

ORDINANCE O-2015-28

VILLAGE OF MCCOMB, OHIO

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF MCCOMB, STATE OF OHIO:

THAT ORDINANCE NO. 0-2002-27, O-2004-24 &O-2005-28 BE AND THE SAME IS HEREBY REPEALED EFFECTIVE DECEMBER 31, 2015 AT 12:00 O’CLOCK MIDNITE AND IN ITS PLACE THERE IS HEREBY ENACTED A NEW ORDINANCE DESIGNATED AS 0-2015-28 TO BE EFFECTIVE AT 12:01 A.M. ON JANUARY 1, 2016 WHICH SHALL READ AS FOLLOWS:

AN ORDINANCE BY THE LEVYING OF A TAX, TO PROVIDE FUNDS FOR THE GENERAL FUND OF THE VILLAGE OF MCCOMB, ON ALL SALARIES, WAGES, COMMISSIONS AND OTHER COMPENSATION EARNED BY RESIDENTS OF THE VILLAGE OF MCCOMB, ON ALL SALARIES, WAGES, COMMISSIONS AND OTHER COMPENSATION IN EXCESS OF TWENTY DAYS EARNED BY NON-RESIDENTS OF THE VILLAGE OF MCCOMB FOR WORK DONE OR SERVICES PERFORMED OR RENDERED IN THE VILLAGE OF MCCOMB; ON THE NET PROFITS EARNED ON ALL BUSINESSES, PROFESSIONS OR OTHER ACTIVITIES CONDUCTED IN THE VILLAGE OF MCCOMB BY NON-RESIDENTS, AND ON THE NET PROFITS EARNED BY ALL CORPORATIONS DOING BUSINESS IN THE VILLAGE OF MCCOMB, AS THE RESULT OF WORK DONE OR SERVICES PERFORMED OR RENDERED IN THE VILLAGE OF MCCOMB; REQUIRING THE FILING OF RETURNS AND FURNISHING OF INFORMATION BY EMPLOYEES 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 MCCOMB; PROVIDING FOR THE ADMINISTRATION, COLLECTION AND ENFORCEMENT OF SAID TAX; DECLARING VIOLATION THEREOF TO BE A MISDEMEANOR, IMPOSING PENALTIES THEREFOR AND DECLARING AN EMERGENCY.

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DEFINITIONS. (Section 1)

For purposes of this ordinance, the following words and phrases shall have the following meanings ascribed to them respectively.

- (a) “Administrator” means the individual designated by this ordinance, whether appointed or elected, to administer and enforce the provisions of this ordinance.
- (b) “Association” means a partnership, limited partnership or any other form of unincorporated enterprise, owned by two or more persons.
- (c) “Business” means 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.
- (d) “Corporation” means 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” means an individual whose earnings are subject to the withholding of federal income tax or social security tax.
- (f) “Employers” means an individual, partnership, limited partnership, association, corporation, governmental body, unit or agency, or any other entity who or that employs one or more persons on a salary, wage, commission or other compensation basis.
- (g) “Gross receipts,” means the total income from any source whatsoever.
- (h) “Net profits” means 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 taxes based on income, and without deducting taxes imposed by this ordinance.
- (i) “Nonresident” means an individual, partnership, limited partnership, corporation, association or other entity domiciled outside the Village.
- (j) “Other entity” means any person or unincorporated body not previously named or defined including, inter alia, fiduciaries located within the Village.
- (k) “Person” means every natural person, partnership, limited partnership, corporation, fiduciary or association. Whenever used in any clause prescribing and imposing a penalty, “person,” as applied to any association, means the partners or members thereof, and as applied to corporations, the officer thereof.
- (l) “Resident” means an individual, partnership, limited partnership, corporation, association or other entity domiciled in the Village.

(m) "Taxpayer" means 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.

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

(n) "Third party sick pay" means payments received by an employee from either an individual, partnership or corporation who or that has received a premium or other payment from the employer to insure that such payments be made to the employee for periods of time such employee was sick or on temporary disability and not physically working for the employer and the payments are to be considered either wages, salary or other compensation and taxable under this ordinance.

PURPOSE. (Section 2)

To provide funds for the purposes of providing general funds for the operation of the Village; constructing, repairing, improving streets and thoroughfares and acquiring rights of way for streets and thoroughfares, constructing, repairing, improving storm sewers, acquiring rights of way for storm sewers and for the elimination, correction and relief of combination sewers of the Village of McComb, there be, and hereby is levied a tax on salaries, wages, commissions and other compensation, and on net profits as hereinafter provided.

IMPOSITION. (Section 3)

An annual tax shall be imposed on and after July 1, 1986, at the rate of one percent (1%) per annum, on the following:

- (a) On all salaries, wages, commissions and other compensation earned on and after July 1, 1986, by resident individuals of the Village.
- (b) On all salaries, wages, commissions and other compensation earned on and after July 1, 1986, by nonresident individuals of the Village for work in excess of twenty days done or services performed or rendered in the Village.
- (c) On the net profits attributable to the Village, earned on and after July 1, 1986, of all resident unincorporated businesses, professions and other activities derived from work done, rentals or services rendered or performed, and business or other activities conducted in the Village.
- (d) On the portion of the distributive share of the net profits earned on and after July 1, 1986, of a resident individual, partner, or owner of a resident unincorporated business entity not attributable to the Village, and not levied against the unincorporated business entity.
- (e) On the net profits attributable to the Village on and after July 1, 1986, of all nonresident unincorporated businesses, professions or other activities, derived from work done, rentals or sales made, or services performed or rendered, and business or other activities conducted in the Village in excess of twenty days.
- (f) On the portion of the distributive share of the net profits earned on and after July 1, 1986, of a resident individual, partner or owner of a nonresident unincorporated business entity not attributable to the Village, and not levied against the unincorporated business entity.

(g) On the net profit earned on and after July 1, 1986, of all corporations derived from work done, sales made, or services performed or rendered, and business or other activities conducted in the Village.

(h) Business allocation percentage formula.

(1) In the taxation of income which is subject to taxation by the provisions of this ordinance, if the books and records of a taxpayer conducting a business or profession both within and without the boundaries of the Village disclose with reasonable accuracy what portion of the taxpayer's net profit is attributable to that part of the business or profession conducted within the boundaries of the Village, then only that portion shall be considered as having a taxable situs in the Village for purposes of income taxation. In the absence of such records, net profit from a business or profession conducted both within and without the boundaries of the Village shall be considered as having a taxable situs in the Village for purposes of income taxation in the same proportion as the average ratio of:

(A) The average net book value of the real and tangible personal property owned or used by the taxpayer in the business or profession in the Village during the taxable period to the average net book value of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated. As used in this subsection, real property includes 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) Wages, salaries and other compensation paid during the taxable period to persons employed in the business or profession for services performed in the Village to wages, salaries and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed.

(C) Gross receipts of the business or profession from sales made and services performed during the taxable period in the Village to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

(2) In the event the foregoing allocation formula does not produce an equitable result, another basis may, under uniform regulations, be substituted to produce that result.

(3) As used in subsection (h) (1) hereof, "sales made in the Village," means:

(A) All sales of tangible personal property which is delivered within the Village regardless of where title passes, if shipped or delivered from a stock of goods within the Village.

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

(C) All sales of tangible personal property which is shipped from a place within the Village to purchasers outside the Village, 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.

(i) The portion of a net operating loss sustained in any taxable year subsequent to the effective date of this section as allocable to the Village may be applied against the pro rata portion of the profit of succeeding years allocable to the Village until exhausted, but in no event for more than five taxable years.

No portion of a net operating loss shall be carried back against net profits of any prior year and no loss may be offset against qualifying wages.

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

(k) On all third party sick pay earned or received on and after July 1, 1986, by resident individuals of the Village or by nonresident individuals who receive such payments as a result of their employment within the limits of the Village.

EFFECTIVE DATE. (Section 4)

(a) The tax shall be levied, collected and paid with respect to salaries, wages, commissions and other compensation earned on and after July 1, 1986, and with respect to the net profit of businesses, professions and other activities earned on and after July 1, 1986. However, where the fiscal year of the businesses, professions or other activity differs from the calendar year, the tax shall be applied to that part of the net profits for the fiscal year as shall be earned on and after July 1, 1986, to the close of the taxpayer's fiscal year basis.

(b) If by operation of law, the commencement date for the levy, collection and payment of the tax provided for by this chapter is postponed, the alternate date for the commencement of the levy, collection and payment of the tax shall be the beginning of the first month after the legal impediment is removed.

RETURN AND PAYMENT. (Section 5)

(a) Each resident over eighteen years of age shall whether or not a tax is due thereon, or before April 15, 1987, and on or before April 15 of each year thereafter prepare and file a return with the Tax Administrator, setting forth the aggregate amount of gross salary, wages or other compensation earned by the taxpayer during the preceding year or period and subject to the tax.

(b) Each resident taxpayer or nonresident partnership, limited partnership, corporation, association or other entity whose earnings or profits are subject to the tax imposed by this ordinance shall, whether or not a tax is due thereon, on or before April 30, 1987, and on or before April 30 of each year thereafter, make and file a return with the Tax Administrator on a form obtainable from the Tax Administrator, setting forth the aggregate amount of gross salary, wages or other compensation, and gross and net profits earned by the taxpayer during the preceding year or period and subject to the tax, together with other pertinent information as the Tax Administrator may require. However, when the final return is made for a fiscal year or other period different from the calendar year, the return shall be made within 105 days from the end of the fiscal year or other period.

(c) The return shall also show the amount of the tax imposed on the earnings and profits. The taxpayer making the return shall, at the time of the filing thereof, however, pay to the Village Tax Administrator the amount of taxes shown as due thereon. However, where any portion of the tax has been paid by the taxpayer pursuant to the provisions of this section and the "Withholding Section" (Section 6), credit for

the amount 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 the final return.

(d) An extension of not more than six months or more than thirty days beyond an extension requested of and granted by the Internal Revenue Service for the filing of the federal income tax return, will be granted (provided a copy of the extension request is provided to the Tax Administrator when filed).

(e) Within three months from the final determination of any federal tax liability affecting the taxpayer's Village tax liability, the taxpayer shall make and file an amended Village return showing income subject to the tax based on the final determination of federal tax liability, and pay any additional tax shown due thereon or make a claim for refund of any overpayment.

COLLECTION AT THE SOURCE. (Section 6)

(a) Each employer within the Village who employs one or more persons on a salary, wage, commission or other compensation basis, excluding exempted incomes set forth in the "Exemption Section"(Section 13), shall deduct at the time of this payment of salary, wage, commission or other compensation, the tax levied under the "Imposition Section"(Section 3) of:

(1) All gross salaries, wages, commissions, or other compensation of employees who are residents of the Village; and That part of gross salaries, wages, commissions or other compensation paid for services in excess of twenty days rendered within the Village by employees who are not residents of the Village. An employer generally need not withhold tax if the employee if the employee is working in the Village on twenty or fewer days in the calendar year. Instead the employer is required to withhold tax for the municipality in which the employee's principal place of work is located. The wages earned on the twenty or fewer days are exempt from Village Tax unless the individual files a refund claim for the tax withheld by the employer to the Principal Place of Work Municipality.

(2) Small employers need only withhold municipal income tax to their Fixed Location municipality, without regard to the twenty day rule. A small employer is a business or sole proprietorship that has overall gross receipts of less than \$500,000.

(3) Taxes must be remitted monthly if collected taxes exceeded \$2,399 in the previous calendar year or if the collected taxes in any month during the previous calendar quarter exceeded \$200.

(b) The employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not the taxes have in fact been withheld.

(c) The return shall be on a form prescribed by the Tax Administrator. The employer, in collecting the tax, shall be deemed to hold the same as trustee for the benefit of the Village until payment is made by the employer to the Village, and any tax collected by the employer from his employees shall, until the same is paid to the Village, be deemed a trust fund in the hands of the employer. However, no person shall be required to withhold the tax on the wages or other compensation paid to domestic servants employed exclusively in or about the person's residence. If a resident of the Village receives salaries, wages, commissions or other compensation, which are subject to withholding tax imposed by a municipality other than McComb, the employer may reduce the tax to be withheld and paid to the Village by the amount of tax withheld and paid to the other municipality.

DECLARATIONS. (Section 7)

(a) Any taxpayer who anticipates taxable income which is not subject to the "Collection At Source" (Section 6) or who engages in any business, profession, enterprise or activity subject to the tax imposed by the "Imposition Section (Section 3), may file a declaration setting forth the estimated income or the estimated profit from the business activity, with the estimated tax due thereon, if any.

(b) The declaration shall be filed on a form approved by the Tax Administrator. The form may simply state that the figures used in making the declaration are the figures used in making the estimate declaration for federal income tax, provided it is understood that the figures may be modified so that the declaration required by this section shall set forth only such income as is taxable under the provisions of this ordinance.

(c) The declaration may be amended at any time. A final return must be filed and any balance which may be due must be paid on or before the due date set forth in "Return And Payment" Section (Section 5). If the taxpayer has paid more than the amount of tax to which the Village of McComb is entitled, a refund of the amount so overpaid shall be made, or the same may be applied toward the declaration of tax due for the ensuing year.

ADMINISTRATION. (Section 8)

(a) The Village Income Tax Administrator shall receive the tax imposed by this ordinance in the manner prescribed herein from the taxpayers; shall keep an accurate record thereof; and shall report all moneys so received.

(b) There is created the position of Income Tax Administrator who is designated to administer and enforce the provisions of this ordinance. The position of Income Tax Administrator shall be appointed by the Mayor subject to confirmation by a majority of the members elected to Council. The office of Income Tax Administrator shall be under the Mayor's office, and shall report directly to the Mayor and the Government Committee as provided in this ordinance. The Income Tax Administrator shall enforce payment of all taxes owing the Village, shall keep accurate records for a minimum of three years showing the amount due from each taxpayer required to file any return, including taxes withheld, and shall show the dates and amounts of payments thereof. Removal of the Income Tax Administrator shall be by an affirmative vote of a majority of the members elected to Council, and only on receiving a recommendation for removal by the Mayor.

(c) The Tax Administrator shall attend all meetings of the Government Committee when requested by any member of the Committee, and further shall provide any information requested by the Committee that may be deemed necessary by the Committee in order to make an accurate appraisal of the operations of the Tax Department to the Village Council. Information provided to the Committee shall be confidential, except for official purposes, and except in accordance with proper judicial order.

(d) There is established the Government Committee comprised of the Council President as chairman, and two members of the Village Council. The Committee's functions and duties shall be to make a annual review for the performance of the Village Income Tax Department to Council including, but not limited to, collections, estimates, delinquencies, legal actions in process and contemplated, and budget. The Committee shall also make an annual review of the income tax ordinance and rules and regulations, and make recommendations as to needed changes.

(e) The Tax Administrator is charged with the enforcement of the provisions of this ordinance, and is empowered to adopt, promulgate and 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. No rule or regulation as adopted or promulgated by the Tax Administrator shall become effective until the rule or regulation has been approved by the Government Committee and Council. After approval of rules and regulations by the Government Committee, it shall submit the same in writing to the Clerk of Council, and no such rule or regulation shall become effective until approved by Council, or until 60 days after the rule or regulation has been submitted to the Clerk of Council, and during the 60 day period, Council has not disapproved the rule or regulation.

(f) 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 Tax Administrator may determine the amount of tax appearing to be due the Village from the taxpayer, and shall send to the taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.

(g) Subject to the consent of the Government Committee, or pursuant to the rules and regulations, the Tax Administrator shall have the power to compromise any interest or penalty, or both, imposed by this ordinance.

(h) A Department of Taxation is created with the office of the Tax Administrator of the Village. The Department of Taxation shall be charged with the administration and operation of this ordinance, under the direction of the Tax Administrator. The Tax Administrator shall prescribe the form and method of accounts and reports for the Department, as well as the forms for taxpayer's returns and declarations, and shall be charged with the internal examination and audit of all such accounts, and shall exhibit accurate records showing the amount received from each taxpayer, and the date of receipt. The Tax Administrator shall also make written report to Council monthly of all moneys collected hereunder during the preceding month.

INVESTIGATIVE POWERS OF THE INCOME TAX ADMINISTRATOR. (Section 9)

(a) The Income Tax Administrator, or his duly authorized agent or employee, is authorized to examine the books, papers, records and federal or state income tax returns of any employer, or any taxpayer or person subject to the tax, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due. Every employer, supposed employer, taxpayer or supposed taxpayer is directed and required to furnish to the Tax Administrator, or his duly authorized agent or employee, the means, facilities and opportunity for making such examination and investigations as are authorized.

(b) The Income Tax Administrator is authorized to examine any person, employer or employee under oath concerning any income which was or should have been returned 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.

(c) The refusal of an examination by any employer, employee or person subject or presumed to be subject to the tax shall be deemed a violation of this chapter.

(d) 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 for official purposes.

(e) Any information gained as a result of the filing of any tax returns, investigations, hearings or verifications required or authorized by this ordinance shall be confidential, except for official purposes, and except in accordance with proper judicial order. Any person divulging such information shall be guilty of a misdemeanor of the first degree. Each disclosure shall constitute a separate offense. In addition to the above penalties, any employee of the Village who violates the provisions of this section relative to the disclosures of confidential information shall be immediately dismissed from the service of the Village.

INTEREST AND PENALTIES. (Section 10)

(a) All taxes imposed and all moneys 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 Federal short-term interest rate plus of three (3%) percent per annum.

(b) In addition to interest as provided in subsection (a) above, penalties based on the unpaid tax are imposed @ 1% per month for each month or fraction of a month for the first six (6) months of non-payment, or twenty five dollars (\$25.00), whichever is the greater.

(c) Exceptions. A penalty shall not be assessed on an additional tax assessment made by the Administrator when a return has been timely filed in good faith, and the tax paid within the time prescribed by the Tax Administrator; and provided, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, provided an amended return is filed, and the additional tax is paid within three months after the final determination of the federal tax liability.

(d) On an appeal, the Local Board of Tax Review may abate any penalty or interest, or both.

(e) In addition to any other interest or penalties provided herein, there has been established a penalty of one hundred dollars (\$100.00) for the failure to file a return when due.

COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS. (Section 11)

(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 years after the tax was due or the return was filed, whichever is later.

(b) Claims for refund of overpaid municipal income taxes shall be brought within the time limitation provided in subsection (a) hereof.

(c) Amounts of less than ten dollars (\$10.00) shall not be collected or refunded.

GOVERNMENT COMMITTEE (Section 12)

(a) The Government Committee, consisting of three members of Council, one to be the President of Council, two to be appointed by Council, is created.

(b) A majority of the members of the Committee shall constitute a quorum. The Committee shall adopt its own procedural rules, and shall keep a record of its transactions.

LOCAL BOARD OF TAX REVIEW (Section 13)

(a) The Board shall hear and pass on appeals from any ruling or decision of the Tax Administrator.

(b) The Board shall consist of three members appointed by Council; however two of the three members may not be employees, elected officials or contractors with the Village.

(f) Any person dissatisfied with any ruling or decision of the Committee may appeal to a court of competent jurisdiction within thirty days from the announcement of the ruling or decision.

(g) Each member of the Board shall hold their term until new appointments is made during Council's annual organizational meeting.

EXEMPTIONS. (Section 14)

The provisions of this ordinance shall not be construed as levying a tax on the following:

(a) Funds received from local, state or federal governments because of service in the armed forces of the United States by the person rendering such service, or as a result of another person rendering such services.

(b) (1) Poor relief, unemployment insurance benefits, or similar payments received from local, state, or federal governments or charitable or religious organizations; proceeds of insurance other than third party sick pay; annuities; Worker's Compensation insurance; social security benefits; pension income including, but not limited to, distributions from Internal Revenue Code (IRC) Section 457 plans, IRC Section 401 (a) qualified pension and profit sharing plans, individual retirement accounts (IRAs), simplified employee pensions (SEPs), IRC Section 403(b) plans, governmental plans, and non-qualified deferred compensation plans; compensation for damages for personal injuries and like reimbursement, not including damages for loss of profits or wages; alimony (payments not deductible); patent and copyright income and royalties (if income derived from intangible property).

(c) Mentally handicapped and developmentally disabled employees earning less than minimum hourly wage while employed at a government-sponsored sheltered workshop shall be exempt from the levy of the tax provided herein.

(d) Dues, contributions and similar payments received by charitable, religious, educational or literary organizations or labor unions, lodges and similar organizations.

(e) Receipts from casual entertainment, amusements, sports events and health and welfare activities conducted by bona fide charitable, religious and educational organizations and associations.

(f) Any association, organization, corporation, club or trust which is exempt from federal taxes on income by reason of its charitable, religious, educational, literary, scientific or other such purposes.

(g) Gains from involuntary conversions, cancellation of indebtedness, interest on federal obligations, items of income which are preempted by the Ohio Constitution, statutes or case law from taxation by municipalities, and income of a decedent's estate during the period of administration (except income from the operation of a business).

(h) Earnings and income of all persons under eighteen years of age, whether residents or nonresidents.

(i) This chapter shall not apply to any person, firm, corporation, or to any property as to whom or which it is beyond the power of Council to impose the tax herein provided for.

REFUNDS. (Section 15)

If it appears that any taxpayer has paid more than the amount of the tax to which the City is entitled under the provisions of this ordinance, a refund of the amount so overpaid shall be made within ninety days, provided the taxpayer has filed a proper claim for refund of the overpayment of tax.

TERM. (Section 16)

This ordinance shall continue and be effective for an indefinite duration.

TAX CREDIT TO RESIDENTS. (Section 17)

When the taxable income of a resident of the Village is subject to a municipal income tax in another municipality on the same income taxable under this chapter, the resident shall be allowed a credit of the amount of income tax paid on the taxable income to the other municipality, equal to one hundred percent (100%) of the amount obtained by multiplying the lower of the tax rate of the other municipality or of the Village by the taxable income earned in or attributable to municipality of employment or business activity. For the purposes of this section, taxable income shall also include the distributive share of net profits of a resident partner or owner of an unincorporated business entity.

CRIMINAL PENALTY (Section 18)

(a) Any person who:

- (1) Fails, neglects or refuses to make any return or declaration required by this ordinance; or
- (2) Makes any incomplete, false or fraudulent return; or
- (3) Willfully fails, neglects or refuses to pay the tax, penalties or interest imposed by this ordinance; or
- (4) Willfully fails, neglects or refuses to withhold the tax from his employees or remit such withholding to the Administrator; or
- (5) Refuses to permit the Administrator, or any duly authorized agent or employee, to examine his books, records, papers and federal income tax returns relating to the income or net profits of a taxpayer; or
- (6) Fails to appear before the Administrator and to produce his books, records, papers or federal income tax returns relating to income or net profits of a taxpayer upon order or subpoena of the Administrator; or
- (7) Refuses to disclose to the Administrator any information with respect to the income or net profits of a taxpayer; or
- (8) Fails to comply with the provisions of this ordinance or any order or subpoena of the Administrator; or
- (9) Gives to an employer false information as to his true name, correct social security number and residence address, or fails to promptly notify an employer of any change in residence address and date thereof; or
- (10) Fails to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and this Village's income tax withheld, or to knowingly give the Administrator false information; or
- (11) Attempts 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 of the first degree for each offense.

(a) Prosecutions for an offence made punishable under this section or any other provision of this ordinance shall be commenced within three 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 years after the commission of the offense.

(b) The failure of any employer or person to receive or procure a return or other required form shall not excuse him for making any information return, from filing such form, or from paying the tax.

(c) Any person who violates any of the provisions of Section 18 (a) above shall be guilty of a misdemeanor and shall be fined no more than FIVE HUNDRED DOLLARS (\$500.00) or imprisoned not more than six (6) months or both for each offense.

APPROVALS: (Section 19)

This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the inhabitants of the Village of McComb, Ohio, and for the further reason that the existing income tax ordinance is in need of several amendments and changes desired by the Village Council.

PRESIDENT OF COUNCIL

PASSED _____

ATTEST _____
CLERK OF COUNCIL

APPROVED _____

