

EMERGENCY ORDINANCE NO. 2014-01

Suspend the Rules and Pass as an Emergency and shall go into immediately effect upon passage of Council for the Preservation, Health, Safety, Welfare, General Operating Expenses, Maintenance and Current Financial Obligations.

INCOME TAX

- 98.01 PURPOSE
- 98.02 DEFINITIONS
- 98.03 IMPOSITION OF TAX
- 98.04 EFFECTIVE DATE
- 98.05 RETURN AND PAYMENT OF TAX
- 98.06 COLLECTION AT SOURCE
- 98.07 DECLARATIONS
- 98.08 DUTIES OF THE TAX COMMISSIONER
- 98.09 INVESTIGATIVE POWERS OF THE TAX COMMISSIONER; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION
- 98.10 INTEREST AND PENALTIES
- 98.11 COLLECTION OF UNPAID TAXES AND REFUND OF OVERPAYMENTS
- 98.12 BOARD OF REVIEW
- 98.13 ALLOCATION OF FUNDS
- 98.14 SAVING CLAUSE
- 98.15 VIOLATIONS
- 98.16 RECIPROCITY WITH OTHER MUNICIPALITIES
- 98.99 PENALTY

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF SOUTH SOLON, MADISON COUNTY, OHIO:

98.01 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 there is levied a tax on salaries, wages, commissions, and other compensation, and on net profits as hereinafter provided.

98.02 DEFINITIONS

For the purposes of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"ASSOCIATION" A partnership, or any other form of unincorporated enterprise, owned by two or more persons.

"BOARD OF REVIEW" The board created by and constituted as provided for in 98.12 of this subchapter.

"BUSINESS" An enterprise, activity, profession, or undertaking of any nature conducted for profit, whether by an individual, partnership, association, corporation, or any other entity.

"CORPORATION" A corporation or joint association organized under the law of the United States, the State of Ohio, or any other state, territory or foreign country or dependency.

"EMPLOYEE" One who works for wages, salary, commissions, or types of compensation in the services of any employer.

"EMPLOYER" An individual, partnership, association, corporation, governmental body, unit, or agency, or other entity, whether or not organized for profit, and including the officers and senior resident manager, who or that employs one or more persons on a salary, wage, commission or other compensation basis.

"FISCAL YEAR" An accounting period of 12 months ending on any day other than December 31st.

"GROSS RECEIPTS" Total income of taxpayers from whatever source derived.

"MUNICIPALITY" The Village of South Solon, Ohio.

"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, authorized by this subchapter, either paid or accrued in accordance with the provisions of this subchapter and the rules and regulations set forth by the Tax Commissioner, without deductions of taxes imposed by this subchapter, federal, state, and other taxes based on income exclusive of the amount of the Ohio franchise tax computed on the net worth basis; and in the case of an association, without deduction adjusted to the requirements of this subchapter.

"NONRESIDENT" A person, whether an individual, association, corporation, or other entity, domiciled outside the village.

"PERSON" Every natural person, partnership, fiduciary, association, corporation, or other entity. Whenever used in any clause prescribed and imposing a penalty, the term "person" as applied to any association shall include the partners or members thereof, and as applied to corporations, the officers thereof.

"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 employees, regularly in attendance.

"RESIDENT" A person, whether an individual, association, corporation, or other entity, domiciled in the village.

"TAX COMMISSIONER" The Tax Commissioner of the village or the person executing the duties of the aforesaid commissioner.

"TAX YEAR" The calendar year, or the fiscal year, upon the basis of which net profits are to be computed under this subchapter and, in the case of a return for a fractional part of a year, the period for which such return is required to be made.

"TAXPAYER" A person, whether an individual, partnership, association, corporation, or other entity, required by this subchapter to file a return or pay a tax.

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

TAXABLE INCOME

RESIDENT:

1. All salaries, wages, rental income, commissions and other compensation earned.

NON-RESIDENT

1. All salaries, wages, rental income, commissions and other compensation earned for work done or services performed or rendered in the Village of South Solon, Ohio.

RESIDENT UNINCORPORATED BUSINESS, PROFESSIONS OR OTHER ENTITIES:

1. On the portion attributable to the Village of South Solon, Ohio of the net profits earned and derived from sales made, work done or services performed or rendered and rental income derived in the Village of South Solon.

2. On the portion of the distributive share of the net profits earned (Schedule K-1, Form 1040) of a resident partner or owner of a resident unincorporated business entity not attributable to the Village of South Solon, Ohio and not levied against such unincorporated business entity.

NON-RESIDENT UNINCORPORATED BUSINESS ENTITY:

1. On the portion attributable to the Village of South Solon, Ohio of the net profits earned and derived from sales made, work done or services performed or rendered and rental income derived in the Village of South Solon, Ohio whether or not such entity has an office or place of business entity in the Village of South Solon, Ohio.

2. On the portion of the distributive share of the net profits earned (Schedule K-1, Form 1040) of a resident partner or owner of a non-resident unincorporated business entity not attributable to the Village of South Solon, Ohio and not levied against such entity.

CORPORATIONS:

1. On the portion attributable to the Village of South Solon, Ohio of the net profits earned of all corporations derived from sales made, work done, services performed or rendered, rental income and whether or not such corporations have an office or place of business in the Village of South Solon, Ohio. Allocation formula used is the same as that for the State of Ohio.

RENTAL INCOME:

1. One rental- Rental income is taxable on all income over \$100.00 per month gross.

2. More than one Rental- More than one property for rental income is considered as a business entity and the entire income is taxable with no provision for a minimum amount.

3. Farm Rental- Considered a business entity and entire income is taxable.

4. ALL DEDUCTIONS ALLOWED BY THE FEDERAL GOVERNMENT ARE ALLOWED BY THE VILLAGE OF SOUTH SOLON ON RENTAL INCOME.

NON-TAXABLE INCOME

1. Poor relief.
2. Unemployment compensation.
3. Old Age Pension.
4. Pensions.
5. Social Security benefits.
6. Military pay or allowances.
7. Alimony received.
8. Interest and dividends from intangible property.
9. Proceeds of insurance's.
10. Proceeds of annuities.
11. Worker Compensation Proceeds.
12. Compensation for damages for personal injury.
13. Compensation for damages to property.
14. Gains from involuntary conversion, cancellation of indebtedness or interest on federal obligations.
15. Earnings and income of all persons under eighteen (18) years of age.
16. Dues, contributions and similar payments received by charitable, religious, educational or literary organizations.
17. Receipts from casual entertainment, amusements, sports events, and health and welfare activities conducted by bonafide charitable, religious, and educational organizations and associations.
18. Any association, organization, corporation, club or trust, which is exempt from federal taxes on income by reason of its charitable, religious, educational, literary, scientific, etc. purposes.

98.03 IMPOSITION OF TAX

(A) Basis of imposition. Subject to the provisions of 98.15, an annual tax for the purposes specified 98.01 hereof, shall be, and is hereby levied on and after **July 1, 2014** at the rate of 1% per annum upon the following:

(1) The aggregate amounts 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 subchapter, earned during the preceding year by residents.

(2) On all salaries, wages, vacation pay, commissions, and other compensation earned, during the effective period of this subchapter, by nonresidents for work done or service performed in the municipality.

(3) (a) On the portion attributable to the municipality of the net profits earned during the effective period of this subchapter of all resident associations, unincorporated businesses, professions, or other entities, derived from sales made, work done, or services performed or rendered, or business or other activities conducted in the municipality.

(b) On a resident partner's or owner's share of the net profits earned during the effective period of this subchapter of a resident association or other unincorporated entity not attributable to the municipality and not levied against such association or other unincorporated entity.

(4) (a) On the portion attributable to the municipality of the net profits, earned during the effective period of this subchapter, of all nonresident associations, unincorporated businesses, professions, or other entities, derived from sales made, work done, or services performed or rendered of business or other activities conducted in the municipality, whether or not such association or other unincorporated entity has a office or place of business in the municipality.

(b) On a resident partner's or owner's share or the net profits earned during the effective of this subchapter of a nonresident association or other unincorporated entity not attributable to the municipality, and not levied against such association or other unincorporated entity.

(5) On the net profits earned during the effective period of this subchapter of all corporations derived from sales made, work done, services performed or rendered, and business or other activities conducted in the municipality whether or not such corporations have an office or place of business in the municipality.

(B) Allocation of net profits.

(1) Where a person conducts a business both within and outside the municipality, the portion of the entire net profits of such business to be allocated as having been made within the municipality may be determined from the records of such business, if such business has bona fide records which disclose with reasonable accuracy what portion of its net profits is attributable to that part of its activities conducted within the municipality or at the option of the taxpayer may be determined by the following formula, which shall be used if taxpayer has no bona fide records showing net profits from village business activities, subject, however, to the provisions of division (2) hereof.

(2) Multiply the entire net profits of the business by a business allocation percentage to be determined by:

(a) Ascertaining the percentage with the average net book value of the real and tangible personal property owned or used in the business and situated within the municipality, during the period covered by the return is of the average net book value of all the real and tangible personal property owned or used in the business, wherever situated, during such period.

(b) Ascertaining the percentage which the gross receipts of the business from sales made and services performed in the municipality, during the period covered by the return, are of the total gross receipts from all sales and services, wherever made or performed, during such period.

(c) Ascertaining the percentage which the total wages, salaries, commission, and other compensation paid, during the period covered by the return, to employees for services performed in the municipality is of the total wages, salaries, commissions, and other compensation paid during such period to all employees within and outside the municipality.

(d) Adding together the percentages determined in accordance with divisions (B) (2) (a), (b), (c) above, or such of the aforesaid percentages as are applicable to the particular taxpayer, and dividing the total so obtained by the number of percentages used in deriving the total.

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

2. Provided, however, that in the event a just and equitable result cannot be obtained under the formulas provided for herein, the board of review, upon application of the taxpayer or the Tax Commissioner, shall, under uniform regulations adopted by the Board, have authority to substitute other factors or methods calculated to effect a fair and proper allocation.

(C) Operating loss carry-forward

(1) The portion of a net operating loss sustained in any taxable year, subsequent to July 1, 2014, allocable to the municipality, may be applied against the portion of the profit of succeeding years, allocable to the municipality, until exhausted, but not for more than three taxable years. No portion of net operating loss shall be carried back against net profits of any prior year.

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

(3) The Tax Commissioner shall provide by rules and regulations the manner in which such net operating loss carry-forward shall be determined.

(D) Consolidated returns.

(1) Filing of consolidated returns, provided they clearly show the income and expense attributable to the municipality alone, may be permitted, required, or denied, in accordance with rules and regulations by the Tax Commissioner.

(2) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates, or some other method, the Tax Commissioner shall require such information, in addition to the return hereinafter provided for, as he may deem necessary to ascertain whether net profits, are properly allocated to the municipality. If the Tax Commissioner finds net profits are not properly allocated to the municipality by reason of transaction with stockholders or with other corporations related by stockownership, interlocking directorates, of some other method, he may require the filing of a consolidated return or adjust such transactions so as to produce a fair and proper allocation of net profits to the municipality.

(E) Exception. The tax provided for herein shall not be levied upon 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 R.C. chapter 718 to the extent that such net profits are exempted from municipal income taxes under this section.

98.04 EFFECTIVE DATE

The tax imposed by this subchapter shall be levied, collected, and paid with respect to all income and net profits, subject to the tax, earned on or after JULY 1, 2014

98.05 RETURN AND PAYMENT OF TAX

(A) Dates and exemptions. Each person who, engaged in business, or whose salary, wages, commissions, or other compensation are subject to the tax imposed by this subchapter shall, whether or not a tax be due thereon, make and file, on or before April 30th in each year, beginning with the year 2014 a return with the Tax Commissioner. A taxpayer on a fiscal year accounting basis for federal income tax purposes shall, beginning with his first fiscal year, any part of which falls within the effective period of this subchapter, file his return within four months from the end of such fiscal year or period. The Tax Commissioner is authorized to provide by regulation that the return of an employer or employers, showing the amount of tax deducted by the employer or employers from the salaried, wages, commissions, or other compensation of an employee, and paid by him or them to the Tax Commissioner shall be accepted as the return required of any employee whose sole income, subject to tax under this subchapter, 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 the Tax Commissioner setting forth:

(1) The aggregate amounts of salaries, wages, commissions, and other compensations earned, and the gross income from any business, profession, or other activity, less allowable expenses incurred in the acquisition of such gross income, earned during the preceding year and subject to the tax. Moneys set aside for pensions of shareholders in corporations that have been excused for filing with the Division of Securities of the State Department of Commerce shall not be considered an allowable expense.

(2) The amount of the tax imposed by this subchapter 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 subchapter.

(4) No return shall be considered to have been submitted unless it clearly sets forth the income and expenses attributable to the municipality alone.

(C) Extensions. The Tax Commissioner may extend the time for filing of the annual return upon the request of the taxpayer for a period of time not to exceed six (6) months, or one month beyond any extension requested of or granted by the Internal Revenue Service for 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.

(D) Payments with returns

(1) The taxpayer making return shall at the time of the filing thereof pay to the Tax Commissioner the amount of taxes shown as due thereon; provided, however, that where the source, pursuant to the provisions of 98.06, or where any portion of the tax shall have been paid by the taxpayer, pursuant to the provisions of 98.07, shall be due and payable at the time of filing the return.

(2) A taxpayer who has overpaid the amount of tax to which the municipality is entitled under the provisions of this subchapter may have such overpayment applied against any subsequent liability hereunder or as his election indicated on the return, such overpayment, or part thereof, shall be refunded, provided that no additional taxes or refunds of less than \$1.00 (one dollar) shall be collected or refunded.

(E) Amended returns

(1) Where necessary an amended return must be filed in order to report additional income and pay an additional tax due, or claim a refund of tax overpaid, subject to the requirements and limitations contained in 98.11. Such amended returns shall be on a form obtainable on request from the Tax Commissioner.

(2) Within three months from the final determination of any federal tax liability affecting the taxpayer's Village return, showing income subject to the municipality tax based upon such final determination of federal tax liability, and pay any additional tax shown thereon, or make claim for refund of any overpayment.

98.06 Collection at Source

(A) Withholding by Employer. Each employer within, or doing business with the municipality, who employs one or more persons on a salary, wage, commission, or other compensation basis, shall deduct at the time of the payment of such salaries, wages, commissions, or other compensations due by the employer to each said employee, and shall beginning with the year 2014, on or before the last day of each month, or at the end of each calendar quarter at the option of the employer, make a return and pay to the Tax Commissioner the amount of taxes so deducted during the preceding month or quarter. The return shall be on a form or forms prescribed by or acceptable to the Tax Commissioner and shall be subject to the rules and regulations prescribed therefore by the Tax Commissioner.

(B) Employer considered as trustee. Each employer in collecting the tax shall be deemed to hold the same, until payment is made by such employer to the municipality, as a trustee for the benefit of the municipality, and any such tax collected by such employer from his employees shall, until the same is paid to the municipality, be deemed a trust fund in the hands of such employer. 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) Corporate officers personal liability. It shall be the responsibility, jointly and severally, of the officers of each corporation required to withhold the tax from wages of its employees under this section to see that all such taxes so withheld are paid to the municipality in accordance with the provisions of this section. In the event taxes withheld by a corporation from the salaries of its employees are not paid to the municipality in accordance with the provisions of this section, the officers of the corporation shall each be criminally liable under the provisions of 98.99 hereof.

(D) Employees' listings. On or before April 30th of each year, beginning with the year 2015, each employer shall file a withholding return, on a form or forms prescribed by and obtainable from the Tax Commissioner, setting forth the tax which was withheld during the preceding calendar year and such other information as may be required by the rules and regulations adopted by the Tax Commissioner.

(E) Domestic servants. Provided, however, that 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. However, such domestic servants shall be responsible for filing and paying their own returns and taxes.

98.07 Declarations

(A) Requirements for filing. Every person who anticipates any taxable income which is not subject to 98.06 hereof, or engages in any business, profession, enterprise, or activity, may file declaration setting forth such estimated income or the estimated profit or loss from such business activity, together with the estimated tax due thereon, if any.

(B) Dates for filing.

(1) Such declaration, beginning with the year 2015, and thereafter during the life of this ordinance, shall be filed, on or before April 30th, or within four (4) months of the dates the taxpayer first becomes subject to the provisions of this sections.

(2) Those taxpayers reporting on a fiscal year basis shall file a declaration within four (4) months after the start of each year or period.

(C) Forms - Payment dates

(1) Such declarations shall be filed upon a form furnished by or obtainable from the Tax Commissioner.

(2) In the year 2015 and thereafter at least one-fourth (1/4) of the estimated tax, shall be paid on or before the last day of the seventh, tenth, and thirteenth months after the beginning of the tax year.

(3) A declaration may be amended at any time, provided, however, that in case an amended declaration is filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

(D) Amended declarations. An amended declaration may be filed with the filing of any quarterly return.

(E) Annual return required. On or before the last day of the fourth month of the calendar or fiscal year following that for which the declaration was filed, an annual return shall be filed and any balance which may be due the municipality shall be paid therewith in accordance with the provisions of 98.05 hereof.

98.08 Duties of the Tax Commissioner

(A) Collection and maintenance responsibility

(1) There is created an independent department, to titled the Village Income Tax Bureau for the administration of the provisions of this chapter and also is created the position known as the Tax Commissioner. Such bureau shall consist of a Tax Commissioner, and such clerical and secretarial personnel as may be necessary for the administration of this subchapter. All such personnel shall be appointed by the Mayor with the consent of council. The Tax Commissioner shall be also be Deputy Village Treasurer, for the purpose of collecting and depositing all income tax revenue.

(2) It shall be the duty of the Tax Commissioner to collect and receive the tax imposed by this subchapter in the manner prescribed therein, and to keep an accurate record thereof, and to report all moneys so received.

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

(B) Enforcement authority. The Tax Commissioner is hereby charged with the enforcement of the provisions of this subchapter, and empowered, subject to the approval of a Board of Review, to adopt and promulgate and to enforce rules and regulations authorized or required by this subchapter, relating to any matter or thing pertaining to the collection and payment of taxes and the administration and enforcement of the provisions of this subchapter, including provisions for the reexamination and correction of returns.

(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 the municipality from the taxpayer and will 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 regulation approved by the Board of Review, the Tax Commissioner shall have the power to compromise any liability imposed by this subchapter.

98.09 Investigative powers of the Tax Commissioner, penalty for divulging confidential information.

(A) Examination of taxpayers records. The Tax Commissioner, or any of his authorized agents, is authorized to examine the books, papers, records, and federal income tax returns of any employer, taxpayer, or any person subject to, or whom the Tax Commissioner believes subject to, the provisions of this subchapter, for the purpose of verifying the accuracy of any withholdings due under this chapter. Every such employer, supposed employer, taxpayer, or supposed taxpayer, is directed and required to furnish, upon written request of the Tax Commissioner, or his duly authorized agent or employees, the means, facilities, and opportunity for making such examinations and investigations as are authorized.

(B) Appearance orders to Taxpayers. The Tax Commissioner is authorized to order any person, presumed to have knowledge of the facts, to appear at the office of the Tax Commissioner and to examine such person, under oath concerning any income which was or should have been returned for taxation, or withheld, or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records, and federal, state, county, and municipal income tax returns, and the attendance of all persons that have knowledge of such income or information pertinent to such inquiry.

(C) Result of refusal to submit information. 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 to be subject, to the tax or by any officer, agent, or employee of a person subject to the tax or required to withhold tax, or the failure of any person to comply with the provisions of this section of with an order or subpoena of the Tax Commissioner authorized shall be deemed a violation of this subchapter punishable as provided in 98.99 hereof.

(D) Retention of records by Taxpayers. 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 taxes required to be withheld are paid.

(E) Confidential nature of information. Any information gained as result of any returns, investigations, hearings, or verifications required or authorized by this subchapter shall be confidential, and no disclosure thereof shall be made except to municipal, county, state, or federal taxing agencies, or except for official purpose as the Village Solicitor shall determine, or except in accordance with proper judicial order.

98.10 Interest and penalties

(A) Interest. All taxes imposed and moneys withheld or required to be withheld by employers under the provisions of this subchapter, remaining unpaid after they become due, shall bear interest at the rate of one-half percent (0.5%) per month.

(B) Penalties. In addition to interest as provided in division (A) hereof, penalties for failure to pay taxes and to withhold and remit taxes pursuant to the provisions of this subchapter are hereby imposed as follows:

(1) In the case of taxpayers upon whom such taxes are imposed, ten percent (10%) of the amount of the unpaid tax, if paid after the same has become due; provided that 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 therein within the time prescribed herein; and further provided, that neither penalty nor interest shall be assessed on any additional tax assessments 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.

(2) In the case of employers required to withhold taxes from employees under the provisions of this chapter, five percent (5%) of the unpaid withholding if paid during the first month after the same becomes due, ten percent (10%) or the unpaid withholding if paid during the second month after the same becomes due, and fifteen percent (15%) of the unpaid withholding if paid more than two months after the same becomes due.

(C) Exceptions. A penalty shall not be assessed or additional tax assessments made by the Tax Commissioner when a return had 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 an appeal from the refusal of the Tax Commissioner to recommend abatement of penalty and interest, the Board of Review may abate such penalty or interest, or both.

98.11 Collection of unpaid taxes and refunds of overpayments.

(A) Time limitation on suits. All taxes imposed by this subchapter 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 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 one (1) year from the time of the final determination of the federal tax liability.

(B) Time limitation of 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 within three (3) months after final determination of the federal tax liability, whichever is later.

98.12 Board of Review

(A) Composition. A Board of Review shall consist of three (3) persons, who shall be appointed by the Mayor with the consent of Council, is created. The original appointments to the Board shall be as follows: Chairman, six years; member, four years; and member, two years. After the original appointments all appointments shall be for a term of six years except in the case of a vacancy in which event the appointment shall be for the unexpired term. Board members shall receive such compensation as Council may determine.

(B) Procedure. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. All hearings by the Board shall be conducted privately unless the taxpayer requests a public hearing, and the provisions of 98.09 hereof with reference to the confidential character of information required to be disclosed by the subchapter shall apply to such matters as may be heard before the Board on appeal.

(C) Appeals. Any person dissatisfied with any ruling or decision of the Tax Commissioner which is made under the authority conferred by this subchapter may appeal therefrom to the Board of Review within thirty (30) days from the announcement of such ruling or decision by the Tax Commissioner, and the Board shall, on hearing have jurisdiction to affirm, reverse, or modify any such ruling or decision, or any part thereof.

98.13 Allocation of funds

(A) The funds collected under the provisions of this subchapter shall be deposited at least monthly in the general fund and the funds collected from the imposition date of the tax under this subchapter shall be disbursed for the following to wit:

(1) Such part thereof as shall be necessary to defray all cost of collecting the taxes and the cost of administering and enforcing the provisions thereof.

(2) The balance of any moneys collected under the provisions of this subchapter shall be allocated as follows: one hundred percent (100%) to the General Fund for the purpose of general municipal operations.

98.14 Saving clause

This chapter shall not apply to any person, firm, or corporation, or to any property as to whom or which it is beyond the power of council to impose the tax herein provided for. Any sentence, clause, section, or part of this subchapter or any tax against or exception granted any individual or any or the several groups of persons, or forms of income specified herein if found to be unconstitutional or illegal or invalid, such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section, or part of this subchapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or other parts of this subchapter. It is hereby declared to be the intention of council of the municipality that this subchapter would have been adopted had such unconstitutional, illegal, or invalid sentence, or part hereof, not been included therein.

98.15 Violations

(A) Enumeration of violations. Any person who shall:

- (1) Fail, neglect, or refuse to make any return of declaration required by this subchapter;
- (2) Make an incomplete, false, or fraudulent return;
- (3) Fail, neglect, or refuses to pay the tax, penalties, or interest imposed by this subchapter;
- (4) Fail, neglect, or refuses to withhold the tax from his employees and remit such withholding tax to the Tax Commissioner;
- (5) Refuse to permit the Tax Commissioner or any duly authorized agent or employee to examine his or his employer's books, records, papers, and federal income tax returns;
- (6) Fail to appear before the Tax Commissioner and to produce his or her employer's books, records, papers, or federal, state, county, and municipal income tax returns upon order or subpoena of the Tax Commissioner;
- (7) Refuse to disclose to the Tax Commissioner any information with respect to such person's employer's income or net profits;
- (8) Fail to comply with the provision of this subchapter or any order or subpoena of the Tax Commissioner;
- (9) Fail, neglect, or refuse to make any payment on the estimated tax for any year as required by 98.07;

(10) Fail, as an officer or resident manger of a corporation, to cause the tax withheld from the wages of the employees of such corporation pursuant to this subchapter to be paid to the municipality in accordance with the provisions of 98.06 hereof; or

(11) Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties, or interest imposed by this subchapter shall be penalized as provided in 98.99

(B) Time limitations on prosecutions. All criminal prosecutions under this section must be commenced within three (3) years, and all civil actions within five (5) years following the date on which the final return for a taxable year was due, or five (5) years from the time of any other offense complained of.

(C) Failure to obtain forms not a defense. The failure of any employer, taxpayer, or person to receive or procure a return, declaration, or other required form shall not excuse him from making any information 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 98.02, include in the case of an association of corporation not having any partner, member, or officer within the municipality, any employee or agent of such association of corporation who can be found within the corporation limits of the municipality.

98.16 Reciprocity with other municipalities

A taxpayer shall be required to pay the Municipal income tax imposed by this chapter notwithstanding the fact that the taxpayer is subject to tax in more than one municipality on the same income.

98.99 Penalty

Whoever violates any of the provisions of this chapter for which no penalty is otherwise provided shall be fined not more than one hundred dollars (\$100.00) for the first offense, and not more than five hundred dollars (\$500.00) or imprisoned of not more than sixty (60) days, or both, for a second or subsequent offense. The failure of an employer or taxpayer to receive or procure a return or declaration form shall not excuse him from making a return or declaration or paying the tax levied under this chapter.

AMENDMENT TO SECTION 98-16

Credit For Tax Paid to Another Municipality

98.16 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(A.) Limitation on amount paid. Every individual taxpayer who resides in the municipality and who receives salaries, wages, commissions, or other compensation or net profits from sales made, work done, or services performed or rendered outside of the municipality, if it be made to appear that he has paid a municipal income tax on such income, taxable under this subchapter, to another municipality, shall be allowed a credit for such tax paid, against the tax imposed by this subchapter in an amount not to exceed one-half the tax due the Village.

(B.) Credits and limitations thereof. Notwithstanding the provisions contained in 98.11 hereof, or any other provisions inconsistent herewith, a claim for refund or credit under this section shall be made in such manner as the Tax Commissioner may by regulation provide. No such claim for refund or credit shall be allowed unless made on or before the date of filing the taxpayer's final return and unless such taxpayer's employer files with the Tax Commissioner a list showing the tax withheld from the taxpayer's wages, salaries, or commissions for other municipalities.



**South Solon
Income Tax Ordinance 2014-01
Voting Action**

Passed this 31st day of March 2014

Roll Call Vote:

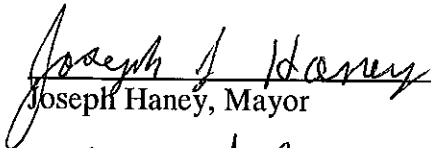
Donna Keplinger Yea

Eileen Coil Yea


Josh Young Yea

Debbie Boysel Yea


Jeff Glispie Yea



Joseph Haney, Mayor



Jeff Glispie, Council President



Carol Benedict, Fiscal Officer

