithville; 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 tax at the source and paying the same to the Village of Smithville; providing for the administration, collection and enforcement of said tax; declaring violation thereof to be a misdemeanor and imposing penalties thereof; and declaring an emergency.

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF SMITHVILLE, OHIO, THREE-FOURTHS (3/4) OF THE MEMBERS CONCURRING:

SECTION 1. 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:

- A. "TAXPAYER" - A person, whether an individual, partnership, limited partnership, corporation, association or other entity, required hereunder to file a return or to pay a tax hereunder.
- B. "ASSOCIATION" - A partnership, limited partnership, or any other form of unincorporated enterprise, owned by two (2) or more persons.
- C. "BUSINESS" - An enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, limited partnership, corporation, association or any other entity.
- D. "CORPORATION" - A corporation or joint stock association organized under the laws of the United States, The State of Ohio, or any other state, territory, foreign country or dependency.
- E. "EMPLOYEE" - An individual whose earnings are subject to the withholding of Federal Income Tax or Social Security Tax.
- F. "EMPLOYER" - An individual partnership, limited partnership, association, corporation, governmental body, unit, or agency, or any other entity, whether or not organized for profit, who or that employs one (1) or more persons on a salary, wage, commission or other compensation basis.
- G. "NET PROFITS" - The net gain from the operation of a business, profession or enterprise after provision for all cost and expense incurred in the conduct thereof, including reasonable allowance for depreciation, depletion, amortization and reasonable additions to reserve 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.
- H. "NON-RESIDENT" - An individual, partnership, limited partnership, corporation, association or other entity domiciled outside the Village of Smithville
- I. "PERSON" - Every natural person, partnership, limited partnership, corporation, fiduciary or association. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to any association, shall mean the partners or members thereof, and as applied to corporation, the officers thereof.
- J. "RESIDENT" - An individual, partnership, limited partnership, corporation, association or other entity domiciled in the Village of Smithville.
- K. "OTHER ENTITY" - The term "other entity" means any person or unincorporated body not previously named or defined and includes inter alia, fiduciaries located within the Village of Smithville.

The singular shall include the plural and the masculine shall include the feminine and the neuter.

SECTION 2. IMPOSITION OF TAX

To provide funds for the purpose of general municipal operations, maintenance of equipment, new equipment, extension, enlargement and improvement of municipal services and facilities and capital improvements of the Village of Smithville, there be, and hereby is levied a tax upon the earnings at the rate of one and one-half percent upon the following:

- A. On all salaries, wages, commissions, and other compensation earned on and after January 1, 1969, by resident individuals of the Village of Smithville.
- B. On all salaries, wages, commissions and other compensation earned on and after January 1, 1969, by non-resident individuals of the Village of Smithville for work done or services performed or rendered in the Village of Smithville.
- C. On the net profits attributable to Smithville, earned on and after January 1, 1969, of all resident unincorporated businesses, professions and other activities derived from work done or services rendered or performed and business or other activities conducted in the Village of Smithville.
- D. On the portion of the distributive share of the net profits earned on and after January 1, 1969, of a resident individual, partner or owner of a resident unincorporated business entity attributable to Smithville and not levied against such unincorporated business entity.
- E. On the net profits attributable to Smithville earned on and after January 1, 1969, of all non-resident unincorporated businesses, professions, or other activities, derived from work done or services performed or rendered and business or other activities conducted in the Village of Smithville.
- F. On the portion of the distributive share of the net profits earned on and after January 1, 1969, of a resident individual, partner or owner of a non-resident unincorporated business entity not attributable to Smithville and not levied against such unincorporated business entity.
- G. On the net profits earned on and after January 1, 1969, of all corporations derived from work done or services performed or rendered and business or other activities conducted in the Village of Smithville.
- H. The portion of the net profits attributable to the Village of Smithville of a taxpayer conducting a business, profession or other activity both within and without the boundaries of the Village of Smithville shall be determined as provided in Section 718.02 of the revised Code of Ohio, which by reference is unincorporated herein and made a part hereof the same as if fully rewritten herein and the Rules and Regulations established by the Council of the Village of Smithville pursuant to the authority granting a municipality the right to levy an income tax and pursuant to this Ordinance.

SECTION 3. EFFECTIVE DATE

Said tax shall be levied, collected and paid with respect to salaries, wages, commissions and other compensation earned on and after January 1, 1969, and with respect to the net profit of businesses, professions and other activities earned on and after January 1, 1969. Provided however, that where the fiscal year of the business, profession or other activity differs from the calendar year, the tax shall be applied to that part of the net profit for the fiscal year as shall be applied to that part of the net profit for the fiscal year as shall be earned on and after January 1, 1969 to the close of the taxpayer's fiscal year; thereafter the taxpayer shall report on its fiscal year basis.

SECTION 4. RECIPROCITY PROVISION - CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES

Every individual taxpayer who resides in the Village of Smithville but who 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, salaries, wages, commissions or other compensation to another municipality, shall be allowed a credit against the tax imposed by this Ordinance of