

VILLAGE OF RIPLEY, OHIO

ORDINANCE NO. 1129

**CERTIFIED
COPY**
Issued May 20

AN ORDINANCE REQUIRING ALL BUSINESSES AND EMPLOYERS
OPERATING WITHIN THE VILLAGE OF RIPLEY, BROWN COUNTY, OHIO
TO REGISTER WITH THE VILLAGE OF RIPLEY AND
PROVIDE INFORMATION TO THE RIPLEY TAX COMMISSIONER

WHEREAS, by the enactment of Ordinance No. 1129, the Village of Ripley established a municipal income tax, said tax being imposed on all salaries, wages, commissions and other compensation earned by residents of the Village of Ripley and by non-residents of the Village of Ripley for work done or services performed in the Village of Ripley, and on the net profits earned by all businesses within the Village of Ripley; and

WHEREAS, said Ordinance No. 1129 further requires that all employers within the Village of Ripley collect said tax at the source and pay the same to the Village of Ripley; and

WHEREAS, in order to insure that all persons and businesses subject to said tax are properly reporting income and paying the tax imposed by Ordinance No. 1129 it is necessary that businesses and employers within the Village of Ripley register with the Village of Ripley and provide relevant information to the Village of Ripley,

NOW THEREFORE BE IT ORDAINED by the Council of the Village of Ripley, Brown County, Ohio, a majority or more of all members thereof concurring, that:

SECTION 1. Each Business (as that term is defined in Section 170.02(C) of Ordinance No. 1129, as amended) doing business within the Village of Ripley shall register with the Tax Commissioner of the Village of Ripley within ten (10) days of such Business first doing business within the Village of Ripley. Each such Business shall further furnish such information to the Ripley Tax Commissioner as shall be requested by the Tax Commissioner to enable the Tax Commissioner to determine that said Business is properly reporting the income and paying the taxes required of said Ordinance No. 1129.

SECTION 2. Each Employer (as that term is defined in Section 170.02(G) of Ordinance No. 1129, as amended) within the Village of Ripley which employs any person within the Village of Ripley for salary, wages, commissions or other compensation for work done or services performed within the Village of Ripley shall register with the Tax Commissioner of the Village of Ripley within ten (10) days of such Employer first employing a person within the Village of Ripley. Each such Employer shall further furnish such information to the Ripley Tax Commissioner as shall be requested by the Tax Commissioner to enable the Tax Commissioner to determine that said Employer is properly collecting the tax imposed by Ordinance No. 1129 at the source and to identify persons who should be filing a Ripley Income Tax Return and paying the tax imposed by Ordinance No. 1129.

SECTION 3. Each Business which is already doing business within the Village of Ripley and each Employer which is now employing a person within the Village of Ripley shall register with the Tax Commissioner within thirty (30) days after the effective date of this Ordinance.

SECTION 4. Each Business and each Employer required to register with the Tax Commissioner as required by Sections 1, 2 and 3 of this Ordinance shall renew such registration on an annual basis on or before the 31st day of January of each year following the initial registration by such Business or Employer.

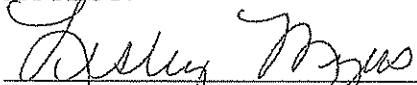
SECTION 5. Any person, firm or corporation violating any provision of this Ordinance shall be guilty of a minor misdemeanor.

SECTION 6. This Ordinance shall be effective from and after the earliest date allowed by law.

Passed: 3-27, 2007


Tom Leonard, Mayor

ATTEST:


Lesley Myers, Fiscal Officer/Clerk

1st reading 8-26-03

**CERTIFIED
COPY**
James Myers

VILLAGE OF RIPLEY, OHIO

ORDINANCE NO. 1146

AN ORDINANCE AMENDING ORDINANCE NO. 1129, KNOWN AS THE EARNED
INCOME TAX ORDINANCE, OF THE VILLAGE OF RIPLEY, OHIO

BE IT ORDAINED, by the Council of the Village of Ripley, Brown County, Ohio, a majority
or more of all members thereof concurring, that:

SECTION 1. § 170.2 of Ordinance No. 1129, currently reading as follows:

§ 170.02 DEFINITIONS.

For the purpose of this Chapter, the following definitions shall apply unless the context clearly
indicates or requires a different meaning:

(A) **ASSOCIATION**: A partnership, limited partnership, limited liability company or other form of
unincorporated enterprise, owned by two or more persons.

(B) **BOARD OF REVIEW**: The Board created by and constituted as provided in §170.13 of this
Chapter.

(C) **BUSINESS**: 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, real, personal or
mixed.

(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, or foreign country or dependency.

(E) **DOMICILE**: A principal residence that the taxpayer intends to use for an indefinite time and
to which whenever absent he intends to return. A taxpayer has only one domicile even though he
may have more than one residence.

(F) **EMPLOYEE**: One who works for wages, salary, commission or other type of compensation in
the service of an employer. Any person upon whom an employer is required to withhold for either
federal income or social security or on whose account payments are made under the workers'
compensation law shall prima facie be an employee.

(G) **EMPLOYER**: An individual, partnership, association, corporation, governmental body, unit or
agency, or any other entity, whether or not organized for profit, who or that employs one or more
persons on a salary, wage commission or other compensation basis.

(H) **FISCAL YEAR**: An accounting period of twelve (12) months or less ending on any day other than December 31st.

(I) **GROSS RECEIPTS**: The total income from any source whatsoever, excepting intangibles.

(J) **GAMBLING WINNINGS**: Proceeds arising from any game of chance, sweepstakes or similar sources where the proceeds are at least 300 times the amount of the bet or fee if any.

(K) **GENERIC FORM**: An electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation's tax on income

(L) **INTANGIBLE INCOME**: Income of any of the following types: income yield, interest, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701. of the Ohio Revised Code.

(M) **INTERNAL REVENUE CODE**: The Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.

(N) **INTERNET**: The international computer network of both federal and non-federal interoperable packet switched data networks, including the graphical sub network known as the world wide web.

(O) **MUNICIPALITY**: The Village of Ripley, Brown County, Ohio.

(P) **NET PROFITS**: The net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary, reasonable, and necessary expenses paid or accrued in accordance with the accounting system used by the taxpayer for Federal Income Tax purposes, without deducting of taxes imposed by this Chapter, federal state and other taxes based on income exclusive of the amount of Ohio franchise tax computed on the net worth basis; and in the case of an association, without deduction of salaries paid to partners, and other owners; and otherwise adjusted to the requirements of this Chapter.

(Q) **NON-RESIDENT**: A person, whether an individual, association, corporation, or other entity, domiciled outside the Village of Ripley.

(R) **RECAPTURE OF DEPRECIATION**: The income derived from the disposal of depreciated or amortized property for a gain, taxable as ordinary income.

(S) **RESIDENT**: A person, whether an individual, association, corporation or other entity, domiciled in the Village of Ripley.

(T) **OTHER PAYER**: Any person that pays an individual any item included in the taxable

(U) **PERSON**: 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, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

(V) **PLACE OF BUSINESS**: 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 employees regularly in attendance.

(W) **STOCK OPTIONS**: The sale or disposal of assets, stocks, bonds or other negotiable instruments which were obtained in part or in whole through various employer provided means to employees as a additional, alternative or other means of employee compensation or fringe benefit.

(X) **TAXABLE INCOME**: Wages, salaries, and other compensation paid by an employer or employers before any deductions and/or net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this Chapter.

(Y) **TAXABLE YEAR**: The calendar year, or the fiscal year upon the basis of which net profits are to be computed under this Chapter 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.

(Z) **TAX COMMISSIONER**: The individual designated by this Chapter, employed by this Municipality, who shall be responsible for the administration and enforcement of this Chapter.

(AA) **TAXPAYER**: A person, whether an individual, partnership, association, or any corporation or other entity, required hereunder to file a return or pay a tax.

(BB) **GENDER**: The singular shall include the plural, and masculine shall include the feminine and the neuter.

is hereby amended to read as follows:

§ 170.02 DEFINITIONS.

For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

(A) **ASSOCIATION**: A partnership, limited partnership, limited liability company or other form of unincorporated enterprise, owned by two or more persons.

(B) **BOARD OF REVIEW**: The Board created by and constituted as provided in §170.13 of this Chapter.

(C) **BUSINESS**: 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, real, personal or mixed.

(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, or foreign country or dependency.

(E) **DOMICILE**: A principal residence that the taxpayer intends to use for an indefinite time and to which whenever absent he intends to return. A taxpayer has only one domicile even though he may have more than one residence.

(F) **EMPLOYEE**: One who works for wages, salary, commission or other type of compensation in the service of an employer. Any person upon whom an employer is required to withhold for either federal income or social security or on whose account payments are made under the workers' compensation law shall prima facie be an employee.

(G) **EMPLOYER**: An individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage commission or other compensation basis.

(H) **FISCAL YEAR**: An accounting period of twelve (12) months or less ending on any day other than December 31st.

(I) **GROSS RECEIPTS**: The total income from any source whatsoever, excepting intangibles.

(J) **GENERIC FORM**: An electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation's tax on income

(K) **INTANGIBLE INCOME**: Income of any of the following types: income yield, interest, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701. of the Ohio Revised Code.

(L) **INTERNAL REVENUE CODE**: The Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.

(M) **INTERNET**: The international computer network of both federal and non-federal interoperable packet switched data networks, including the graphical sub network known as the world wide web.

(N) **MUNICIPALITY**: The Village of Ripley, Brown County, Ohio.

(O) **NET PROFITS:** The net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary, reasonable, and necessary expenses paid or accrued in accordance with the accounting system used by the taxpayer for Federal Income Tax purposes, without deducting of taxes imposed by this Chapter, federal state and other taxes based on income exclusive of the amount of Ohio franchise tax computed on the net worth basis; and in the case of an association, without deduction of salaries paid to partners, and other owners; and otherwise adjusted to the requirements of this Chapter.

(P) **NON-RESIDENT:** A person, whether an individual, association, corporation, or other entity, domiciled outside the Village of Ripley.

(Q) **RESIDENT:** A person, whether an individual, association, corporation or other entity, domiciled in the Village of Ripley.

(R) **OTHER PAYER:** Any person that pays an individual any item included in the taxable

(S) **PERSON:** 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, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

(T) **PLACE OF BUSINESS:** 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 employees regularly in attendance.

(U) **TAXABLE INCOME:** Wages, salaries, and other compensation paid by an employer or employers before any deductions and/or net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this Chapter.

(V) **TAXABLE YEAR:** The calendar year, or the fiscal year upon the basis of which net profits are to be computed under this Chapter 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.

(W) **TAX COMMISSIONER:** The individual designated by this Chapter, employed by this Municipality, who shall be responsible for the administration and enforcement of this Chapter.

(X) **TAXPAYER:** A person, whether an individual, partnership, association, or any corporation or other entity, required hereunder to file a return or pay a tax.

(Y) **GENDER:** The singular shall include the plural, and masculine shall include the feminine and the neuter.

SECTION 2. § 170.3 of Ordinance No. 1129, currently reading as follows:

§ 170.03 IMPOSITION OF TAX.

(A) *Basis of Imposition.*

Subject to the provisions of § 170.16 of this Chapter, an annual tax for the purposes specified in § 170.01 hereof shall be imposed on and after the effective date of the ordinance adopting this Chapter at the rate of one percent (1%) per annum upon the following:

- (1) The aggregate amount of salaries, wages, commissions, and other compensation earned, and gross income from any business, profession, or other activity, less allowable expenses incurred in acquisition of such gross income and not disallowed by the provisions of any section or subsection of this Chapter earned on and after the effective date hereof by residents of this Municipality.
- (2) On all salaries, wages, commissions and other compensation earned during on and after the effective date hereof by non-residents for work done or services performed or rendered in this Municipality.
- (3)
 - (a) On the portion attributable to this Municipality on the net profits earned on and after the effective date hereof of all resident unincorporated businesses, professions or other entities, derived from sales made, work done, services performed or rendered and business or other activities conducted in this Municipality.
 - (b) On the portion of distributive share of the net profits earned on and after the effective date hereof of a resident partner or owner of a resident unincorporated business entity not attributable to this Municipality and not levied against such unincorporated business entity by this Municipality.
- (4)
 - (a) On the portion attributable to this Municipality of the net profits earned on and after the effective date hereof of all non-resident unincorporated businesses, professions or other entities, derived from sales made, work done, or services performed or rendered and business or other activities conducted in this Municipality, whether or not such unincorporated business entity has an office or place of business in this Municipality.
 - (b) On the portion of the distributive share of the net profits earned on and after the effective date hereof of a resident partner or owner of a non-resident unincorporated business entity not attributable to this Municipality and not levied against such unincorporated business entity by this Municipality.
- (5) On the portion attributable to this Municipality of the net profits earned on and after the effective date hereof of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in this

Municipality, whether or not such corporations have an office or place of business in this Municipality.

- (6) In addition to the foregoing, the following types of income shall be taxable pursuant to the provisions of this Chapter:

(a) *Rental Property.* As a general rule, rental of real estate constitutes the operation of a business, and net profits earned are subject to taxation hereunder.

(b) *Stock Options.* Stock Options or other compensation received in the form of property are taxable when included on Form W-2 or Form 1099 for federal purposes.

(c) *Non-qualified Pension Plans.* Contributions of (or premiums paid by) the employer in the case of non-qualified plans are taxable when made and reported on IRS form W-2 or Form 1099.

(d) *Recapture of Depreciation.* Although capital gains and losses from sale, exchange or other disposition of property shall not be taken into consideration in arriving at net profits earned, any amounts of value realized on a sale, exchange or other disposition of tangible personal property or real property used in business in excess of book value shall be treated as taxable income under this Chapter to the extent of depreciation allowed or allowable.

(e) *Gambling Winnings.* Amount received as gambling winnings and reported on IRS Form W-2G or Form 5754 and or any other form from the Internal Revenue Service that reports winnings from gambling. Gambling includes, but is not limited to bingo, keno, slot machines, casino games, horse racing, dog racing, jai alai, sweepstakes, wagering pools, lotteries, prizes and any other wagering transactions.

(B) *Deductions.*

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

(C) *Business Losses Not Allowable Against W-2 Income.*

The net operating loss sustained by a business or profession is not deductible from employee earnings, but may be carried forward as provided in the rules and regulations.

(D) *Allocation of Net Profits.*

If the books and records of a taxpayer conducting a business or profession both within and without the boundaries of this Municipality disclose with reasonable accuracy what portion of its net profit is attributable to that part of the business or profession conducted within this Municipality, then only such portion shall be considered as having a taxable situs in this Municipality for purposes of this Chapter. In the absence of such records, net profit from a business or profession conducted both within and without the boundaries of this Municipality shall be considered as having a taxable situs within this Municipality for purposes of this Chapter in the same proportion as the average ratio of:

- (1) The average net book value of the real and tangible personal property owned or used by the taxpayer in the business or profession in this Municipality 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 herein, real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;
- (2) Wages, salaries, and other compensation paid during the taxable period to persons employed in the business or profession for services performed in this 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, excluding compensation that is not taxable under § 718.011 of the Ohio Revised Code;
- (3) Gross receipts of the business or profession from sales made and services performed during the taxable period in this Municipality to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

If the foregoing allocation formula does not produce an equitable result, another basis may be substituted, under uniform regulations adopted by the Board of Review, so as to produce an equitable result. As used herein, "sales made in this Municipality" mean:

- (a) All sales of tangible personal property delivered within this Municipality regardless of where title passes if shipped or delivered from a stock of goods within this Municipality;
- (b) All sales of tangible personal property delivered within this Municipality regardless of where title passes even though transported from a point outside this Municipality if the taxpayer is regularly engaged through its own

employees in the solicitation or promotion of sales within this Municipality and the sales result from such solicitation or promotion;

(c) All sales of tangible personal property shipped from a place within this Municipality to purchasers outside this Municipality 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.

(E) *Operating Loss Carry Forward.*

- (1) The portion of a new operating loss sustained in any taxable year subsequent to the effective date hereof, allocable to this Municipality, may be applied against the portion of the profit of succeeding year(s) allocable to this Municipality, until exhausted but in no event for more than five (5) taxable years. No portion of a net operating loss shall be carried back against net profits of any prior year.
- (2) The portion of a net operating loss sustained shall be allocated to this Municipality in the same manner as provided herein for allocating net profits to this Municipality.
- (3) The Tax Commissioner shall provide by Rules and Regulations the manner in which such net operating loss carry-forward shall be determined.

(F) *Consolidated Returns.*

- (1) Filing of consolidated returns may be permitted, required, or denied in accordance with Rules and Regulations prescribed by the Tax Commissioner. On and after January 1, 2003, the Tax Commissioner shall accept for filing a consolidated return from any affiliated group of corporations if that affiliated group filed for the same tax reporting period a consolidated return for federal income tax purposes pursuant to section 1501 of the Internal Revenue Code.
- (2) In the case of a corporation that carries on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates, or some other methods, or in case any person operates a division, branch, factory, office, laboratory or activity within this Municipality constituting a portion only of its total business, the Tax Commissioner shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to this Municipality. If the Tax Commissioner finds net profits are not properly allocated to this Municipality by reason of transactions with stockholders or with other corporations related by stock ownership interlocking directorates, or transactions with such divisions, branch, 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 this Municipality.

(F) *Exceptions.*

- (1) The tax provided for herein shall not be levied upon any compensation, net profits or other income that this Municipality is precluded from taxing under Ohio Revised Code Chapter 718 including, but not limited to, the military pay or allowances of members of the Armed Forces of the United States, or upon the net profits of any civic, charitable, religious, fraternal, or other organization specified in such Ohio Revised Code § 718.01 to the extent that such net profits are exempted from municipal income taxes under said section.
- (2) *Twelve-Day Occasional Entry Rule.* The tax imposed by § 170.03 of this Chapter shall not apply to the compensation of an individual if all of the following apply:
 - (a) the individual does not reside in this Municipality;
 - (b) the compensation is paid for personal services performed by the individual in this Municipality on any part of twelve or fewer days during the calendar year;
 - (c) in the case of an individual who is an employee, the principal place of business of the individual's employer is located outside this Municipality and the individual pays tax on compensation described in division (A) of this section to the municipal corporation, if any, in which the employer's principal place of business is located, and no portion of that tax is refunded to the individual;
 - (d) the individual is not a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such a promoter, all as may be reasonably defined by rules and regulations approved by the Board of Review.

is hereby amended to read as follows:

§ 170.03 IMPOSITION OF TAX.

(A) *Basis of Imposition.*

Subject to the provisions of § 170.16 of this Chapter, an annual tax for the purposes specified in § 170.01 hereof shall be imposed on and after the effective date of the ordinance adopting this Chapter at the rate of one percent (1%) per annum upon the following:

- (1) The aggregate amount of salaries, wages, commissions, and other compensation earned, and gross income from any business, profession, or other activity, less allowable expenses incurred in acquisition of such gross income and not disallowed

by the provisions of any section or subsection of this Chapter earned on and after the effective date hereof by residents of this Municipality.

- (2) On all salaries, wages, commissions and other compensation earned during on and after the effective date hereof by non-residents for work done or services performed or rendered in this Municipality.
- (3) (a) On the portion attributable to this Municipality on the net profits earned on and after the effective date hereof of all resident unincorporated businesses, professions or other entities, derived from sales made, work done, services performed or rendered and business or other activities conducted in this Municipality.

(b) On the portion of distributive share of the net profits earned on and after the effective date hereof of a resident partner or owner of a resident unincorporated business entity not attributable to this Municipality and not levied against such unincorporated business entity by this Municipality.
- (4) (a) On the portion attributable to this Municipality of the net profits earned on and after the effective date hereof of all non-resident unincorporated businesses, professions or other entities, derived from sales made, work done, or services performed or rendered and business or other activities conducted in this Municipality, whether or not such unincorporated business entity has an office or place of business in this Municipality.

(b) On the portion of the distributive share of the net profits earned on and after the effective date hereof of a resident partner or owner of a non-resident unincorporated business entity not attributable to this Municipality and not levied against such unincorporated business entity by this Municipality.
- (5) On the portion attributable to this Municipality of the net profits earned on and after the effective date hereof of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in this Municipality, whether or not such corporations have an office or place of business in this Municipality.
- (6) In addition to the foregoing, the following type of income shall be taxable pursuant to the provisions of this Chapter:

(a) *Rental Property.* As a general rule, rental of real estate constitutes the operation of a business, and net profits earned are subject to taxation hereunder.

(B) *Deductions.*

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

(C) *Allocation of Net Profits.*

If the books and records of a taxpayer conducting a business or profession both within and without the boundaries of this Municipality disclose with reasonable accuracy what portion of its net profit is attributable to that part of the business or profession conducted within this Municipality, then only such portion shall be considered as having a taxable situs in this Municipality for purposes of this Chapter. In the absence of such records, net profit from a business or profession conducted both within and without the boundaries of this Municipality shall be considered as having a taxable situs within this Municipality for purposes of this Chapter in the same proportion as the average ratio of:

- (1) The average net book value of the real and tangible personal property owned or used by the taxpayer in the business or profession in this Municipality 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 herein, real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;
- (2) Wages, salaries, and other compensation paid during the taxable period to persons employed in the business or profession for services performed in this 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, excluding compensation that is not taxable under § 718.011 of the Ohio Revised Code;
- (3) Gross receipts of the business or profession from sales made and services performed during the taxable period in this Municipality to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

If the foregoing allocation formula does not produce an equitable result, another basis may be substituted, under uniform regulations adopted by the Board of Review, so as to produce an equitable result. As used herein, "sales made in this Municipality" mean:

(a) All sales of tangible personal property delivered within this Municipality regardless of where title passes if shipped or delivered from a stock of goods within this Municipality;

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

(c) All sales of tangible personal property shipped from a place within this Municipality to purchasers outside this Municipality 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.

(D) *Operating Loss Carry Forward.*

- (1) The portion of a new operating loss sustained in any taxable year subsequent to the effective date hereof, allocable to this Municipality, may be applied against the portion of the profit of succeeding year(s) allocable to this Municipality, until exhausted but in no event for more than five (5) taxable years. No portion of a net operating loss shall be carried back against net profits of any prior year.
- (2) The portion of a net operating loss sustained shall be allocated to this Municipality in the same manner as provided herein for allocating net profits to this Municipality.
- (3) The Tax Commissioner shall provide by Rules and Regulations the manner in which such net operating loss carry-forward shall be determined.

(E) *Consolidated Returns.*

- (1) Filing of consolidated returns may be permitted, required, or denied in accordance with Rules and Regulations prescribed by the Tax Commissioner. On and after January 1, 2003, the Tax Commissioner shall accept for filing a consolidated return from any affiliated group of corporations if that affiliated group filed for the same tax reporting period a consolidated return for federal income tax purposes pursuant to section 1501 of the Internal Revenue Code.
- (2) In the case of a corporation that carries on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates, or some other methods, or in case any person operates a division, branch, factory, office, laboratory or activity within this Municipality constituting a portion only of its total business, the Tax Commissioner shall require such additional information as he may

deem necessary to ascertain whether net profits are properly allocated to this Municipality. If the Tax Commissioner finds net profits are not properly allocated to this Municipality by reason of transactions with stockholders or with other corporations related by stock ownership interlocking directorates, or transactions with such divisions, branch, 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 this Municipality.

(F) *Exceptions.*

- (1) The tax provided for herein shall not be levied upon any compensation, net profits or other income that this Municipality is precluded from taxing under Ohio Revised Code Chapter 718 including, but not limited to, the military pay or allowances of members of the Armed Forces of the United States, or upon the net profits of any civic, charitable, religious, fraternal, or other organization specified in such Ohio Revised Code § 718.01 to the extent that such net profits are exempted from municipal income taxes under said section.
- (2) *Twelve-Day Occasional Entry Rule.* The tax imposed by § 170.03 of this Chapter shall not apply to the compensation of an individual if all of the following apply:
 - (a) the individual does not reside in this Municipality;
 - (b) the compensation is paid for personal services performed by the individual in this Municipality on any part of twelve or fewer days during the calendar year;
 - (c) in the case of an individual who is an employee, the principal place of business of the individual's employer is located outside this Municipality and the individual pays tax on compensation described in division (A) of this section to the municipal corporation, if any, in which the employer's principal place of business is located, and no portion of that tax is refunded to the individual;
 - (d) the individual is not a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such a promoter, all as may be reasonably defined by rules and regulations approved by the Board of Review.

SECTION 3. In all other respects the provisions of said Ordinance No. 1129 shall remain unchanged.

1-1-04

SECTION 4. This Ordinance shall be effective from and after the earliest date allowed by law.

Adopted this _____ day of _____, 2003.

Katherine D. Gast, Mayor

ATTEST:

Hilda Frebis, Clerk

**CERTIFIED
COPY**
James Myers

VILLAGE OF RIPLEY, OHIO

ORDINANCE NO. 1129

AN ORDINANCE TO ESTABLISH A MUNICIPAL INCOME TAX TO PROVIDE FUNDS FOR THE PURPOSE OF GENERAL MUNICIPAL OPERATIONS, MAINTENANCE, REPLACEMENT AND REPAIR OF EQUIPMENT FOR THE USE OF THIS MUNICIPALITY, MAINTENANCE, ENLARGEMENT AND IMPROVEMENT OF MUNICIPAL SERVICES AND FACILITIES AND CAPITAL IMPROVEMENTS IN AND FOR THIS MUNICIPALITY, SAID MUNICIPAL INCOME TAX TO BE IMPOSED ON ALL SALARIES, WAGES, COMMISSIONS AND OTHER COMPENSATIONS EARNED BY RESIDENTS OF THIS MUNICIPALITY; ON ALL SALARIES, WAGES, COMMISSIONS AND OTHER COMPENSATION EARNED BY NON-RESIDENTS OF THIS MUNICIPALITY, FOR WORK DONE OR SERVICES PERFORMED OR RENDERED IN THIS MUNICIPALITY; ON THE NET PROFITS EARNED ON ALL BUSINESSES, PROFESSIONS OR OTHER ACTIVITIES CONDUCTED BY RESIDENTS OF THIS MUNICIPALITY; ON THE NET PROFITS EARNED ON ALL BUSINESSES, PROFESSIONS OR OTHER ACTIVITIES CONDUCTED IN THIS MUNICIPALITY BY NON-RESIDENTS, AND ON THE NET PROFITS EARNED BY ALL CORPORATIONS DOING BUSINESS IN THIS MUNICIPALITY AS THE RESULT OF WORK DONE OR SERVICES PERFORMED OR RENDERED IN THIS MUNICIPALITY; 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 THE TAX AT THE SOURCE AND PAYING THE SAME TO THIS MUNICIPALITY; PROVIDING FOR THE ADMINISTRATION, COLLECTION AND ENFORCEMENT OF SAID TAX; DECLARING VIOLATION THEREOF TO BE A MISDEMEANOR AND IMPOSING PENALTIES THEREFOR.

BE IT ORDAINED BY the Council of the Village of Ripley, Brown County, Ohio, a majority or more of all members thereof concurring as follows:

SECTION 1. That the Codified Ordinances of the Village of Ripley, Ohio (sometimes referred to as the Ohio Basic Code of Ordinances for the Village of Ripley), be amended to include the following sections which shall be a part of Title XVII, Taxation, and shall be designated Chapter 170, Income Tax:

CHAPTER 170: INCOME TAX

| Section | Title | Page |
|---------|-----------------------------|------|
| 170.01 | Purpose | 2 |
| 170.02 | Definitions | 2 |
| 170.03 | Imposition of the Tax | 5 |
| 170.04 | Effective Period | 9 |

| | | |
|--------|--|----|
| 170.05 | Return and Payment of Tax | 9 |
| 170.06 | Collection at Source | 12 |
| 170.07 | Declarations | 14 |
| 170.08 | Duties of the Tax Commissioner | 16 |
| 170.09 | Investigative Powers of the Tax Commissioner | 18 |
| 170.10 | Interest and Penalties | 19 |
| 170.11 | Collection of Unpaid Taxes and Refunds | 21 |
| 170.12 | Violations; Penalties | 21 |
| 170.13 | Board of Review | 23 |
| 170.14 | Allocation of Funds | 24 |
| 170.15 | Credit for Tax Paid to Other Municipalities | 25 |
| 170.16 | Savings Clause | 25 |
| 170.17 | Collection of Tax After Termination of Chapter | 25 |

§ 170.01 PURPOSE.

To provide funds for the purpose of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements of the Village of Ripley there shall be, and is hereby, levied a tax on salaries, wages, commissions and other compensation, and on net profits as hereinafter provided.

§ 170.02 DEFINITIONS.

For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

(A) **ASSOCIATION**: A partnership, limited partnership, limited liability company or other form of unincorporated enterprise, owned by two or more persons.

(B) **BOARD OF REVIEW**: The Board created by and constituted as provided in §170.13 of this Chapter.

(C) **BUSINESS**: 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, real, personal or mixed.

(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, or foreign country or dependency.

(E) **DOMICILE**: A principal residence that the taxpayer intends to use for an indefinite time and to which whenever absent he intends to return. A taxpayer has only one domicile even though he may have more than one residence.

(F) **EMPLOYEE**: One who works for wages, salary, commission or other type of compensation in the service of an employer. Any person upon whom an employer is required to withhold for either federal income or social security or on whose account payments are made under the workers' compensation law shall prima facie be an employee.

(G) **EMPLOYER**: An individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage commission or other compensation basis.

(H) **FISCAL YEAR**: An accounting period of twelve (12) months or less ending on any day other than December 31st.

(I) **GROSS RECEIPTS**: The total income from any source whatsoever, excepting intangibles.

(J) **GAMBLING WINNINGS**: Proceeds arising from any game of chance, sweepstakes or similar sources where the proceeds are at least 300 times the amount of the bet or fee if any.

(K) **GENERIC FORM**: An electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation's tax on income

(L) **INTANGIBLE INCOME**: Income of any of the following types: income yield, interest, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701. of the Ohio Revised Code.

(M) **INTERNAL REVENUE CODE**: The Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.

(N) **INTERNET**: The international computer network of both federal and non-federal interoperable packet switched data networks, including the graphical sub network known as the world wide web.

(O) **MUNICIPALITY**: The Village of Ripley, Brown County, Ohio.

(P) **NET PROFITS**: The net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary, reasonable, and necessary expenses paid or accrued in accordance with the accounting system used by the taxpayer for Federal Income Tax purposes, without deducting of taxes imposed by this Chapter, federal state and other taxes based on income exclusive of the amount of Ohio franchise tax computed on the net worth basis; and in the case of an association, without deduction of salaries paid to partners, and other owners; and otherwise adjusted to the requirements of this Chapter.

(Q) **NON-RESIDENT**: A person, whether an individual, association, corporation, or other entity, domiciled outside the Village of Ripley.

(R) **RECAPTURE OF DEPRECIATION**: The income derived from the disposal of depreciated or amortized property for a gain, taxable as ordinary income.

(S) **RESIDENT**: A person, whether an individual, association, corporation or other entity, domiciled in the Village of Ripley.

(T) **OTHER PAYER**: Any person that pays an individual any item included in the taxable

(U) **PERSON**: 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, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

(V) **PLACE OF BUSINESS**: 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 employees regularly in attendance.

(W) **STOCK OPTIONS**: The sale or disposal of assets, stocks, bonds or other negotiable instruments which were obtained in part or in whole through various employer provided means to employees as a additional, alternative or other means of employee compensation or fringe benefit.

(X) **TAXABLE INCOME**: Wages, salaries, and other compensation paid by an employer or employers before any deductions and/or net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this Chapter.

(Y) **TAXABLE YEAR**: The calendar year, or the fiscal year upon the basis of which net profits are to be computed under this Chapter 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. .

(Z) **TAX COMMISSIONER**: The individual designated by this Chapter, employed by this Municipality, who shall be responsible for the administration and enforcement of this Chapter.

(AA) **TAXPAYER**: A person, whether an individual, partnership, association, or any corporation or other entity, required hereunder to file a return or pay a tax.

(BB) **GENDER**: The singular shall include the plural, and masculine shall include the feminine and the neuter.

§ 170.03 IMPOSITION OF TAX.

(A) *Basis of Imposition.*

Subject to the provisions of § 170.16 of this Chapter, an annual tax for the purposes specified in § 170.01 hereof shall be imposed on and after the effective date of the ordinance adopting this Chapter at the rate of one percent (1%) per annum upon the following:

- (1) The aggregate amount of salaries, wages, commissions, and other compensation earned, and gross income from any business, profession, or other activity, less allowable expenses incurred in acquisition of such gross income and not disallowed by the provisions of any section or subsection of this Chapter earned on and after the effective date hereof by residents of this Municipality.
- (2) On all salaries, wages, commissions and other compensation earned during on and after the effective date hereof by non-residents for work done or services performed or rendered in this Municipality.
- (3)
 - (a) On the portion attributable to this Municipality on the net profits earned on and after the effective date hereof of all resident unincorporated businesses, professions or other entities, derived from sales made, work done, services performed or rendered and business or other activities conducted in this Municipality.
 - (b) On the portion of distributive share of the net profits earned on and after the effective date hereof of a resident partner or owner of a resident unincorporated business entity not attributable to this Municipality and not levied against such unincorporated business entity by this Municipality.
- (4)
 - (a) On the portion attributable to this Municipality of the net profits earned on and after the effective date hereof of all non-resident unincorporated businesses, professions or other entities, derived from sales made, work done, or services performed or rendered and business or other activities conducted in this Municipality, whether or not such unincorporated business entity has an office or place of business in this Municipality.
 - (b) On the portion of the distributive share of the net profits earned on and after the effective date hereof of a resident partner or owner of a non-resident unincorporated business entity not attributable to this Municipality and not levied against such unincorporated business entity by this Municipality.
- (5) On the portion attributable to this Municipality of the net profits earned on and after the effective date hereof of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in this

Municipality, whether or not such corporations have an office or place of business in this Municipality.

- (6) In addition to the foregoing, the following types of income shall be taxable pursuant to the provisions of this Chapter:

(a) *Rental Property.* As a general rule, rental of real estate constitutes the operation of a business, and net profits earned are subject to taxation hereunder.

(b) *Stock Options.* Stock Options or other compensation received in the form of property are taxable when included on Form W-2 or Form 1099 for federal purposes.

(c) *Non-qualified Pension Plans.* Contributions of (or premiums paid by) the employer in the case of non-qualified plans are taxable when made and reported on IRS form W-2 or Form 1099.

(d) *Recapture of Depreciation.* Although capital gains and losses from sale, exchange or other disposition of property shall not be taken into consideration in arriving at net profits earned, any amounts of value realized on a sale, exchange or other disposition of tangible personal property or real property used in business in excess of book value shall be treated as taxable income under this Chapter to the extent of depreciation allowed or allowable.

(e) *Gambling Winnings.* Amount received as gambling winnings and reported on IRS Form W-2G or Form 5754 and or any other form from the Internal Revenue Service that reports winnings from gambling. Gambling includes, but is not limited to bingo, keno, slot machines, casino games, horse racing, dog racing, jai alai, sweepstakes, wagering pools, lotteries, prizes and any other wagering transactions.

(B) *Deductions.*

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

(C) *Business Losses Not Allowable Against W-2 Income.*

The net operating loss sustained by a business or profession is not deductible from employee earnings, but may be carried forward as provided in the rules and regulations.

(D) *Allocation of Net Profits.*

If the books and records of a taxpayer conducting a business or profession both within and without the boundaries of this Municipality disclose with reasonable accuracy what portion of its net profit is attributable to that part of the business or profession conducted within this Municipality, then only such portion shall be considered as having a taxable situs in this Municipality for purposes of this Chapter. In the absence of such records, net profit from a business or profession conducted both within and without the boundaries of this Municipality shall be considered as having a taxable situs within this Municipality for purposes of this Chapter in the same proportion as the average ratio of:

- (1) The average net book value of the real and tangible personal property owned or used by the taxpayer in the business or profession in this Municipality 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 herein, real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;
- (2) Wages, salaries, and other compensation paid during the taxable period to persons employed in the business or profession for services performed in this 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, excluding compensation that is not taxable under § 718.011 of the Ohio Revised Code;
- (3) Gross receipts of the business or profession from sales made and services performed during the taxable period in this Municipality to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

If the foregoing allocation formula does not produce an equitable result, another basis may be substituted, under uniform regulations adopted by the Board of Review, so as to produce an equitable result. As used herein, "sales made in this Municipality" mean:

- (a) All sales of tangible personal property delivered within this Municipality regardless of where title passes if shipped or delivered from a stock of goods within this Municipality;
- (b) All sales of tangible personal property delivered within this Municipality regardless of where title passes even though transported from a point outside this Municipality if the taxpayer is regularly engaged through its own

employees in the solicitation or promotion of sales within this Municipality and the sales result from such solicitation or promotion;

(c) All sales of tangible personal property shipped from a place within this Municipality to purchasers outside this Municipality 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.

(E) *Operating Loss Carry Forward.*

- (1) The portion of a new operating loss sustained in any taxable year subsequent to the effective date hereof, allocable to this Municipality, may be applied against the portion of the profit of succeeding year(s) allocable to this Municipality, until exhausted but in no event for more than five (5) taxable years. No portion of a net operating loss shall be carried back against net profits of any prior year.
- (2) The portion of a net operating loss sustained shall be allocated to this Municipality in the same manner as provided herein for allocating net profits to this Municipality.
- (3) The Tax Commissioner shall provide by Rules and Regulations the manner in which such net operating loss carry-forward shall be determined.

(F) *Consolidated Returns.*

- (1) Filing of consolidated returns may be permitted, required, or denied in accordance with Rules and Regulations prescribed by the Tax Commissioner. On and after January 1, 2003, the Tax Commissioner shall accept for filing a consolidated return from any affiliated group of corporations if that affiliated group filed for the same tax reporting period a consolidated return for federal income tax purposes pursuant to section 1501 of the Internal Revenue Code.
- (2) In the case of a corporation that carries on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates, or some other methods, or in case any person operates a division, branch, factory, office, laboratory or activity within this Municipality constituting a portion only of its total business, the Tax Commissioner shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to this Municipality. If the Tax Commissioner finds net profits are not properly allocated to this Municipality by reason of transactions with stockholders or with other corporations related by stock ownership interlocking directorates, or transactions with such divisions, branch, 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 this Municipality.

(F) *Exceptions.*

- (1) The tax provided for herein shall not be levied upon any compensation, net profits or other income that this Municipality is precluded from taxing under Ohio Revised Code Chapter 718 including, but not limited to, the military pay or allowances of members of the Armed Forces of the United States, or upon the net profits of any civic, charitable, religious, fraternal, or other organization specified in such Ohio Revised Code § 718.01 to the extent that such net profits are exempted from municipal income taxes under said section.
- (2) *Twelve-Day Occasional Entry Rule.* The tax imposed by § 170.03 of this Chapter shall not apply to the compensation of an individual if all of the following apply:
 - (a) the individual does not reside in this Municipality;
 - (b) the compensation is paid for personal services performed by the individual in this Municipality on any part of twelve or fewer days during the calendar year;
 - (c) in the case of an individual who is an employee, the principal place of business of the individual's employer is located outside this Municipality and the individual pays tax on compensation described in division (A) of this section to the municipal corporation, if any, in which the employer's principal place of business is located, and no portion of that tax is refunded to the individual;
 - (d) the individual is not a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such a promoter, all as may be reasonably defined by rules and regulations approved by the Board of Review.

§ 170.04 EFFECTIVE PERIOD.

Said tax shall be levied, collected and paid with respect to salaries, wages, commissions and other compensations or taxable incomes, and with respect to the net profits of businesses, professions or other activities earned on and after January 1, 2003

§ 170.05 RETURN AND PAYMENT OF TAX.

(A) *Dates and Exemptions.*

Each taxpayer, except as herein provided, 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 hereof, 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. The Tax Commissioner is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of tax deducted by said employer or employers, from the salaries, wages, commissions, or other compensation of an employee, and paid by him or them to the Tax Commissioner shall be accepted unless otherwise specified as the return required of any employee whose sole income, subject to tax under this Chapter, is such salary, wages, commissions, or other compensation.

(B) *Returns and Contents Thereof.*

The return shall be filed with the Tax Commissioner on a form or forms furnished by or obtainable upon request from such Tax Commissioner. In lieu thereof, the return may be filed on a "generic form" as defined in § 718.05 of the Ohio Revised Code. Regardless of which form is used, the return shall set forth:

- (1) The aggregate amounts of salaries, wages, commissions and other compensation and gross income from business, profession or other activity, less allowable ordinary, reasonable, and necessary expenses incurred in the year and subject to said tax;
- (2) The amount of the tax imposed by this Chapter on such earnings and profits; and
- (3) Such other pertinent statements, information returns, or other information as the Tax Commissioner may require, including a statement that the figures used in the return are the figures used in the return for federal income tax, adjusted to set forth only such income as is taxable under the provisions of this Chapter.

(C) *Extensions.*

- (1) The Tax Commissioner may extend the time for filing of the annual return upon the request of the taxpayer for a period of not to exceed six (6) months, or one (1) month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the federal income tax return. The Tax Commissioner 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.
- (2) Any taxpayer that has requested an extension for filing a federal income tax return may request an extension for the filing of a municipal income tax return. The taxpayer shall make the request by filing a copy of the taxpayer's request for a federal filing extension with the Tax Commissioner. The request for extension shall be filed not later than the last day for filing the municipal income tax return as prescribed in this chapter. The Tax Commissioner shall grant such a request for extension for a period not less than the period of the federal extension request. The Tax Commis-

sioner may deny a taxpayer's request for extension only if the taxpayer fails to timely file the request, fails to file a copy of the request for the federal extension, owes this Municipality any delinquent income tax or any penalty, interest, assessment, or other charge for the late payment or nonpayment of income tax, or has failed to file any required income tax return, report, or other related document for a prior tax period. The granting of an extension for filing a municipal income tax return does not extend the last date for paying the tax without penalty unless the Tax Commissioner grants an extension of that date.

(D) *Payment With Returns.*

- (1) The taxpayer making return shall, at the time of filing thereof, pay to the Tax Commissioner the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of § 170.06 of this Chapter, or where any portion of said tax shall have been paid by the taxpayer pursuant to the provisions of § 170.07 of this Chapter, or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with § 170.15 thereof, 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.
- (2) A taxpayer who has overpaid the amount of tax to which this Municipality is entitled under the provisions of this Chapter may have such overpayment applied against any subsequent liability thereunder or, at his election indicated on the return, such overpayment (or part thereof) shall be refunded, provided that no additional taxes or refunds of less than \$5.00 shall be collected or refunded.

(E) *Amended Returns.*

- (1) Where necessary an amended return must be filed in order to report additional income tax due, or claim a refund of tax overpaid, subject to the requirements and/or limit actions in § 170.11 and § 170.15 of this Chapter. Such amended returns shall be on a form obtained on request from the Tax Commissioner. A taxpayer may not change the method of accounting or apportionment of net profit after the due date for filing the original return.
- (2) Within three (3) months from the final determination of any federal tax liability affecting the taxpayer's tax liability to this Municipality, such taxpayer shall make and file an amended return showing income subject to the income tax of this Municipality 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.

170.06 COLLECTION AT SOURCE.

(A) *Withholding at Source.*

In accordance with rules and regulations prescribed by the Tax Commissioner, each employer within or doing business within this Municipality shall deduct at the time of the payment of such salary, wage, commission or there compensation, the tax at the rate established by § 170.03 of this Chapter on the gross salaries, wages, commissions or other compensation due by the said employer to said employee of the tips or gratuities reported to said employer by each said employee for Social Security or Federal Income Tax purposes and shall, on or before the fifteenth day of the month following such withholding, make a return and pay to the Tax Commissioner the amount of taxes so deducted. Said returns shall be on a form prescribed by or acceptable to the Tax Commissioner and shall be subject to the Rules and Regulations prescribed therefore by the Tax Commissioner. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such tax have in fact been withheld.

- (1) So long as the taxes withheld by an employer for this Municipality during the measurement period are less than one hundred dollars (\$100) per quarter, payments may be made quarterly on or before the last day of the month following the end of the quarter, subject to the approval of the Tax Commissioner.
- (2) The Tax Commissioner may revoke the approval of quarterly filing and payments whenever he has reason to believe that the conditions for granting such authorization have changed, were judged incorrectly, were not met, or when it is in the best interest of this Municipality to do so. Notice of such revocation of approval shall be made in writing and, in such case, the employer must begin to file in accordance with this section.

(B) *Employer Considered as Trustee.*

Such employer in collecting said tax shall be deemed to hold the same, until payment is made by such employer to this Municipality, as a Trustee for the benefit of this Municipality and any such tax collected by such employer from his employees, shall, until the same is paid to this Municipality, be deemed a trust fund in the hands of such employer. Notwithstanding the foregoing, each employee shall be liable for the payment of the tax required to be deducted and withheld, whether or not such tax, in fact, has been withheld.

(C) *Personal Liability of Corporate Officers.*

It shall be the responsibility, jointly and severally, of the officers of each corporation required to withhold the tax from the gross salaries, wages, commissions or other compensation due by the said corporation to said employee under this section to insure that all such taxes to be withheld are paid to this Municipality in accordance with the provisions of this section. In the event the taxes to be

withheld are not paid to this Municipality in accordance with the provisions of this section, the officers of said corporation shall each be criminally liable under the provisions of § 170.12 hereof.

(D) *Listing of Employees.*

On or before January 31st of each year, beginning with the year following the effective date hereof, each employer shall file a withholding return setting forth the names and addresses of all employees from whose compensation the tax was withheld during the proceeding calendar year and the amount of tax withheld from his employees and such other information as may be required by the Tax Commissioner. All payments not subject to withholding shall be reported on a form required by the Tax Commissioner.

(E) *Non-Resident Employers.*

As used in this subsection, "other payer" means any person that pays an individual any item included in the taxable income of the individual, other than the individual's employer or that employer's agent.

- (1) The Tax Commissioner shall not require any nonresident employer, agent of such an employer or other payer that is not situated in this Municipality to deduct and withhold taxes from the taxable income of an individual unless the total amount of tax required to be deducted and withheld for this Municipality on account of all of the employer's employees or all of the other payer's payees exceeds One Hundred Fifty Dollars (\$150.00) for a calendar year. If the total amount of tax required to be deducted and withheld on account of all of the nonresident employer's employees or all of the other payer's payees exceeds One Hundred Fifty Dollars (\$150.00) for a calendar year beginning on or after January 1, 2001, the Tax Commissioner may require the employer, agent, or other payer to deduct and withhold taxes in each ensuing year even if the amount required to be deducted and withheld in each of those ensuing years is One Hundred Fifty Dollars (\$150.00) or less, except as otherwise provided in subsection (E)(2) hereof.
- (2) If a nonresident employer, agent of such an employer, or other payer that is not situated in this Municipality is required to deduct and withhold taxes for an ensuing year under subsection (E)(1) hereof, and the total amount of tax required to be deducted and withheld under that subsection in each of three consecutive ensuing years is One Hundred Fifty Dollars (\$150.00) or less, the Tax Commissioner shall not require the employer, agent, or other payer to deduct and withhold taxes in any year following the last of those consecutive years unless the amount required to be deducted and withheld in any such following year exceeds One Hundred Fifty Dollars (\$150.00).

(F) *Domestic Servants.*

No person shall be required to withhold the tax on the wages or other compensation paid domestic servants employed exclusively in or about such person's residence, provided however, that such domestic servant shall be required to file his or her own return and pay the tax due thereon.

(G) *Immediate Returns.*

The Tax Commissioner for good cause may require immediate returns and payments to be submitted to his office.

§ 170.07 DECLARATIONS.

(A) *Requirement for Filing.*

Every person who anticipates any taxable income which is not subject to § 170.06 hereof, or who engages in any business, profession, enterprise or activity subject to the tax imposed by § 170.03 hereof shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated profit or loss from such business activity together with the estimated tax due thereon, if any; provided, however, if a person's income is wholly from wages from which the tax will be withheld and remitted to this Municipality in accordance with § 170.06 hereof, such person need not file a declaration.

(B) *Dates for Filing.*

- (1) Such declaration shall be filed on or before April 30th of each year during the life of this Chapter, or within four (4) months of the date the taxpayer becomes subject to tax for the first time.
- (2) Those taxpayers reporting on a fiscal year basis shall file a declaration within four (4) months after the beginning of each fiscal year or period.

(C) *Forms.*

- (1) Such declaration shall be filed on a form furnished by, or obtainable from the Tax Commissioner, provided, however, credit shall be taken for this Municipality's income tax to be withheld from any portion of such income. In accordance with the provisions of § 170.15 hereof, credit may be taken for tax to be paid to or to be withheld and remitted to another taxing municipality.
- (2) The original declaration (or any subsequent amended thereof) may be increased or decreased on or before any subsequent quarterly payment date and provided for herein.

(D) *Payment of Estimated Tax.*

Such declaration or estimate tax to be paid to this Municipality shall be accompanied by a payment of a portion of the estimated annual tax as follows:

- (1) In the case of taxpayers who are individuals:
 - (a) At least twenty-two and one-half per cent of the taxpayer's estimated tax liability for the current year shall be remitted on or before the thirtieth day of April or the day on which the annual tax return for the prior year is required to be filed disregarding any extension, as prescribed by ordinance or rule of the municipal corporation;
 - (b) At least forty-five per cent of the taxpayer's estimated tax liability for the current year shall be remitted on or before the thirty-first day of July;
 - (c) At least sixty-seven and one-half per cent of the taxpayer's estimated tax liability for the current year shall be remitted on or before the thirty-first day of October;
 - (d) At least ninety per cent of the taxpayer's estimated tax liability for the year referred to in division (1)(a), (b), and (c) of this section shall be required to have been remitted on or before the thirty-first day of January.
 - (e) Any amount deducted and withheld for taxes from the compensation of an individual shall be considered as estimated taxes paid in equal amounts on each of the payment dates prescribed by division (1)(a), (b), (c) and (d) of this subsection.
- (2) In the case of taxpayers who are not individuals:
 - (a) At least twenty-two and one-half per cent of the taxpayer's estimated tax liability for the current year shall be remitted on or before the day on which the annual tax return for the prior year is required to be filed disregarding any extension or, in the case of a fiscal year taxpayer, the fifteenth day of the fourth month of the taxpayer's taxable year;
 - (b) At least forty-five per cent of the taxpayer's estimated tax liability for the current year shall be remitted on or before the fifteenth day of June or, in the case of a fiscal year taxpayer, the fifteenth day of the sixth month of the taxpayer's taxable year;
 - (c) At least sixty-seven and one-half per cent of the taxpayer's estimated tax liability for the current year shall be remitted on or before the fifteenth day of September or, in the case of a fiscal year taxpayer, the fifteenth day of the ninth month of the taxpayer's taxable year;

(d) At least ninety per cent of the taxpayer's estimated tax liability for the current year shall be remitted on or before the fifteenth day of December or, in the case of a fiscal year taxpayer, the fifteenth day of the twelfth month of the taxpayer's 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 dates.

(E) *Penalty for Underestimate.*

If it appears that the original declaration and payments made for such year underestimated the taxpayer's income by thirty percent (30%) or more, the difference between seventy percent (70%) of said taxpayer's tax liability and the amount of estimated tax actually paid on or before the last day of thirteenth month after the beginning of the taxable year, shall be subject to the interest and penalty provisions of § 170.10 hereof.

(F) *Exceptions to Penalty Requirements.*

No penalty, interest, interest penalty, or other similar assessment or charge shall be assessed against a taxpayer for the late payment or nonpayment of estimated tax liability in either of the following circumstances:

- (1) The taxpayer is an individual who resides in this Municipality but was not domiciled there on the first day of January of the current calendar year;
- (2) The taxpayer has remitted, pursuant to division (D)(1) or (D)(2) of this section, an amount at least equal to one hundred per cent of the taxpayer's tax liability for the preceding year as shown on the return filed by the taxpayer for the preceding year, provided that the return for the preceding year reflected a twelve-month period and the taxpayer filed a return for the preceding year.

(G) *Annual Return Required.*

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 this Municipality shall be paid therewith in accordance with the provisions of § 170.05 hereof.

§ 170.08 DUTIES OF THE TAX COMMISSIONER.

(A) *Collection and Maintenance Responsibility.*

- (1) There is hereby created the position of Tax Commissioner who shall be appointed by the Mayor and approved by the vote of a majority of the members of the Council of this Municipality and shall serve until his or her successor is appointed and qualified.

It shall be the duty of the Tax Commissioner to receive the tax imposed by this Chapter in the manner prescribed herein from the taxpayers; to keep an accurate record thereof; and to report all monies so received.

- (2) It shall be the duty of the Tax Commissioner to enforce payment of all taxes owing this Municipality, to keep accurate records for a minimum of five (5) years showing the amount due from each taxpayer required to file a declaration and/or to make any return, including taxes withheld, and to show the dates and amounts of payments thereof.

(B) *Enforcement Authority.*

Said Tax Commissioner is hereby charged with the enforcement of the provisions of this Chapter, 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 administration and enforcement of the provisions of the provisions of this Chapter, including provisions for the re-examination and correction of returns.

The Tax Commissioner 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 Tax Commissioner 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 owned by him under this Chapter.

Failure to make any deferred payment when due, shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of § 170.11 and § 170.12 of this Chapter shall apply.

(C) *Determination of Taxes.*

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 Commissioner may determine the amount of tax appearing to be due this 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.

(D) *Compromise Authority.*

Subject to the consent of the Board of Review, or pursuant to regulations approved by said Board, the Tax Commissioner shall have the power to compromise any interest or penalty or both imposed by § 170.10 of this Chapter.

**§ 170.09 INVESTIGATIVE POWERS OF THE TAX COMMISSIONER – PENALTY FOR
DIVULGING CONFIDENTIAL INFORMATION.**

(A) *Information by Landlords.*

- (1) Within thirty (30) days after a new tenant occupies rental property of any kind within this Municipality, all owners of rental property who rent to tenants of apartments, room and other rental accommodations shall file with the Tax Commissioner a report showing the name, address and telephone number, if available, of each such tenant who occupies an apartment, room or other rental property within this Municipality.
- (2) Within thirty (30) days after a tenant vacates an apartment, room or other rental property located within this Municipality, the owner of such vacated rental property shall file with the Tax Commissioner a report showing the date of vacation from the rental property and a forwarding address.

(B) *Examination of Taxpayer's Records.*

The Tax Commissioner, 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 Tax Commissioner believes is subject to the provisions of this Chapter, for the purpose of verifying the accuracy of any return made, or if no return was made, to ascertain the tax due under this Chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish upon request by the Tax Commissioner, or his duly authorized agent or employee, the means, facilities, and opportunity for making such examinations and investigations as are hereby authorized.

(C) *Appearance Order.*

The Tax Commissioner 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 reported 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.

(D) *Subpoena Power of Tax Commissioner.*

- (1) In order to carry out the provisions of this Chapter, the Tax Commissioner shall have the power to issue subpoenas to compel the attendance of witnesses and to compel the production of documents at any hearing or examination permitted under this Chapter.

- (2) The Tax Commissioner is authorized to utilize the services of the Ripley Police Department for the service of any subpoenas, notices and orders of the Tax Commissioner.
- (3) The Tax Commissioner may; in his discretion and in lieu of the Ripley Police Department, appoint one or more special process servers for the service of subpoenas, notices or orders if he deems that such would better preserve confidentiality, avoid conflicts of interest or is such would be in the best interest of this Municipality or any individual taxpayer.

(E) *Refusal to Submit.*

The refusal to produce books, papers, records and federal income tax returns, or the refusal to submit to such examination by any employer or person subject or presumed subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this section or with an order or subpoena of the Tax Commissioner authorized hereby shall be deemed to a violation of this Chapter, punishable as provided in § 170.12 hereof.

(F) *Confidential Nature of Information.*

Any information gained as a result of any returns, investigations, verifications or hearings before the Tax Commissioner, required by this Chapter or authorized by the Rules and Regulations shall be confidential and no disclosure thereof shall be made except for official purposes or as ordered by a court of competent jurisdiction. Any person divulging such information shall be guilty of a misdemeanor of the third degree punishable by a maximum fine of Five Hundred Dollars (\$500.00) or imprisonment for not more than sixty (60) days, or both. Each disclosure shall constitute a separate offense. In addition to the above penalty, any employee of this Municipality who violates the provisions of this Section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

(G) *Retention of Records by Taxpayer.*

Every taxpayer shall retain all records necessary to compute his tax liability for a period of five (5) years from the date his return is filed, or the withholding taxes are paid.

§ 170.10 INTEREST AND PENALTIES.

(A) *Interest.*

All taxes imposed and all monies, withheld or required to be withheld by employers under the provisions of this Chapter and remaining unpaid after they become due shall bear interest at the rate of one-half percent (½%) per month or fraction thereof.

(B) *Penalties.*

In addition to interest as provided in paragraph (A) hereof, penalties based for failure to pay taxes and to withhold and remit taxes pursuant to the provision of this Chapter are hereby imposed as follows:

- (1) In the case of taxpayers failing to pay the full amount of tax due, a penalty of the higher of:
 - (a) Fifty Dollars (\$50.00) or
 - (b) one and one-half (1-1/2%) percent per month, or fraction thereof, of the amount of the unpaid tax, if the tax is paid during the first three (3) months after said tax became due; a penalty of two and one-half (2-1/2%) percent per month, or fraction thereof, of the amount of the unpaid tax, if said tax is paid between the fourth and sixth months after said tax became due; and a penalty of four and one-half (4-1/2%) percent per month, or fraction thereof, of the amount of the unpaid tax, if the tax is paid later than six (6) months after said tax became due. The percentages herein specified, when used, shall apply from the first month of delinquency.
- (2) In the case of employers who fail to withhold and remit to the Tax Commissioner the taxes to be withheld from employees, a penalty of the higher of:
 - (a) One Hundred Dollars (\$100.00) or
 - (b) two and one-half (2-1/2%) percent per month, or fraction thereof, of the amount of the unpaid withholding if paid during the first three (3) months after it due; a penalty of four and one-half (4-1/2%) percent per month, or fraction thereof, of the unpaid withholding, if paid during the fourth to sixth month, inclusive, after it was due; and a penalty of five and one-half (5-1/2%) percent per month, or fraction thereof, of the unpaid withholding, if paid later than six (6) months after it was due. The percentages herein specified, when used, shall apply from the first month of delinquency.

(C) *Exceptions.*

A penalty shall not be assessed on an additional tax assessment made by the Tax Commissioner when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Tax Commissioner; and provided further, that, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, providing an amended return is filed and the additional tax is paid within three (3) months after final determination of the federal tax liability.

(D) *Abatement by Board of Review.*

Upon recommendation of the Tax Commissioner, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the Tax Commissioner to recommend abatement of penalty and/or interest, the Board may nevertheless abate penalty or interest, or both.

§ 170.11 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

(A) *Time Limitation on Suits.*

All taxes imposed by this Chapter shall be collectible, together with any interest and penalties thereon, by suit as other debts of like amount are recoverable. No additional assessment shall be made after three (3) years from the time of payment of any tax due hereunder; provided, however, there shall be no period of limitation on an additional assessment in a case of a return that omits gross income in excess of twenty-five percent (25%) of that required to be reported or in the case of filing a false or fraudulent return with intent to evade the tax, or in the case of a failure to file a return. In those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitations the period within which an additional assessment may be made by the Tax Commissioner shall be extended on (1) year from the time of the final determination of the federal tax liability.

(B) *Time Limitation on Refunds.*

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, or the return was due, or within three (3) months after final determination of the federal tax liability, whichever is later.

§ 170.12 VIOLATIONS - PENALTIES.

(A) *Enumeration of and Penalties.*

Any Person who shall:

- (1) Fail, neglect or refuse to make any report, return or declaration required by this Chapter; or
- (2) Make any incomplete, false or fraudulent return; or
- (3) Willfully fail, neglect or refuse to pay the taxes, penalties, or interest imposed by this Chapter; or
- (4) Willfully fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Tax Commissioner; or

- (5) Refuse to permit the Tax Commissioner 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) Fail to appear before the Tax Commissioner and to produce his books, records, papers or Federal Income Tax Returns relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Commissioner; or
- (7) Refuse to disclose to the Tax Commissioner any information with respect to the income or net profits of a taxpayer; or
- (8) Fail to comply with the provisions of this Chapter or any order or subpoena of the Tax Commissioner authorized hereby; or
- (9) Willfully fail, neglect, or refuse to make any payment on the estimated tax for any year as required by § 170.07; or
- (10) Fail, as an officer or resident manager of a corporation, to cause the tax withheld from the wages of the employee of such corporation pursuant to this Chapter to be paid to this Municipality in accordance with the provisions of § 170.06 hereof; or
- (11) Give to an employer false information as to his true name, correct social security number and residence address; or
- (12) Fail to use ordinary, diligence in maintaining proper records of employees' residence addresses, total wages paid and this Municipality's income tax withheld, or to knowingly give the Tax Commissioner false information; or
- (13) Attempt to do anything whatsoever to avoid, the payment of the whole or any part of the tax, penalties or interest imposed by this Chapter.

shall be guilty of a misdemeanor of the third degree punishable by a maximum fine of Five Hundred Dollars (\$500.00) or imprisonment for not more than sixty (60) days, or both for each offense.

(B) *Time Limit on Prosecutions.*

Criminal prosecutions for an offense made punishable under this section or any other provision of this Chapter shall be commenced within three (3) 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 (6) years after the commission of the offense.

(C) *Failure to Obtain Forms Not a Defense.*

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.

(D) *Responsibility of Corporation Employees.*

The term person, as used in this section shall, in addition to the meaning prescribed in § 170.02 of this Chapter, include in the case of an association or corporation not having any partner, member, or officer within this Municipality, any employee or agent of such association or corporation who can be found within the corporate limits of this Municipality.

§ 170.13 BOARD OF REVIEW.

(A) *Composition and Procedure.*

A Board of Review consisting of a chairman and two other individuals to be appointed by the Mayor with the approval of majority of Council is hereby created. All members shall serve without compensation. A majority of the members of the Board shall constitute a quorum. Any hearing by the Board may be conducted privately and the provisions of § 170.09 with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as may be heard before the Board on appeal.

(B) *Rules and Regulations.*

All rules and regulations and amendments or changes thereto, which are adopted by the Tax Commissioner under the authority conferred by this Chapter 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 Tax Commissioner, as set forth below, and, at the request of the taxpayer or Tax Commissioner, is empowered to substitute alternate methods of allocation.

(C) *Notice of Right to Appeal.*

Whenever the Tax Commissioner issues a decision regarding a municipal income tax obligation that is subject to appeal as provided in this section the Tax Commissioner shall notify the taxpayer at the same time of the taxpayer's right to appeal the decision and of the manner in which the taxpayer may appeal the decision.

(D) *Appeals.*

Any person who is aggrieved by a decision of the Tax Commissioner and who has filed with the Tax Commissioner the required returns or other documents pertaining to the municipal income tax obligation at issue in the decision may appeal the decision to the Board created pursuant to this

section by filing a request with the Board. The request shall be in writing, shall state why the decision should be deemed incorrect or unlawful, and shall be filed within thirty (30) days after the Tax Commissioner issues the decision complained of.

(E) *Hearing on Appeal.*

The Board shall schedule a hearing within forty-five (45) days after receiving the request, unless the taxpayer waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the Board and may be represented by an attorney at law, certified public accountant, or other representative.

(F) *Decision on Appeal.*

The Board may affirm, reverse, or modify the Tax Commissioner's decision or any part of that decision. The Board shall issue a decision on the appeal within ninety days after the Board's final hearing on the appeal, and send notice of its decision by ordinary mail to the petitioner within fifteen days after issuing the decision.

(G) *Record of Hearing.*

The Board shall adopt rules governing its procedures and shall keep a record of its transactions. Such records are not public records available for inspection under Ohio R.C. 149.43. Hearings requested by a taxpayer before the Board are not meetings of a public body subject to Ohio R.C. 121.22.

§ 170.14 ALLOCATION OF FUNDS.

The funds collected under the provisions of this Chapter shall be deposited in the General Fund and said funds collected from the imposition date of the tax under this Chapter shall be disbursed for the following, to wit:

(A) *Administrative Expenses.*

Such part thereof as shall be necessary to defray all cost of collection the taxes and the cost of administering and enforcing the provisions thereof;

(B) *General Municipal Operations.*

The balance of any monies collected under the provisions of this Chapter shall be allocated to the general fund for the purpose of general municipal operations.

§ 170.15 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(A) *Limitation on Amount Paid.*

Where a resident of this Municipality is subject to a municipal income tax in another municipality he shall not pay a total municipal income tax on the same income greater than the tax imposed at the higher rate.

(B) *Credit Against Tax.*

Every individual taxpayer who resides in this Municipality who receives net profits, salaries, wages, commission or other personal service compensation for work done or services performed or rendered outside this Municipality, if it be made to appear that he has paid a municipal income tax on same income taxable under this Chapter to another municipality, shall be allowed a credit against the tax imposed by this Chapter of the amount so paid by him or in his behalf to such other municipality. The credit shall not exceed the tax assessed by this Chapter on such income earned in such other municipality or municipalities where such tax is paid.

(C) *Claim for Refund.*

A claim for refund or credit under this section shall be made in such manner as the Tax Commissioner may by regulation provide.

§ 170.16 SAVINGS CLAUSE.

If any sentence, clause, section or part of this Chapter or the ordinance adopting this Chapter, 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 not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this Chapter. It is hereby declared to be the intention of the Council of this Municipality that the ordinance adopting this Chapter would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section or part thereof not been included herein.

§ 170.17 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

(A) *Continuing Effect.*

This Chapter shall continue insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions or proceedings for collection on any tax so levied or enforcing any provisions of this Chapter are concerned, it shall continue effective until all of said taxes levied hereunder are fully paid and any and all suits and prosecutions for the collection of said taxes or for the punishment of violations of this ordinance shall have been fully terminated, subject to the limitations contained in § 170.11 and § 170.12 hereof.

(B) *Due Date of Final Returns*

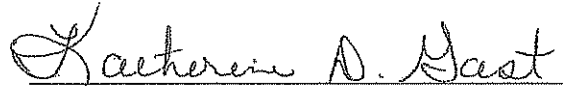
Annual returns due for all or part of the last effective year of this Chapter shall be due on the date provided in § 170.05 and § 170.06 of this Chapter as though the same were continued.

SECTION 2. Ordinance No. 871 enacted by the Council of the Village of Ripley, Ohio on November 22, 1988 shall be repealed effective at midnight on December 31, 2002 to the extent of the levy and imposition of the tax provided for therein, provided however that said Ordinance No. 871 shall continue effective insofar as the collection of any tax levied or imposed or enforcing any provisions of said Ordinance No. 871 are concerned until all such taxes are fully paid and any and all suits and prosecutions for the collection of said taxes or for the punishment of violations of said Ordinance No. 871 have been fully terminated; and provided further that if the operation of this Ordinance is stayed for any reason beyond December 31, 2002 said Ordinance No. 871 shall not be deemed repealed and shall remain in full force and effect for all purposes until such time as this Ordinance is fully in effect; and if, for any reason, the provisions of this Ordinance should never become effective, said Ordinance No. 871 shall remain in full force and effect.

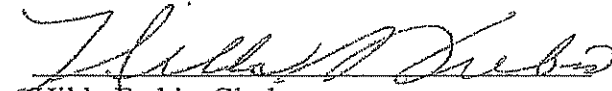
SECTION 3. Subject to the provisions of § 170.04 of this Ordinance as to the effective date of the imposition of the tax imposed by this Ordinance, this Ordinance shall be effective from and after the earliest date allowed by law.

SECTION 4. It is found and determined that all formal actions of this Council relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its Committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Ohio Revised Code § 121.22.

Adopted this 22nd day of October, 2002.


Katherine D. Gast, Mayor

ATTEST:


Hilda Frebis, Clerk