

VILLAGE OF RICHWOOD

ORDINANCE NO.: 12.03

PURPOSE: TO AMEND ORDINANCE 12.03 TO INCREASE MUNICIPAL INCOME TAX FROM ONE-HALF OF ONE PERCENT TO A FULL ONE PERCENT (1%) INCOME TAX IN THE VILLAGE; TO REPEAL THE TAX CREDIT OF 1/4 OF ONE PERCENT (1%).

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

That the Village Council hereby approves the proposed amendment to Ordinance 12.03 to read as follows:

12.03 RATE AND INCOME TAXABLE

An annual tax for the purposes specified in this Ordinance shall be imposed on or after January 1, 2004, at the rate of one (1%) percent per annum upon the following:

- (a) On all salaries, wages, commissions and other compensation earned by residents of the Village of Richwood;
- (b) On all salaries, wages, commissions and other compensation earned by any non-resident of the Village of Richwood for any work done or services performed or rendered within the Village of Richwood;
- (c) (1) On the portion attributable to the Village of Richwood on the net profits earned on or after January 1, 2004, of all resident unincorporated business entities or professions or other activities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the Village of Richwood, Ohio;

(2) On the portion of the distributive share of the net profits earned on or after January 1, 2004, of a resident, partner or owner of a resident unincorporated business entity not attributable to the Village of Richwood and not levied against such unincorporated business entity by the Village of Richwood.
- (d) (1) On the portion attributable to the Village of Richwood of the net profits earned on or after

January 1, 2004 of all nonresidents unincorporated business entities, professions or other activities, derived from sales made, work done, services performed or rendered and business and other activities conducted in the Village of Richwood, whether or not such unincorporated business entity has an office or place of business within the Village of Richwood;

(2) On the portion of the distributive share of the net profits earned on or after January 1, 2004, of a resident, partner or owner of a nonresident unincorporated business entity not attributable to the Village of Richwood and not levied against such unincorporated business entity by the Village of Richwood.

- (e) On the portion attributable to the Village of Richwood, of the net profits earned on or after January 1, 2004, of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted within the Village of Richwood, whether or not such corporations have an office or place of business in the Village of Richwood.

11/24/03
Date

William Nibert
William Nibert, Mayor

Mary B. Browery
Village Clerk

RESOLUTION

Resolution No.: 11-01-03

Passed: 11/24/03

A RESOLUTION TO AMEND SECTION 12.03 OF THE VILLAGE ORDINANCES TO INCREASE MUNICIPAL INCOME TAX FROM ONE-HALF OF ONE PERCENT TO A FULL ONE PERCENT (1%) INCOME TAX IN THE VILLAGE; TO REPEAL SECTION 12.12 OF THE VILLAGE ORDINANCES.

WHEREAS, the Village of Richwood is charged with providing services to the Village of Richwood;

WHEREAS, as the Village of Richwood has not had a municipal income tax increase for a number of years and recognizes that funds recieved from the State of Ohio have decreased while insurance and other operating costs have increased. The Village also recognizes that certain businesses have closed within the Village of Richwood which has affected the amount of income taxes being paid. Further, that an increase in income taxes is necessary to maintain the services provided by the Village, and

WHEREAS, whereas the Village Council believes that an increase in the municipal income tax is needed;

WHEREAS, the Richwood Village Council has reviewed the proposed increase in the municipal income tax and finds the increase to be appropriate.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Village of Richwood, State of Ohio, 6 of the elected members concurring that:

Section 1. The Village Council hereby authorizes the amendment of Village Ordinance 12.03 to provide for an increased municipal income tax within the Village of Richwood.

Section 2. The Village Council hereby amends Ordinance 12.03 and authorizes and increase in the municipal income tax to one percent (1%) in accordance with O.R.C. Section 718.01.

Section 3. The Village Council hereby also repeals Village Ordinance 12.12 which previously provided a credit of 1/4 of one percent (1%) previously given for income earned outside the Village of Richwood and for income tax paid in another jurisdiction and/or municipality.

Section 4. The Village Council hereby authorizes this Resolution to be passed as an emergency.

Section 5. This Resolution shall be effective as of

January 1, 2004.

Passed this 24th day of November, 2003.

William Nibert

William Nibert, Mayor

ATTEST:

Mary E. Mowery
Clerk of Village Council

Readings :

1st reading: _____, 2003

2nd reading: _____, 2003

3rd reading: _____, 2003

CHAPTER 12 MUNICIPAL INCOME TAX

Power to Levy - See Ohio Const., Art. XII, Sec. 8

Payroll Deductions - See Ohio R.C. 9.42

Municipal Income Tax - See Ohio R.C. Ch. 718

§ 12.01 PURPOSE OF LEVY OF INCOME TAX

To provide funds for the purposes of general municipal functions of the, there shall be and is hereby levied a tax on all salaries, wages, commissions and other compensations, and on net profits as hereinafter provided.

§ 12.02 DEFINITIONS GENERALLY

For the purposes of this Ordinance, the terms, phrases, words and their derivatives shall have the meanings given in the next succeeding sections. The singular shall include the plural, and the masculine shall include the feminine and the neuter.

ADMINISTRATOR

"Administrator" means the individual designated by the Mayor to administer and enforce the provisions of the municipal income tax along with the Administrator of the Regional Income Tax Agency.

ASSOCIATION

"Association" means any partnership, limited partnership or any other form of unincorporated enterprise, owned by two or more persons.

BOARD OF REVIEW

"Board of Review" means the Board created by and constituted as provided in this Ordinance.

BUSINESS

"Business" means any 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; excluding, however, all nonprofit corporations which are exempt from the payment of federal income tax.

CORPORATION

"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 or foreign country or dependency.

EMPLOYEE

"Employee" means one who works for wages, salary, commission or other type of compensation in the service of an employer.

EMPLOYER

"Employer" means an individual, partnership, association, corporation, government 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 basis of compensation.

FISCAL YEAR

"Fiscal Year" means an account period of twelve months or less ending on any day other than December 31st.

GROSS RECEIPTS

"Gross Receipts" means the total income from any source whatsoever.

NET PROFITS

"Net Profits" means a net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for federal income tax purposes without deduction of taxes imposed by this Ordinance; federal, state, and other taxes based on income; and in the case of an association, without deduction of salaries paid to partners and other owners.

NONRESIDENT

"Nonresident" means an individual domiciled outside the municipality.

NONRESIDENT UNINCORPORATED BUSINESS ENTITY

"Nonresident Unincorporated Business Entity" means an unincorporated business entity not having an office or place of business within the municipality.

PERSON

"Person" means every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person", as applied to any unincorporated entity, means the partners or members thereof,

and as applied to corporations, the officers thereof.

PLACE OF BUSINESS

"Place of Business" means any bonafide 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 employees regularly in attendance.

RESIDENT

"Resident" means an individual domiciled in the municipality.

RESIDENT UNINCORPORATED BUSINESS ENTITY

"Resident Unincorporated Business Entity" means an unincorporated business entity having an office or place of business within the municipality.

TAXABLE INCOME

"Taxable Income" means wages, salaries and other compensation paid by an employer or employers before any deductions; and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of the ordinance.

TAXABLE YEAR

"Taxable Year" means the calendar year, or the fiscal year upon the basis of which the net profits 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 required to be made.

TAXPAYER

"Taxpayer" means a person, whether an individual, partnership, association or any corporation or other entity, required hereunder to file a return or pay a tax.

§ 12.03 RATE AND INCOME TAXABLE

An annual tax for the purposes specified in this Ordinance shall be imposed on and after March 1, 1995, at the rate of one-half of one per cent (0.5%) per annum upon the following:

- (a) On all salaries, wages, commissions and other compensation earned on and after, by residents of the Village of Richwood;
- (b) On all salaries, wages, commissions and other compensation earned on and after March 1, 1995, by nonresidents of the

Village of Richwood for work done or services performed or rendered within the Village of Richwood;

- (c) (1) On the portion attributable to the Village of Richwood on the net profits earned on and after March 1, 1995, of all resident unincorporated business entities or professions or other activities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the Village of Richwood;
- (2) On the portion of the distributive share of the net profits earned on and after March 1, 1995, of a resident, partner or owner of a resident unincorporated business entity not attributable to the Village of Richwood and not levied against such unincorporated business entity by the Village of Richwood;
- (d) (1) On the portion attributable to the Village of Richwood of the net profits earned on or after March 1, 1995, of all nonresidents unincorporated business entities, professions or other activities, derived from sales made, work done, services performed or rendered and business and other activities conducted in the Village of Richwood, whether or not such unincorporated business entity has an office or place of business in the Village of Richwood;
- (2) On the portion of the distributive share of the net profits earned on or after March 1, 1995, of a resident, partner or owner of a nonresident unincorporated business entity not attributable to the Village of Richwood and not levied against such unincorporated business entity by the Village of Richwood.
- (e) On the portion attributable to the Village of Richwood, of the net profits earned on and after March 1, 1995, of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in the Village of Richwood, whether or not such corporations have an office or place of business in the Village of Richwood.

§ 12.04 EFFECTIVE PERIOD

Such tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professions or other activities earned on and after March 1, 1995.

§ 12.05 DETERMINATION OF ALLOCATION OF TAX

(A) METHOD OF DETERMINATION

In the taxation of income which is subject to municipal income taxes, if the books and records of a taxpayer conducting a business or profession both within and without the boundaries of the municipality shall disclose with reasonable accuracy what portion of its net profit is attributable to that part of the business or profession conducted within the boundaries of the municipality, then only such portion shall be considered as having taxable situs in the municipality for the purposes of municipal income taxation. The portion of the entire net profits of a taxpayer to be allocated as having been derived from within the municipality in the absence of actual records thereof, shall be determined as follows:

Multiply the entire net profits by a business allocation percentage to be determined by a three-factor formula of property, payroll and sales, each of which shall be given equal weight, as follows:

(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 municipality during the taxable period to the average net book value of all 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 the preceding paragraph, "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 municipality 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 municipality to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

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

(B) SALES MADE IN MUNICIPALITY

As used in Subsection (c) above, "sales made in the municipality" means:

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

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

(c) All sales of tangible personal property which is shipped from a place within the Village of Richwood to purchasers outside of the Village of Richwood, 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) TOTAL ALLOCATION

Add together the percentages determined in accordance with subsections (a), (b) and (c) above or such of the aforesaid percentages as are applicable to the particular taxpayer and divide the total so obtained by the number of percentages used in deriving such total in order to obtain the business allocation percentage referred to above.

A factor is applicable even though it may be allocable entirely in or outside the municipality.

(D) RENTALS

Rental income received by a taxpayer shall be included in the computation of net profits from business activities under Subparagraphs (c), (d) and (e) of the section pertaining to "Rate and Income Taxable", only if and to the extent that the rental, ownership, management or operation of the real estate from which such rentals are derived (whether so rented, managed or operated by a taxpayer individually or through agents or other representatives) constitutes a business activity of the taxpayer in whole or in part.

Where the gross monthly rental of any and all real properties, regardless of number and value, aggregate in excess of Two Hundred Fifty and 00/100 Dollars (\$250.00) per month, it shall be prima facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income

of such rental property shall be subject to tax; provided that in the case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds Two Hundred Fifty and 00/100 Dollars (\$250.00) per month; provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds said \$250.00 per month; and provided further that the person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds \$250.00 per month.

(E) OPERATING LOSS CARRY-FORWARD

(a) The portion of a net operating loss sustained in any taxable year subsequent to March 1, 1995, allocable to the municipality may not be applied against the portion of the profit of succeeding tax years allocable to the municipality.

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

§ 12.06 EXEMPTIONS

The tax provided for herein shall not be levied on the following:

(a) Pay or allowances of active members of the Armed Forces of the United States or the income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property or tax-exempt activities.

(b) Poor relief, unemployment insurance benefits, old age pensions or similar payments including disability benefits.

(c) Proceeds of insurance paid by reason of the death of the insured, pensions, disability benefits, annuities or gratuities not in the nature of compensation for services rendered from whatever source derived.

(d) Receipts from seasonal or casual entertainment, amusements, sport events and health and welfare activities when any such are conducted by bonafide charitable, religious or educational organizations and associations.

(e) Alimony received.

(f) Personal earnings of any natural person under eighteen years of age.

(g) Compensation for personal injuries or for damages to property by way of insurance or otherwise.

(h) Interest, dividends and other revenue from intangible property.

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

(j) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the states or their political subdivisions to impose net income taxes on income derived from interstate commerce.

(k) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the Constitution for the State of Ohio or any act of the Ohio General Assembly limiting the power of the municipality to impose net income taxes.

§ 12.07 RETURNS

(A) WHEN RETURN REQUIRED TO BE MADE

Each taxpayer shall, whether or not a tax be due thereon, make and file a return on or before April 30th of the year following the effective date of this Ordinance and on or before April 30th of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four (4) months from the end of such fiscal year or period.

(B) FORM AND CONTENTS OF RETURN

The return shall, shall be filed with the Administrator on a form or forms furnished by or obtainable upon request from such Administrator, setting forth:

(a) The aggregate amounts of salaries, wages, commissions and other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to such tax;

(b) The amount of the tax imposed by this Ordinance on such earnings and profits; and

(c) Such other pertinent statements, information returns, or other information as the Administrator may require.

(C) EXTENSION OF TIME FOR FILING RETURNS

The Administrator may extend the time for filing of the annual return upon the request of the taxpayer for a period of not to exceed six months, or one month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the federal income tax return. The Administrator may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due. No penalty or interest shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended.

(D) CONSOLIDATED RETURNS

(a) Filing of consolidated returns may be permitted or required in accordance with rules and regulations prescribed by the Administrator.

(b) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates, or some other method, or in the case any person operates a division, branch, factory, office, laboratory or activity within the Village of Richwood constituting a portion only of its total business, the Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to the Village of Richwood. If the Administrator finds that net profits are not properly allocated to the Village of Richwood by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates or transactions with such division, branch, factory, office, laboratory or activity or by some other method, he shall make such allocation as he deems appropriate to produce a fair and proper allocation of net profits to the municipality.

(E) AMENDED RETURNS

(a) Where necessary, an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements, limitations or both contained in appropriate sections of this Ordinance. Such amended return shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

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

§ 12.08 PAYMENT OF TAX

(A) PAYMENT OF TAX ON FILING OF RETURNS

(a) The taxpayer making a return shall, at the time of filing thereof, pay to the Administrator the amount of taxes shown as due thereon; provided, however, that:

(1) Where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of this Ordinance: or

(2) Where any portion of said tax shall have been paid by the taxpayer pursuant to the provisions of this Ordinance: or

(3) Where an income tax has been paid on the same income to another municipality, credit for the amount so deducted or paid, or credit to the extent provided for in this Ordinance, 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.

(b) A taxpayer who has overpaid the amount of tax to which the Village of Richwood is entitled under the provisions of this Ordinance may have such overpayment applied against any subsequent liability hereunder, or at this election, indicated on the return, such overpayment (or any part thereof) shall be refunded, provided that no additional taxes or refunds of less than One and 00/100 Dollar (\$1.00) shall be collected or refunded.

(F) COLLECTION AT SOURCE

(a) In accordance with rules and regulations prescribed by the Administrator, each employer within or doing business within the Village of Richwood shall deduct, at the time of the payment of such salary, wages, commission or other compensation, the tax of 0.5% per annum of the gross salaries, wages, commissions or other compensation due by the said employer to said employee and shall, on or before the last day of each month, make a return and pay to the Administrator the amount of taxes so deducted during the previous month; provided, however, that if the amount of the tax so deducted by any employer in any one month is less than \$100.00, the employer may defer the filing of a return and payment of the amount deducted until the last day of the month following the end of the calendar quarter in which such month occurred.

(b) Said returns shall be on a form or forms prescribed or acceptable to the Administrator and shall be subject to the rules and regulations prescribed therefore by the Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld whether or not such taxes have, in fact, been withheld.

(c) Such employer in collecting said tax shall be deemed to hold the same until payment is made by such employer to the Village of

Richwood as a trustee for the benefit of the Village of Richwood, and any such tax collected by such employer from his employees shall, until the same is paid to the Village of Richwood, be deemed a trust fund in the hands of such employer.

(d) No person shall be required to withhold the tax on wages or other compensation paid domestic servants employed by him exclusively in or about such person's residence, even though such residence is in the Village of Richwood, but such employee shall be subject to all of the requirements of the Ordinance.

(G) DECLARATIONS OF INCOME NOT COLLECTED AT SOURCE

Any person whose income tax is not fully withheld in the or in the Village of Richwood or another municipality in which taxes are withheld at a rate the same as or higher than the rate provided in this Ordinance hereof shall file a declaration setting forth estimated taxable income, including distributive shares of net profits or unincorporated business entities estimated to be earned by the taxpayer during the current tax year, together with the estimated tax due thereon less:

(a) Tax withheld within the Village of Richwood;

(b) The tax credit allowed in the appropriate section of this Ordinance.

(H) FILING OF DECLARATION

(a) The declaration required by this Ordinance shall be filed on or before April 30th of each year during the effective period set forth in this Ordinance or within four months of the date the taxpayer becomes subject to tax for the first time.

(b) Those taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year or period.

(I) FORM OF DECLARATION

(a) The declaration required by this Ordinance shall be filed upon a form furnished by or obtainable from the Administrator. As provided for in this Ordinance, credit shall be taken for the Village of Richwood tax to be withheld from any portion of such income and credit shall be taken for tax to be paid or withheld and remitted to another taxing municipality, in accordance with the provisions of this Ordinance.

(b) The original declaration or any subsequent amendment thereof may be increased or decreased on or before any subsequent quarterly payment date as provided for herein.

(J) PAYMENT TO ACCOMPANY DECLARATION

Such declaration of estimated tax to be paid to the Village of Richwood shall be accompanied by a payment of at least one-fourth (.25) of the estimated annual tax and at least a similar amount shall be paid on or before the last day of the seventh and tenth months after the beginning of the taxable year, and on or before the last day of the first month of the succeeding year following the taxable year. Provided, however, that in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment date or dates.

(K) ANNUAL RETURN

On or before the last day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the Village of Richwood shall be paid therewith in accordance with the provisions of this Ordinance. Provided, however, that any taxpayer may file, on or before the last day of the first month of the year following that for which such declaration or amended declaration was filed, an annual return and pay any balance due at such time in lieu of filing such declaration or any amended declaration, and in lieu of paying the final quarterly installment based upon a declaration or amended declaration of estimated tax.

(L) EXTENSIONS

The Administrator may extend the time of filing any return required, of making any payment or performing any other act required by this Ordinance for a period not to exceed six months beyond the original required date.

§ 12.09 INTEREST AND PENALTIES

(A) INTEREST ON UNPAID TAX

All taxes imposed and all monies withheld or required to be withheld by employers and all installments of estimated taxes required to be paid under the provisions of this Ordinance of the Village of Richwood and remaining unpaid after they become due, shall bear interest at the rate of six percent (6%) per annum.

(B) PENALTIES ON UNPAID TAX

In addition to interest as provided in this Ordinance, penalties based on the unpaid tax or installments of estimated tax are hereby imposed as follows:

(a) For failure to pay taxes or estimated taxes due, other than taxes withheld: ten percent (10%) per annum, but not less than \$5.00.

(b) For failure to remit taxes withheld from employees: ten percent (10%) per month or fraction thereof, but accumulated penalty shall not exceed fifty percent (50%) upon any unpaid amount and shall not be less than \$5.00.

(C) EXCEPTIONS

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

(D) ABATEMENT OF INTEREST AND PENALTY

Either the Administrator hereunder or the Board of Review may abate penalty or interest, or both, for good cause shown.

§ 12.10 VIOLATIONS

(A) VIOLATIONS & PENALTIES

Any person who shall:

(a) Fail, neglect or refuse to make any return or declaration required by this Ordinance; or

(b) Make any incomplete, false or fraudulent return or;

(c) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this Ordinance; or

(d) Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator; or

(e) Refuse 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

(f) Fail to appear before the Administrator and to produce his books, records, papers or federal income tax returns relating to the income or net profits of a taxpayer upon order of subpoena of the Administrator; or

(g) Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer; or

(h) Fail to comply with the provisions of this Ordinance or any order or subpoena of the Administrator authorized hereby; or

(i) Give to any employer false information as to his true name, correct social security number and resident address, or fail to promptly notify an employer of any change in resident address and date thereof; or

(j) Fail to use ordinary diligence in maintaining proper records of employees' resident addresses, total wages paid and municipal tax withheld or knowingly give the Administrator false information; or

(k) Attempt 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 and shall be fined not more than Five Hundred and 00/100 Dollars (\$500.00) or imprisoned not more than six months or both, for each offense.

(B) LIMITATION ON PROSECUTION

All prosecutions under this section must be commenced within five years from the time of the offense complained of, except in the case of failure to file a return or in the case of filing a false or fraudulent return, in which event the limitation of time within which prosecution must be commenced shall be ten years from the date the return was due or the date the false or fraudulent return was filed.

(C) FAILURE TO PROCURE FORMS NOT EXCUSE

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

§ 12.11 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENT

(A) UNPAID TAXES RECOVERABLE AS OTHER DEBTS

All taxes imposed by this Ordinance shall be collectible, together with any interest and penalties thereon, by suit, as other debts of the like amount are recoverable. Except in the case of fraud, or omission of a substantial portion of income subject to this tax, or of failure to file a return, an additional assessment shall not be made after three years from the time the return was due or filed,

whichever is later, provided, however, in those cases in which a 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 Administrator shall be one year from the time of the final determination of the federal tax liability.

(C) REFUNDS OF TAXES ERRONEOUSLY PAID

Taxes erroneously paid shall not be refunded unless a claim for refund is made within three years from the date which such payment was made or the return was due, or within three months after the final determination of the federal tax liability, whichever is later.

(D) AMOUNTS OF LESS THAN ONE DOLLAR

Amounts of less than One and 00/100 Dollar (\$1.00) shall not be collected or refunded.

§ 12.12 TAXPAYER RELIEF

(A) TAX CREDIT

(a) When the taxable income of a resident of the Village of Richwood is subject to and pays a municipal income tax in another municipality on the same income taxable under this Ordinance, such resident shall be allowed a credit of the amount of income tax paid on such taxable income to such other municipality, equal to one-quarter of one per cent of the amount of the taxable income earned in or attributable to the municipality of employment or business activity. For the purposes of this section, taxable income shall include the distributive share of net profits of a resident partner or owner of an unincorporated business entity.

(b) A claim for credit or refund under this section shall be made in such manner as the Administrator may by regulation provide. In the event such Village of Richwood resident fails, neglects, or refuses to file an annual return or declaration on the form prescribed by the Administrator, he shall not be entitled to such credit or refund and shall be considered in violation of this Ordinance for failure to file a return.

(B) CLAIM FOR REFUND

Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date on which such payment was made or the return was due.

(C) DUTY TO RECEIVE TAX IMPOSED

It shall be the duty of the Administrator to receive the tax imposed by this Ordinance in the manner prescribed herein from the

taxpayers, to keep an accurate record thereof, and to report all monies so received.

(D) DUTY TO ENFORCE COLLECTION

It shall be the duty of the Administrator to enforce payment of all taxes owing to the municipality, to keep accurate records for a minimum of five years showing the amount due from each taxpayer required to file a declaration and make any return, or both, including taxes withheld, and to show the dates and amount of payment thereof.

(E) AUTHORITY TO MAKE AND ENFORCE REGULATIONS

The Administrator is hereby charged with the enforcement of the provisions of this Ordinance, and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and the provisions for the re-examination and correction of returns.

(F) AUTHORITY TO ARRANGE INSTALLMENT PAYMENTS

The Administrator is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proved to the Administrator that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under this Ordinance.

Failure to make any deferred payment when due shall cause the total unpaid amount, including penalty and interest, to become payable on demand.

(G) AUTHORITY TO DETERMINE AMOUNT OF TAX DUE

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

(H) AUTHORITY TO MAKE INVESTIGATION

The Administrator, or any authorized employee, is hereby authorized to examine the books, papers, records and federal income tax returns of any employer or of any taxpayer or person subject to, or whom the Administrator believes is subject to, the provisions of this Ordinance, for the purpose of verifying the accuracy of any return made, or if no return was made, to

ascertain the tax due under this Ordinance. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish upon written request by the Administrator, or his duly authorized agent or employee the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

(I) AUTHORITY TO COMPEL PRODUCTION OF RECORDS

The Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before him and may examine such person, under oath, concerning any income which was or should have been returned for taxation or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and federal income tax returns and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.

(J) REFUSAL TO PRODUCE RECORDS

The refusal to produce books, papers, records and federal income tax returns, or the refusal to submit to such examination by any employer or persons subject or presumed to be subject to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this Ordinance or with an order or subpoena of the Administrator authorized hereby shall be deemed a violation of this Ordinance punishable as provided in this Ordinance.

(K) CONFIDENTIAL NATURE OF INFORMATION

Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this Ordinance shall be confidential except for official purposes, or except in accordance with proper judicial order. Any person divulging such information in violation of this section shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine or penalty of not more than One Thousand and 00/100 Dollars (\$1,000.00) or imprisoned for not more than six months, or both. Each disclosure shall constitute a separate offense.

In addition to the above penalty, any employee of the municipality who violates the provisions of this section relative to the disclosures of confidential information shall be guilty of an offense punishable by immediate dismissal.

(L) TAXPAYER REQUIRED TO RETAIN RECORDS

Every taxpayer shall retain all records necessary to compute his

tax liability for a period of five years from the date his return is filed, or the withholding taxes are paid.

§ 12.13 AUTHORITY TO CONTRACT FROM CENTRAL COLLECTION FACILITIES

(a) The Village of Richwood having concurrent herewith entered into an agreement for the establishment of a Regional Council of Governments pursuant to ordinance number _____, which Council has organized a municipal tax collection agency known as "Regional Income Tax Agency", the Board of Trustees of said Regional Income Tax Agency is authorized to administer and enforce the provisions of this Ordinance as the agent of the Village of Richwood, and the duties and authority of the Administrator hereunder may be performed by the Board of Trustees of said agency through the Administrator of said agency. Provided, however, the Administrator of said agency shall have no authority to abate penalties or interest provided for in this Ordinance.

(b) There is hereby approved, adopted, and incorporated herein the Rules & Regulations of the Regional Income Tax Agency, to be followed in the administration of this income tax. In the event there is a conflict between this ordinance and said Rules & Regulations, the provisions of this ordinance shall control.

§ 12.14 BOARD OF REVIEW

(A) BOARD OF REVIEW ESTABLISHED

A Board of Review, consisting of the Village Solicitor and a member of Council to be elected by that body, and a member appointed by the Mayor of the Village of Richwood, is hereby created. The Board shall select, each year for a one-year term, one of its members to serve as Chairman and one to serve as Secretary. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board may be conducted privately and the provisions of this Ordinance 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 on appeal.

(B) DUTY TO APPROVE REGULATIONS AND TO HEAR APPEALS

All rules and regulations and amendments or changes thereto which are adopted by the Administrator under the authority conferred by this Ordinance must be approved by the Board of Review before the same become effective. The Board shall hear and pass on appeals from any ruling or decision of the Administrator, and at the request of the taxpayer or Administrator, is empowered to substitute alternate methods of allocation.

(C) RIGHT OF APPEAL

Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this Ordinance may appeal therefrom to the Board of Review within thirty days from the announcement of such ruling or decision by the Administrator, and the Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision or any part thereof.

§12.15 DECLARATION OF LEGISLATIVE INTENT

If any sentence, clause, section or part of this Ordinance, or any tax against any individual or any of the several groups specified herein is found to be unconstitutional, 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 that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence clause, section or part hereof not been included herein.