

RECORD OF ORDINANCES

BEAR GRAPHICS 800-325-8094 FORM NO. 30043

Ordinance No. _____ Passed _____, 20____

ORDINANCE NO 16-15

AN ORDINANCE TO AMEND ORDINANCE 10-05 WHICH AMENDED ORDINANCE 2000-39-00 OF THE VILLAGE OF FRAZEYSBURG REGARDING MUNICIPAL INCOME TAX

There is hereby levied a tax at a rate of one percent (1%) to provide funds for the purpose of financing general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities, debt retirement and capital improvements of the Village of Frazeytsburg, on all salaries, wages and commissions and other compensation earned by residents of the Village of Frazeytsburg on all salaries, wages, commissions and other compensation earned by non-residents of the Village of Frazeytsburg for work done or services performed or rendered in the Village of Frazeytsburg on the net profits earned on all business, professions or other activities conducted in the Village of Frazeytsburg by non-residents, and on the net profits earned by all corporations doing business in the Village of Frazeytsburg as result of work done or services performed or rendered in the Village of Frazeytsburg requiring the filing of returns and furnishings or information by employers and all those subject to said tax; imposing on employees the duty of connection the tax at the source and paying the same to the Village of Frazeytsburg providing for the administration, collection and enforcement of said tax; declaring violation thereof to be a misdemeanor and imposing penalties therefore.

NOW, THEREFORE, BE IT ORDAINED, BY THE COUNCIL OF THE VILLAGE OF FRAZEYSBURG, COUNTY OF MUSKINGUM, AND STATE OF OHIO THAT:

ARTICLE I
PURPOSE

There is hereby levied a tax to provide funds for the purpose of financing general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities, debt retirement and capital improvements of the Village.

ARTICLE II
DEFINITONS

As used in this ordinance, the following words shall have the meaning ascribed to them in this article, except as and if the context clearly indicates or requires a different meaning.

ADMINISTRATOR – The individual designed by this ordinance to administer and enforce the provisions of this ordinance.

ASSOCIATION – A partnership, limited liability company, limited partnership or any other form of unincorporated enterprise, Owned by two or more persons.

BOARD OF APPEALS – The board created by and constituted as provided in Article XIII of this ordinance.

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.

CORPORATION – A “C or S” corporation or join stock association organized under the laws of the United States, the State of Ohio, or any other state, territory, or foreign country or dependency.

EMPLOYEE – 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 Ohio Worker's Compensation Law shall prima-facie be an employee.

EMPLOYER – An individual, partnership, limited liability company, association, corporation including a corporation not for the profit, governmental agency, board, body, bureau, department, subdivision, or unit or any other entity, who or that employs one or more persons on a salary, wage, commission or other compensation or basis whether or not such employer is engaged in business. It does not include a person who employs only domestic help for such person's private residence.

FISCAL YEAR – An accounting period of twelve (12) months or less ending on any day other than December 31. Only Fiscal years accepted by the Internal Revenue Service for Federal Income Tax purpose may be used for the Village of Frazeytsburg tax purpose.

FORM 2106- Means Internal Revenue Service form 2106 filed by a taxpayer pursuant to the Internal

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Revenue code.

GENERIC FORM – Means an electronic or paper form designed for reporting estimated municipal 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.

GROSS RECEIPTS – The total income from any source what so ever.

INCOME FROM PASS-THRU ENTITY – Means a partnership income of partners, distributive shares of shareholders of an “S” corporation, membership interest of members of limited liability company, or other distributive or proportionate ownership shares of other pass-thru entities.

INTANGIBLE INCOME – Means income of any of the following type: income yield, interest dividends, or other income arising from the ownership, sales, 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 Revised Code.

INTERNAL REVENUE CODE – Means the internal revenue code of 1986, 100 stat. 2085M 26 U.S.C. 1, as amended.

LIMITED LIABILITY COMPANY – Means limited liability company formed under chapter 1705, of the Revised Code or under the laws of another state.

NET PROFITS – A net gain from the operation of a business, profession, enterprise, or other activity provision for all ordinary, reasonable and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for Federal Income Tax purposes, without deduction of taxes imposed by this ordinance, Federal, State, and other taxes based on income exclusive of the amount of Ohio franchised taxes computed on the net worth basis; and in the case of association, without deduction of salaries paid to partners, and other owners; and otherwise adjusted to the requirements of this ordinance.

NON-RESIDENT – An individual domiciled outside of the Village of Frazeytsburg.

NON-RESIDENT UNINCORPORATED BUSINESS ENTITY – One not having an office or place of business within the Village of Frazeytsburg.

OWNER – Means a partner of a partnership, a shareholder of an “S” corporation, a member of a limited liability company or other person with an ownership interest in a pass-through entity.

PASS THROUGH ENTITY – Means a partnership, “S” corporation, limited liability company, or any other class of entity with income or profits from which are given pass through treatment under the internal revenue code.

PERSONS – Every natural person, partnership, fiduciary, association, corporation, or other entity. Whenever used in a clause prescribing or imposing a penalty, the term “person” as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to a corporation, the officers thereof, and in the case of any unincorporated entity or corporation not having any partner, member or officer within the Village of Frazeytsburg, any employee or agent of such unincorporated entity or corporation who can be found within the corporation limits of the Village of Frazeytsburg.

PLACE OF BUSINESS – Any bonafide office (other than a mere statutory office), factory, warehouse, or other space, which is occupied and used by the taxpayer in carrying on any business activity individually or through one more of his regular employees regularly in attendance.

RESIDENT – An individual domiciled in the Village of Frazeytsburg.

RETURN PREPARER – Means any person other than a taxpayer that is authorized to complete or file an income tax return, report, or other document for or on behalf of the taxpayer.

RESIDENT UNINCORPORATED BUSINESS ENTITY – An unincorporated business entity having an office or place of business within the Village of Frazeytsburg

SCHEDULE C -- Means internal revenue service schedule C filed by a taxpayer pursuant to the Internal Revenue Code.

“S” CORPORATION – Means a corporation that has made an election under subchapter S of Chapter 1 of subtitle A of the Internal Revenue Codes for its taxable year.

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

TAXABLE YEAR – The calendar year, or the fiscal year, used as the basis on which net profits are to compute under this ordinance, and in the case of a return for a fractional part of a year, the period for which such return is required to be made.

TAXPAYER – An individual, association, corporation, or other entity required by this ordinance to file a return and/or to pay tax.

VILLAGE – The Village of Frazeytsburg, Ohio.

In all definition, the singular shall include the plural, and the masculine shall include the feminine and the neuter.

ARTICLE III
 IMPOSITION OF TAX

A. BASIS

1. RESIDENT EMPLOYEE

a. In the case of residents of the Village of Frazeytsburg an annual tax of one (1%) percent is imposed on all salaries, wages, and other compensation earned during the effective period of this ordinance. For the purpose of determining the tax on the earnings of the resident taxpayers, taxed under Article III paragraph A-1 of this ordinance, the source of the earnings and the place or places in or at which the services were rendered, are immaterial. All such earnings wherever earned or paid are taxable.

b. The Village shall not levy a tax on income at a rate in excess of one percent (1%) without having obtained the approval of the excess by a majority of the electors of the municipality voting on the question at a general, primary or special election. The legislative authority of the village shall file with the board of elections at least seventy-five (75) days before the day of the election a copy of the ordinance together with a resolution specifying the date held and directing the board of elections to conduct the election. The ballot shall be in the following form: "Shall the ordinance providing for apercent levy on income for (brief description of the purpose of the proposed levy) is passes?

FOR THE INCOME TAX
 AGAINST THE INCOME TAX

In the event of an affirmative vote, the proceeds of the levy may be used only for the specified purpose.

c. The following items, which are subject; to the tax imposed by Article III, paragraph A-1 of this ordinance.

1. Salaries, wages, bonuses and incentive payments earned by an individual whether directly or through an agent and whether in cash or property for services rendered during the tax period as:

.01 An officer, director or employee of a corporation including charitable and other nonprofit organizations, joint stock association, or joint stock company.

.02 An employee as distinguished from a partner or member of a partnership, limited partnership, or any form of a partnership, limited partnership, or any form of unincorporated enterprise owned by two (2) or more persons;

.03 An employee as distinguished from a proprietor of a business, trade or profession conducted by an individual owner;

.04 An officer or employee whether elected, appointed or commissioned of the United States government or of a corporation created and owned or controlled by the United States government, or any other of its agencies, or of the State of Ohio or any of its political subdivisions or agencies thereof or any foreign country of dependency except as provided in Article III of this ordinance.

.05 An employee of any other entity or person, whether based upon hourly, daily, weekly, semi- weekly, monthly, annually, unit of production or piecework rates, and whether paid by an individual, partnership, association, corporation including charitable and other nonprofit corporations, governmental administration, agency, authority, board, body, branch, department, division, subdivision, section, or unit or any other entity.

2. Commissions earned by a taxpayer whether directly or through an agent and whether in cash or in property for services rendered during the effective period of this ordinance, regardless of how computed or by whom or whosoever paid.

.01 If amounts received as a drawing account exceed the commissions earned and the excess is not subject to the demand of the employer for repayment the tax is payable on the amounts received as a drawing account.

.02 Amounts received from an employer for expenses and used as such by individual receiving them are not deemed to be compensation if the employer deducts such expenses or

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advances as such from his gross income for the purpose of determining his net profits taxable under Federal Law, and the employee is not required to include such receipts as income on his Federal Income Tax Return.

.03 If commissions are included in the net earnings of the trade, business, profession, enterprise, or activity, carried on by an unincorporated entity of which the individual receiving such commission is under paragraph A-3 or A-4 of Article III of this ordinance, they shall not be taxed under Article III Paragraph A-1.

.04 Fees unless such fees are properly included as part of the net profits of a trade, business, profession, or enterprise regularly carried on by an unincorporated entity owned or partly owned by said individual and such net profits are subject to the tax under Article III, paragraph A-3 of this ordinance.

.05 Other compensation, including tips bonus or gifts of any type, and including compensation paid to domestic servants, casual employers and other types of employees as well as income earned or derived from gaming, wagering, lotteries, including the Ohio State Lottery or schemes of chance.

.06 Payments made to employees by employer, as vacation wages are taxable. Payments made to an employee by an employer under wage continuation plans during periods of disability or sickness are taxable.

d. Where compensation is paid or received in property, its fair market value, at the time of receipt, shall be subject to the tax and to withholding. Board, lodging and similar items received by an employee in lieu of additional cash compensation shall be included in earnings at their fair market value.

.1 In case of domestic and other employees whose duties require them to live at their place of employment or assignment, board and lodging shall not be considered as wages or compensation earned.

e. Compensation arising from the grant, sale, exchange, or other disposition of a stock option, or the sale, exchange, or other disposition of stock purchased of stock purchased under stock option.

2. NON-RESIDENT EMPLOYEE

a. In the case of individuals who are not residents of the Village of Frazeytsburg, there is imposed under Article III, paragraph A-2 of this ordinance, a tax of one percent (1%) on all salaries, wages, commissions, and other compensation earned during the effective period of this ordinance for work done or services performed or rendered within the Village of Frazeytsburg whether such compensation or remuneration is received or earned directly or through an agent and whether paid in cash or in property. The location of the place for which payment is made is immaterial.

b. The items subject to tax under Article III, paragraph A-2 of this ordinance are the same as those listed and defined in Article III-A. For the methods of computing the extent of such work or services performed within the Village of Frazeytsburg, in cases involving compensation for person services partly within and partly without the Village of Frazeytsburg, see Article VI-A.6.

3. a. IMPOSITION OF TAX ON NET PROFITS OF RESIDENT UNINCORPORATED BUSINESS

.1 In the case of resident unincorporated business, professions, enterprises, undertakings or other entities or other conducted, operated, engaged in, prosecuted or carried on, irrespective of whether such taxpayer has an office or place of business in the Village of Frazeytsburg, there is imposed an annual tax of one percent (1%) on the net profits earned, accrued or received during the effective period of this ordinance attributable to the Village of Frazeytsburg, under the formula or separate accounting method proved for in Article III of this ordinance, derived from sales made, work done or services performed or rendered and business or other activities conducted in the Village of Frazeytsburg.

.2 In the case of a taxpayer who has a net profit from a business or profession that is operated as a sole proprietorship, the Village may tax or use as the base for determining the amount of the net profit that shall be considered as having a taxable status in the Village greater amount than net profit reported by the taxpayer on Schedule C filed in reference to the year in question as taxable income from such sole proprietorship, except as otherwise specifically provided by ordinance or regulation.

.3 The tax imposed on resident associations or other unincorporated entities owned by two (2) or more persons is upon the entities rather than the individual members or owners thereof but the tax imposed on an unincorporated resident entity owned by one person is upon the individual owner.

.4 The tax imposed by Article III, paragraph A-3a of this ordinance is imposed on all residents unincorporated entities having net profits attributable to the Village of Frazeytsburg under the method of allocation provided for in this ordinance, regardless of where the owner or owners of such resident unincorporated business entity resides.

.5 Resident unincorporated entities owned by two (2) or more persons all of whom are residents of the Village of Frazeytsburg shall disregard the method of allocation provided for in the ordinance and pay the tax on their entire net profits thereof. In such case, the tax paid by the entity shall constitute all tax due from the owners or members of the entity for their distributaries share of such net profits; however, an additional return shall be required from any such owner or member having taxable income other than the distributive share of the net profits from the entity.

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b. Imposition of tax on resident's distributive share of profits of a resident unincorporated business entity, not attributable to the Village of Frazeytsburg

.1 A resident individual who is sole owner of a resident unincorporated entity shall disregard the business allocation formula and pay the tax on the entire net profits of this resident unincorporated business entity by the Village of Frazeytsburg.

.2 In the case of resident individual partner or part owner of a resident unincorporated entity, there is imposed an annual tax of one percent (1%) on such individual's distributive share of net profits earned, accrued or received during the effective period of this ordinance not attributable to the Village of Frazeytsburg, under the method of allocation provided for in Article III of this ordinance, and not taxed against by the Village of Frazeytsburg.

4. a. IMPOSITION OF TAX ON NET PROFITS OF NON-RESIDENTS UNINCORPORATED BUSINESS

.1 In the case of non-resident unincorporated business, professions, enterprises, undertakings, or other activities conducted, operated, engaged in, prosecuted or carried on, there is imposed an annual tax of one percent (1%) on the net profits earned, accrued or received during the effective period of this ordinance attributable to the Village of Frazeytsburg, under the formula or separate accounting method provided for in this ordinance.

.2 The tax imposed on non-resident unincorporated entities owned by two (2) or more person's non-residents are upon the entities rather than the individual members of owners thereof. (For tax on the part of a resident owner's distributive share of net profits not taxed against the entity by the Village of Frazeytsburg, see Article III-A.4b.)

.3 Non-resident unincorporated entities owned by two (2) or more persons, all of whom are residents of the Village of Frazeytsburg, may elect to disregard the method of allocation provided for in the ordinance and pay the tax on the entire net profits. In such cases, the tax paid by the entity shall constitute all tax due from the owners or members of the entity for their distributive share of the profits; however, a return shall be required from such owner or member having taxable income other than the distributive share of the net profits from the entity by the Village of Frazeytsburg, see Article XV for credits.

b. Imposition of tax on resident's share of profits of a non-resident unincorporated business entity not attributable to the Village of Frazeytsburg. See Article XV credits.

.1 A resident individual who is sole owner of a non-resident unincorporated business entity shall disregard the business allocation formula and pay the tax on the entire net profits of this unincorporated entity by the Village of Frazeytsburg.

.2 In the case of a resident individual partner or part owner of a non-resident unincorporated entity, there is imposed an annual tax of one percent (1%) on such individual's distributive share of net profits earned, accrued or received during the effective period of this ordinance not attributable to the Village under the method of allocation provided for in Article III of this ordinance and not taxed against the entity by the Village of Frazeytsburg.

5. IMPOSITION OF TAX ON NET PROFITS OF CORPORATIONS

a. In the case of corporations, whether domestic or foreign and whether such corporations have an office or place of business in the Village of Frazeytsburg, there is imposed an annual tax of one percent (1%) on the net profits earned, received or accrued during the effective period of this ordinance attributable to the Village of Frazeytsburg under the formula or separate accounting method provided for in this ordinance.

b. In determining whether a corporation is conducting a business or other activity in the Village of Frazeytsburg, the provisions of Article III-B of this ordinance shall be applicable.

c. Corporations which are required by the provisions of Revised Code section 5727.38 to Revised Code section 5727.41, inclusive, to pay an excise tax in any table year as defined by this ordinance, may exclude that part of their gross receipts upon which the excise tax is paid. In such case, expenses incurred in the production of such gross receipts shall not be deducted in computing net profits subject to tax imposed by this ordinance.

6. AMPLIFICATION

In amplification of the definition contained in Article II of this ordinance but not in limitation thereof, the following additional information respecting net business profits is furnished.

a. NET PROFITS

.1 Net profits as used in this ordinance means net profits derived from any business, profession or other activity or undertaking carried on for profit or normally carried on for profit.

.2 Net profit as disclosed on any return filed pursuant to the provisions of this ordinance shall be computed by the same accounting method used in reporting net income to the Federal Internal Revenue

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Service providing such method does not conflict with any provisions of this ordinance. Net profits, shown on returns filed pursuant to this ordinance must be reconciled with income reported to the Federal Internal Revenue Service.

b. GROSS RECEIPTS

- .1 Gross receipts shall include but not limited to income in the form of commissions, fees, rentals, from real and tangible personal property, and other compensation for work or services performed or rendered as well as income from sales of stock in trade.
- .2 From gross receipts there shall be deducted allowable expenses to arrive at the profit subject to tax.

c. EXPENSES

- .1 All ordinary, reasonable and necessary expenses of doing business, including reasonable compensation paid employees, shall be allowed, but no deduction may be claimed for salary or withdrawal of a proprietor or of the partners, members, or other owners of an unincorporated business or enterprise.
 - .01 If not claimed as part of the cost of goods sold or elsewhere in the return filed, there may be claimed and allowed a reasonable deduction for depreciation, depletion, obsolescence, losses resulting from theft or casualty, not compensated for by insurance or otherwise of property used in the trade or business, but the amount may not exceed that recognized for the purpose of the Federal T. provided, however, that loss on the sale, exchange or other disposition of depreciable property or real estate used in the taxpayer's business shall be allowed as a deductible expense.
 - .02 Current amortization of emergency facilities under the provisions of the Internal Revenue code, if recognized as such for the Federal Income Tax purpose, may be included as an expense deduction hereunder.
 - .03 Where depreciable property is voluntarily destroyed, only the cost of such demolition and the in depreciated balance thereof will be allowed as an expense in the year of such demolition to the allowable for Federal Income Tax purposes.
 - .04 Bad debt in reasonable amount may be allowed in the year ascertained worthless and charged off, or at the discretion of the Administrator (if the reserve method is used), a reasonable addition to the reserve may be claimed, but in no event shall the amount exceed the amount allowable for Federal Income tax purposes.
 - .05 Only taxes directly connected with the business may be claimed as a deduction. If for any reason the income from the property is not subject to the tax, then taxes on and other expenses of said property are not deductible. In any event, the following taxes are not deductible from income: 1) the tax under this ordinance; 2) Federal or other taxes based upon income exclusive of the amount of Ohio franchise tax computed on the net worth basis; 3) gift, estate or inheritance taxes; 4) taxes for local benefits or improvements to property which tend to appreciate the value thereof.
 - .06 In general, nontaxable income and expenses incurred in connection therewith are not to be considered in determining net profits.
 - .07 If the taxpayer reports income that is nontaxable under this ordinance and such amounts are deducted in order to reconcile the return with the taxpayer's Federal Income Tax return, expenses attributable to this nontaxable income shall not be allowed. In the absence of records showing the actual expense attributable to such nontaxable income, and upon approval of the Administrator, such amount shall be deemed to equal five percent (5%) of such nontaxable income.
 - .08 Capital gains and losses from sale, exchange or other disposition of property shall be taken into consideration in arriving at the net profits earned. Any amount received on a sale or other disposition of tangible personal used in business, in excess of book value, shall be treated as taxable income under the ordinance to the extent of depreciation allowable under this ordinance. The balance shall be treated as capital gain.

7. Rental from property

- a. Rentals received by the taxpayer are to be included only if and to the extent that the rental, ownership, management or operation of the real estate from which such rentals are derived whether so rented, managed or operated by the taxpayer in individually or through agents or other representatives, constitutes a business activity of the taxpayer in whole or in part.
- b. Where the gross monthly rental of any real properties, regardless of number and value, aggregated in excess of Two Hundred Fifty Dollar (\$250.00) per monthly, it shall be prima-facie evidence that the rental ownership, management or operation of properties is a business activity of such taxpayer, and the net income of such properties is a business activity of such taxpayer, and the net income of such properties shall be subject to tax; provided that in case of commercial property, the owner shall be considered engaged in a business activity when the rental exceeds Two Hundred Fifty Dollars (\$250.00)per month; provided further that the case of farm property, the owner shall be considered engaged in a business activity when he shares in the crops or when the rental is based on a percentage of the gross net receipts derived from the farm, whether or not the gross income exceeds Two Hundred Fifty Dollars (\$250.00) per month; and provided further that the person who operates a rooming house of five (5) or more rooms rented shall be considered in business whether or not the gross income exceeds Two Hundred Fifty

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- Dollars (\$250.00) per month.
- c. In determining the amount of gross monthly rental of any real property, periods during which rentals are not received shall not be taken into consideration by the taxpayer.
 - d. Rentals received by the taxpayer engaged in the business of buying and selling real estate shall be considered as part of business income.
 - e. Real property, as the term is used in the ordinance, shall include commercial property, residential property, farm property, and any and all other types of real estates.
 - f. In the determining the taxable income from rentals, the deductible expenses shall be of the same nature, extent and the amount as allowed by the Internal Revenue Service for Federal Income Tax purpose.
 - g. Residents of the Village of Frazeyzburg are subject to taxation upon net income from rentals to the extent above specified, regardless of location of the real property owned.
 - h. Non-residents of the Village of Frazeyzburg are subject to such taxation only if the real property is situated within the Village of Frazeyzburg. Non-residents, in determining whether gross monthly rentals exceed Two Hundred Fifty Dollars (\$250.00) shall take into consideration only real situated within the Village of Frazeyzburg.
 - i. Corporations owning or managing real estate is taxable only on that portion of income derived from property located in the Village of Frazeyzburg.

8. PATENTS AND COPYRIGHTS

Income from patents or copyrights is not to be included in net profits subject to the tax if the income from such patents or copyrights is subject to the state intangible tax. Conversely, such state intangible tax is not deductible in determining the tax due of payable pursuant to this ordinance. Such items shall be clearly disclosed on an attachment to be filed with the Village tax return.

B. ALLOCATION OF BUSINESS PROFITS

A request to change the method of all allocation must be made in writing before the end of the taxable year.

1. Separate accounting method

- a. The net profits allocable to the Village of Frazeyzburg from business, professional or other activities conducted in the Village of Frazeyzburg by corporation or unincorporated entities whether resident or non-resident may be determined from the records of the taxpayer has bona fide records which disclosed with reasonable accuracy what portion of his net profits is attributable to that part of his activities conducted within the Village of Frazeyzburg.
- b. If the books and records of the taxpayer are used as the basis for apportioning the net profits rather than the business allocation formula, a statement must accompany the return explaining the manner in which such apportionment is made in sufficient detail to enable the Administrator whether the net profits attributable to the Village of Frazeyzburg are apportioned with reasonable accuracy.
- c. In determining the income allocable to the Village of Frazeyzburg from the books and records of a taxpayer, and adjustment may be made for the contribution made to the production of such income by headquarters activities of the taxpayer whether such headquarters is within or without the Village of Frazeyzburg.

2. Business allocation percentage method

- a. Step 1. Ascertain the percentage which the average net book value of real and tangible personal property, including leasehold improvements, owned or used in the business and situated within the Village of Frazeyzburg is of the average net book value of all and tangible personal property, including leasehold improvements, owned or used in the business wherever situated, during the period covered by the return.
 - .01 The percentage of taxpayer's real and tangible personal property within the Village of Frazeyzburg is determined by dividing the average net book value of such property within the Village of Frazeyzburg without deduction of any encumbrance by the average net book value of all such property within and without the Village of Frazeyzburg. In determining such percentage, property rented to the taxpayer as well as real and tangible personal property owned by taxpayer must be considered.
 - .02 The net book value of real and tangible personal property rented by taxpayer shall be determined by multiplying gross annual rents payable by eight (8).
 - .03 Gross rents mean the actual sum of money or other consideration payable, directly or indirectly, by the taxpayer for the use or possession of property and include the following:
 - .001 Any amount payable for the use or possession of real and tangible personal property or any part thereof, designated as a fixed sum of money or as a percentage of sales profits or otherwise;
 - .002 Any amount payable as additional rent or in lieu of rent such as interest, taxes, insurance, repairs, or other amounts required to be paid by the terms of a lease or other arrangement.
- b. Step 2. Ascertain the percentage which the total wages, salaries, commissions and other compensation of employees within the Village of Frazeyzburg is of the total wages, salaries, commissions and other compensation of all the taxpayer's employees within and without the Village of Frazeyzburg during the period covered by the return.
 - .01 Salaries and reasonable compensation paid owners or credited to the account of owners or partners

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during the period covered by the return are considered wages for the purpose of this computation.

.02 Wages, salaries, and other compensation shall be computed on the cash or accrual basis in accordance with the method of accounting used in the computation of the entire net income of the taxpayer.

.03 In the case of an employee who performs services both within and without the Village of Frazeytsburg the amount treated as compensation for services performed within the Village of Frazeytsburg shall be deemed to be as follows.

.001 In the case of employee whose compensation depends directly on the volume of business secured by him, such as a salesman on a commission basis, the amount received by him for the business attributable to his efforts within the Village of Frazeytsburg.

.002 In the case of employee whose compensation depends on other results achieved, the proportion of the total compensation received which the value of his services within the Village of Frazeytsburg bears to the value of all his services; and

.003 In the case of an employee compensated on a time basis, the proportion of the total amount received by him who his working time within the Village of Frazeytsburg is of his total working time.

c. Step 3. Ascertain the percentage which the gross receipts of the taxpayer derived from sales made and services rendered in the Village of Frazeytsburg is of the total gross receipts wherever derived during the period covered by the return.

.1 The following sales shall be considered the Village of Frazeytsburg's sales:

.01 All sales made through retail stores located within the Village of Frazeytsburg to purchasers within or without the Village of Frazeytsburg except such of said sales to purchasers outside the Village of Frazeytsburg that are directly attributable to regular solicitation made outside the Village of Frazeytsburg personally by taxpayer's employees.

.02 All sales of tangible personal property delivered to purchasers within the Village of Frazeytsburg if shipped or delivered from an office, store, warehouse, factory, or place of storage located within the Village of Frazeytsburg.

.03 All sales of tangible personal property delivered to purchasers within the Village of Frazeytsburg even though transported from point outside the Village of Frazeytsburg if the taxpayer is regularly engaged through its own employees in solicitation or promotion of sales within the Village of Frazeytsburg and the sales is directly or indirectly the result of such solicitation.

.04 All sales of tangible personal property shipped from an office, store, warehouse, factory or place of storage within the Village of Frazeytsburg to purchasers outside the Village of Frazeytsburg if the taxpayer is not, through its own employees, regularly engaged in the solicitation of sales at the place of delivery.

.05 Charges for work done or services performed incident to a sale, whether or not included in the price of property shall be considered gross receipt of such sale.

In the application of the foregoing sub paragraphs, a carrier shall be considered the agent of the seller regardless the F.O.B. Point or other conditions of the sale; and the place at which orders are accepted or contracts legally consummated shall be immaterial. Solicitation of customers outside the Village of Frazeytsburg by mail or phone from an office, or place of business within the Village of Frazeytsburg shall not be considered solicitation of sales outside of the Village of Frazeytsburg.

d. Step 4. Add the percentages determined in accordance with steps 1, 2, and 3 or such of the aforesaid percentages as may be applicable to the particular taxpayers business and divide the total so obtained but the number of percentages used in ascertaining the said total. The result so obtained is the business allocation percentage. In determining the average percentage, a factor shall but be excluded from the computation merely because said factor is found to be allocable entirely outside the Village of Frazeytsburg. A factor is excluded only when it does not exist anywhere.

e. Step 5. The business allocation percentage determined in step 4 above should be applied to the entire taxable net profits of the taxpayer wherever derived to determine the net profits allocable to the Village of Frazeytsburg.

3. Substitute method.

a. In the event a just and equitable result cannot be obtained under the formula, the board of appeals, upon application of the taxpayer or the Administrator, may substitute other factors in the formula or prescribe other methods of allocation net income calculated to effect a fair and proper allocation.

b. Application to the Board of Appeals to substitute other factors in formula or to use a different method to allocate net profits must be in writing before the end of the taxable year shall state the specific grounds on which the substitution factors or use of a different method is requested and the relief sought to be obtained. A copy thereof shall be served at the time of filing upon the taxpayer or Administrator as the case may be. No specific form is followed in making such application. Once a taxpayer has filed under a substitute method, he must continue to so file until given permission to change by the Board of Appeals.

C. OPERATION LOSS CARRY-FORWARD

1. The portion of a net operation loss, based on the income taxable under the ordinance, sustained in any taxable year subsequent to 1991 allocable to the Village of Frazeytsburg may be applied against the portion of the profit of succeeding years allocable to the Village of Frazeytsburg, until exhausted but in

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no event for more than five (5) taxable years. No portion of a net operation loss shall be carried back against net profits of any prior year.

2. In the event net profits are allocated both within and without the Village of Frazeytsburg, the portion of net operating loss sustained shall be allocated to the Village of Frazeytsburg in the same manner as provided herein for allocation net profits to The Village of Frazeytsburg. The portion of a net operating loss to be carried forward shall be determined in the year the net operation loss is sustained, on the basis of the allocation factors applicable to that year. The same method of accounting and allocation must be used in the year to which an operation loss is carried as was used in the year in which the operation loss was sustained.

3. In the case of fiscal years beginning prior to the effective date of this ordinance, the net operating loss deduction will be that portion of the operating loss that the number of months of the fiscal year after the effective date of this ordinance bears to the total number of months in such fiscal year.

4. A short fiscal year - (a fiscal year less than twelve (12) months) in cases where there has been a change in accounting period, where a new taxpayer selects a short fiscal year, or where a new taxpayer operates in the Village of Frazeytsburg for less than a full accounting period, shall be considered as a full taxable fiscal year.

5. In any return in which a net operation loss deduction is claimed, a schedule should be attached showing the following:

- a. Year in which net operating loss was sustained.
- b. Method of accounting and allocation used to determine portion of net operating loss allocable to the Village of Frazeytsburg.
- c. Amount of net operating loss used as a deduction in prior years.
- d. Amount of net operating loss claimed as a deduction in current year.

6. The net operation loss of a business which loses its identity through merger, consolidation, etc., shall not be allowed to carry-forward loss deduction to the surviving business entity.

7. In the case of net operating loss in the filing of consolidated returns, see Article III, paragraph D.

D. CONSOLIDATED RETURNS

1. Consolidated returns may be filed by a group of corporations who are affiliated through stock ownership. For a subsidiary corporation to be included in a consolidated return eighty percent (80%) of its stock must be owned by the other members of the affiliated group. A consolidated return must include all companies that are so affiliated.

2. Once a consolidated return has been filed for any taxable year, the consolidated group must continue to file consolidated returns in subsequent years unless:

- a. Permission in writing is granted by the Administrator to file separate returns.
- b. A new corporation other than a corporation created or organized by a member of the group has become a member of the group during the taxable year.
- c. A corporation member of the group has sold or exchanged. Liquidating a corporation or merging one of the corporations of the group into another will not qualify the group for filing separate returns.

3. If a corporation becomes a member of the group during the taxable year the consolidated return must include the income for the entire year of the common parent corporation and any subsidiaries which were members of the group for the entire year, plus the income of each subsidiary which became a member of the group during the year for the period beginning with the date it became a member of the affiliated group. For the period prior to the time any subsidiary became a member of the group, separate returns must be filed for that subsidiary. When a subsidiary ceases to be a member of the affiliated group, but for the period after it ceases to be a member, separate returns must be filed. If a corporation has been a member of the affiliated group for less than one month of the taxable year of the group, it may be considered as not being part of the group. Similarly, a subsidiary may be considered, as being a member of the affiliated group during the entire taxable year of the group does not exceed one (1) month. If a subsidiary is a member of the consolidated group for only part of a taxable year, the income considered to be earned is such fractional part of the year shall be that portion of the net income for the entire year which the number of days it was a member of the group bears to the total number of days in the taxable year.

4. In determining the allocation fraction where a corporation becomes a member of the group or ceases to be a member of the group during the taxable year, the property fraction (step 1 of the formula) shall be determined on the basis of average net book value of the property during the period such corporation was a member of the group. The rental portion of the fraction, however, shall be computed at the eight (8) times the annual rent. The gross receipts and wage fractions shall be based on the actual figures.

5. All subsidiary corporations must agree in writing to the filing of the consolidated return as they will be liable for the tax as will be the parent corporation.

6. The Net operation loss carryover of a corporation that filed a separate return in a prior year maybe carries over to the consolidated return but will be limited in amount to the amount of that same corporation's net income included in the consolidation. The net operating loss carryover from a separate year shall be deducted first before application of the allocation fraction. After application of the allocation fraction the consolidated net operating loss carryover allocated to the Village of Frazeytsburg shall be

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- allowed.
7. In consolidating the net income, the taxable income of each corporation shall be computed in accordance with the provisions governing the taxable income of separate corporations except that there shall be eliminated unrealized profits and losses in transactions between members of the affiliated group.
8. In determining expenses that are not allowable because they are allocable to nontaxable income, such calculations shall be based on the consolidated net income. As an example, inter-company dividends are eliminated in the consolidation will not be taken into consideration nontaxable income.

E. EXCEPTIONS

The following shall not be considered taxable:

1. Poor relief, old age pensions or similar payments received from Local, State, or Federal Governments or charitable or religious organizations.
2. Proceeds of insurance, annuities, worker's compensation insurance, social security benefits, pensions, compensation for damages for personal injuries and like reimbursement, not including damages for loss of profit.
3. Compensation for damage to property by ways of insurance or otherwise.
4. Interest and dividends from intangible property.
5. Military pay allowances received as a member of the armed forces of the United States.
6. Any charitable, educational fraternal or other type of nonprofit association or organization enumerated in Revised Code Section 718.01 which is exempt from payment of real estate taxes is exempt from payment of taxes imposed by this ordinance.
7. Any association or organization falling in the category listed in the preceding paragraph not exempt from the payment of real estate taxes is required to file declarations and final returns and remit the taxes levied under this ordinance on all business activities of a type ordinarily conducted for profit by taxpayers operating for profit.
8. Except as otherwise provided in division (G) of this section, intangible income; Compensation paid to a person serving as precinct election official, to the extent that such compensation does not exceed one thousand dollars (\$1,000) annually. Such compensation in excess of one thousand dollars (\$1,000) may be subject to taxation by the Village of Frazeytsburg. The Village of Frazeytsburg shall not require the payer of such compensation to withhold any tax from that compensation.
9. Compensation paid to an employee of a transit authority, regional transit authority, or regional transit commission for operating a transit bus or other motor vehicle for the authority or commission in or through the Village of Frazeytsburg, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such a tax by reason of residence or domicile in the Village of Frazeytsburg, or headquarters of the authority or commissions is located within the municipal corporation.
10. The income of public utility when that public utility is subject to the tax levied under section 5727.24 or 5727.01 of the revised code, except starting January 1, 2002, the income of an electric company or combined company, as defined section 5727.01 of the revised code, will be taxed by the Village of Frazeytsburg. For a combined company, only the income attributed from the activity of an electric company shall be subject to taxation by the Village of Frazeytsburg. The income of an electric company or combined company subject to taxation by the Village of Frazeytsburg shall be computed by taking into account the adjustments provided by division (I) (16) of section 5733.04 of the revised code.
11. On and after January 1, 2001, items excluded from Federal gross income pursuant to section 107 of the Internal revenue code; Clergy Housing Allowance.
12. On and after January 1, 2001, compensation paid to an individual for personal services performed within the Village of Frazeytsburg, if the individual does not reside in the Village of Frazeytsburg performs such personal services in the Village of Frazeytsburg on twelve (12) or fewer days in the calendar year, or his income is One Hundred Fifty (\$150.00) Dollars or less for the year while employed within the village, and if the individual is an employee, the principle place of business of the individual's employer is located outside the Village of Frazeytsburg. Division (f) (8) of this section does not apply to professional entertainers or professional athletes or to promoters of professional entertainment or sports events and their employee, as reasonably defined by the Village of Frazeytsburg.

ARTICLE IV
EFFECTIVE PERIOD OF TAX

- A. The tax imposed by Article III, paragraphs A-1 and A-2 of this ordinance shall be levied, collected and paid with respect to salaries, wages, bonuses, incentive payments, commission fees, and other compensation earned on and after December 31, 2000.
- B. The tax imposed by Article III of the ordinance, with respect to net profits of trades, business, professions, enterprises, undertaking and other activities is on net profits earned on and after December 31, 2000.

ARTICLE V
RETURN PAYMENT OF THE TAX

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A. DATE AND REQUIREMENT FOR FILING

1. On or before April 15 unless April 15 is a Saturday or Sunday, then the first Monday following April 15 is the day on which the return shall be filed. Of the year following the effective date of this ordinance and each year thereafter every resident person, subject to the provisions of Article III, paragraphs A-1 to A-5, inclusive, of this ordinance shall, except as hereinafter provided, make and file with Administrator a return on a form prescribed by and obtainable upon request from the administrator, whether or not tax be due. (The Administrator is hereby authorized to provide by regulation that the return of any 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 Administrator shall be accepted unless otherwise specified, as the return required of any employee whose sole income, subject to tax under this ordinance, is such salary, wages, commissions or other compensation).
2. If the return is made for a fiscal year or any period less than a year said return should be made within four (4) months from the end of each fiscal year or other period.
3. Every person subject to the provisions of Article III of this ordinance shall, except as hereinafter provided, file a return setting forth the aggregate amount of salaries, wages, commissions and other personal services, compensation, net profits, business or other activities, including the rental from use or real and personal property, and other income taxable under the ordinance, received for the period covered by the return and such other pertinent facts and information in detail as the Administrator may require.
4. An employee who is permitted to deduct business expenses (IRS Form 2106) from gross wages, or commission must file a return in order to claim such deductions even though all or part of such wages, salaries, or commissions are subject to withholding.
5. Any taxpayer that received taxable income not subject to withholding under this ordinance must file a return.
6. Any taxpayer having income, wages, or other compensation, for which a return must be filed, and also having net profits from a business covering the same or a different period, is required to file only one return.
7. Trustees of active trusts are required to file returns and pay the tax on the taxable income thereof.
8. Except as provided for herein, tax is on the partnership or association as an entity whether residents or non-residents and a return is required disclosing the net profits allocable to the Village of Frazeytsburg and the tax paid thereon. However, any resident partner or resident member of the unincorporated entity is required to make a return and pay the tax in accordance with Article III-A-3b of this ordinance.
9. A husband and wife may, in any tax year, elect to file separate or joint returns.
10. The Village of Frazeytsburg shall not require a taxpayer to file an annual income tax return or report prior to filing date for corresponding tax.

B. INFORMATION REQUIRED AND RECONCILIATION WITH FEDERAL RETURNS

1. In returns filed hereunder, there shall be set forth the aggregate amount of salaries, wages, bonuses, incentive payments, commissions, fees and other compensation less reasonable allowable expenses incurred subject to the tax earned from each employer, taxable net profits and other pertinent information as the Administrator require.
2. Where figures of total income, total deductions, and net profits are included, as shown by a Federal Return, any items of income are not subject to the Village of Frazeytsburg's tax and unallowable expenses shall be eliminated in determining net income subject to the Village of Frazeytsburg's tax. In the absence of records showing the actual unallowable expenses, such expenses shall be determined in accordance with Article III A-6c.1.08 of this ordinance. The fact that any taxpayer is not required to file a Federal Tax Return does not relieve him from filing the Village of Frazeytsburg's tax return.
3. If a change in Federal Income Tax Liability, made by the Federal Internal Revenue Service, or by judicial decision, results in an additional amount of tax payable to The Village of Frazeytsburg, a report of such change shall be filed by taxpayer within three (3) months after receipt of the final notice from Federal Internal Revenue Service or final court decision, see Article XI-B-2.
4. If a change in federal income tax liability results in a reduction of taxes owed and paid to the Village of Frazeytsburg, a claim for a refund shall be filed with the Administrator as prescribed in Article XI of this ordinance.

C. EXTENSIONS

1. Upon written request of the taxpayer made on or before the filing date for filing the return, and for good cause shown, or upon receipt of a copy of the Federal Internal Revenue Service extension granted the taxpayer, the Administrator may extend the time for filing such return for a period not to exceed six (6) months, or so to one (1) month beyond extension requested of or granted by the Federal Internal Revenue Service. Whenever he or she deems such necessary, the Administrator may require a tentative return accompanied by payment of the estimated tax.

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2. Information returns, schedules, and statements needed to support tax returns are to be filed within the time limits set fourth for filing the tax returns.

D. PAYMENT WITH RETURN

1. The taxpayer making a return shall, at the time of filing thereof, pay to the Administrator the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due shall have been deducted at the source of pursuant to the provisions of Article VI of this ordinance, or where any portion of said tax shall have been paid by the taxpayer pursuant to the provisions of Article VII of this ordinance, or where an income has been paid to another municipality, credit for the amount so paid in accordance with Article XV hereof , 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 over paid the amount of tax to which the Village of Frazeyzburg is entitled under the provisions of this ordinance may have such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such as overpayment or part thereof shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$1) 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 additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Article XI and XII. Such amended return shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.
2. Within three (3) months from the final determination of any Federal tax liability affecting the Taxpayer's Village of Frazeyzburg tax liability, such taxpayer shall make and file an amended Village of Frazeyzburg return showing income subject to the Village of Frazeyzburg tax based upon such final determination of Federal tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment.

ARTICLE VI
COLLECTION OF TAX AT THE SOURCE

A. DUTY OF WITHHOLDING

1. Except as otherwise provided herein, it is the duty of each employer within or doing business within the Village of Frazeyzburg, who employs on (1) or more persons whether as an employee, officer, director or otherwise, to deduct each time any compensation is paid the tax of one percent (1%) from:
- a. the gross amount of all salaries, wages, bonuses, incentive payments, fees, commissions or other forms of compensation paid to residents of the Village of Frazeyzburg, regardless of the places where the services are rendered; and
 - b. All compensation paid non-residents for services rendered, work performed or activities engaged within the Village of Frazeyzburg.
2. All employers within or doing business within the Village of Frazeyzburg are required to make the collections and deductions specified in this Article, regardless of the fact that the services on account of which any particular deduction is required, as to residents of the Village of Frazeyzburg were performed outside the Village of Frazeyzburg.
3. Employers who do not maintain a permanent office or place of business in the Village of Frazeyzburg, but are subject to tax on net profits attributable to the Village of Frazeyzburg under the method of allocation provided for in this ordinance, are considered to be employers within the Village of Frazeyzburg and subject to the requirement of withholding.
4. The mere fact that the tax is not withheld will not relieve the employee of the responsibility of filing a return and paying the tax on the compensation paid. If the employer has withheld the tax and failed to pay the tax withheld to the Administrator, the employee is not liable for the tax so withheld.
5. Commissions and fees paid to professional men, brokers and others who are independent contractors and not employees of the pay or, are subject to withholding or collection of the tax at the source. Such taxpayers must in all instances file a declaration and return and pay the tax pursuant to the provisions of the ordinance and Article V and VII of this ordinance.
6. Where a non-resident receives compensation for personal services rendered or performed partly within and partly without the Village of Frazeyzburg, the withholding employer shall deduct, withhold and remit the tax on that portion of the compensation which is earned within the Village of Frazeyzburg in accordance with the following rules of apportionment:
- a. If the non-resident is a salesman, agent or other employee whose compensation depends directly on the volume of business transacted or chiefly effected by him, the deducting and withholding shall attach to the portion of the entire compensation which the volume of business transacted or chiefly effected by the employee within the Village of Frazeyzburg bears to the total volume of business transacted by him within and outside the Village of Frazeyzburg.

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b. The deducting and withholding of personal service compensation of other non-resident employees, including officers of corporations, shall attach to the proportion of the personal service compensation of such employee with the total number of his working hours within the Village of Frazeytsburg.

c. The fact that non-resident employees are subject to call at any time does not permit the allocation of pay for time worked within the Village of Frazeytsburg on a seven-day-per-week basis. The percentage of time worked in the Village of Frazeytsburg will be computed on the basis of forty (40) hour week unless the employer notifies the Administrator that the greater or lesser number of hours per week is worked.

d. On and after January 1, 2001 compensation paid to an individual for personal services performed within the Village, if the individual does not reside in the Village, performs such personal services in the Village on twelve or fewer days in the calendar year, and, if the individual is an employee, the principal place of business of the individual's employers is located outside the Village. Division (F) (8) of this section does not apply to professional athletes or to promoters of professional entertainment or sports events and their employees, as reasonably defined by the Village.

7. An employer shall withhold the tax on the full amount of any advance made to an employee on account of commissions.

8. An employer required to withhold tax on compensation paid to an employee shall, in determining the amount on which the tax is to be withheld ignore any amount allowed and paid to the employee for expenses necessarily and actually incurred by the employee in actual performance of his services, provided such expenses are incurred in earning compensation, including commissions, and are not deducted as a business expense by the employee under Article III of this ordinance.

9. An employer whose records show that an employee is a non-resident of the Village of Frazeytsburg and has no knowledge to the contrary shall be relieved of the responsibility of withholding the tax on personal service compensation paid to such employee for services rendered or work done outside the Village of Frazeytsburg by such employee, provided, however, that such employer must withhold the tax on all personal service compensation paid such employee after Administrator notifies the employer in writing that such employee is a resident of this Village. All employees are required to notify the employer of any change of residence and the date thereof.

10. A Village of Frazeytsburg employer required to withhold the tax from a Village of Frazeytsburg resident for work done or services performed in another municipality, and who does not so withhold and remit to such other municipality, shall be relieved from the requirement of withholding the Village of Frazeytsburg tax from such Village of Frazeytsburg resident, except where the rate of tax for such other municipality is less than the rate of tax by this ordinance. In such case the employer shall withhold and remit the difference to the Village of Frazeytsburg.

11. 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, but such employee shall be subject to the requirements of the ordinance.

12. Beginning January 1, 2001, the Village of Frazeytsburg shall not require any non-resident employer, agent of such an employer, or other payer that is not situated in the Village to deduct and withhold taxes from the taxable income of any individuals unless the total amount of tax required to be deducted and withheld for the Village of Frazeytsburg on account of all employer's employees or all of the other payer's exceeds one hundred fifty (\$150.00) dollars for a calendar year being on or after that date. If the total amount of tax to be deducted and withheld on account of all the non-residents employer's employees or all of the other payer's payees exceeds on hundred fifty (\$150.00) dollars for a calendar year beginning on or after January 1, 2001, the Village of Frazeytsburg will require the employer, agent, or other payer to deduct and withhold taxes in each ensuing year even if the amount to be deducted and withheld in each of these ensuing years is one hundred fifty (\$150.00) dollars or less, except as otherwise provided in division (B) of this section.

If a non-resident employer, agent of such an employer, or other payer that is not situated in the Village of Frazeytsburg is required to deduct and withhold taxes for an ensuing year under division (A) or this section, and the total amount of any tax required to be deducted and withheld under that division in each of three consecutive ensuing years is one hundred fifty (\$150.00) dollars or less, the Village of Frazeytsburg 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 years exceeds one hundred fifty (\$150.00) dollars.

B. RETURN AND PAYMENT OF TAX WITHHELD AND STATUS OF EMPLOYERS

1. The deductions from salaries, wages, and other compensation required to be made by employers are to begin with the compensation earned on and after the effective date set forth of this ordinance.

- The employer shall, on or before the last day of the month next following each quarterly period, make a return and pay to the Administrator the full amount of eh tax so deducted or withheld with respect to compensation paid all of his employees subject to tax under this ordinance. Provided, however, the Administrator may require an employer to remit withholding taxes at more frequent intervals.

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- The return required to file under this Article shall be made on a form furnished by or obtainable on request from the Administrator.
- 2. If more than the amount of tax is required to be deducted by this ordinance is withheld from an employee's pay, such may be refunded by the employer or the Administrator, depending upon the circumstances and the time when the over-withholding is determined as follows:
 - a. **Current employees:**
 - 1) If the over-withholding is discovered in the same period the employer shall make the necessary adjustment directly with the employee and the amount to be reported on the return as withheld be corrected amount;
 - 2) If the over-withholding is discovered in a subsequent period of the same calendar year the employer may make proper adjustment with the employee. In such case the return for the period in which the adjustment is made shall indicate the total amount actually withheld, the amount of the adjustment deducted there from, and corrected amount reported on the return;
 - 3) If the over-withholding is discovered in the following year, the employer should notify the Administrator of such over-withholding and the circumstances thereof. Upon proper verification the Administrator shall refund to the employee the amount of such excess withholding.
 - b. **Former employees:**
 - 1) In the case too much has been withheld from an employee who is no longer employed by the employer, the employer shall notify the Administrator of the amount and circumstances of such over-withholding and the Administrator shall then refund to the employee the amount of such excess withholding; or
 - 2) If the error is discovered by the employee, such employee shall file a claim with the Administrator and, upon verification thereof by the employer, the Administrator shall refund to the employee the amount of excess withholding.

c. Non-residents employed outside the city:

Where an employer has withheld the tax from wages of a non-resident of the Village of Frazeytsburg and such non-resident has been employed outside the Village of Frazeytsburg for all or part of the time, such employee shall file a claim with the Administrator covering such erroneous withholding and the Administrator shall, upon verification thereof by the employer, refund to the employee the amount of such excess withholding.

d. Insufficient withholding:

- 1. If less than the amount if tax is required to be deducted is withheld from an employee, such deficiency shall be withheld from subsequent wages. However, if the employee-employer relationship has terminated, the employer shall notify the Administrator of such deficiency and the reason therefore.
- 2. Every employer is deemed to be a trustee for the Village of Frazeytsburg in collecting and holding the tax required under this ordinance to be withheld and the funds so collected by such withholding are deemed to be trusted funds.
- 3. Every such employer required to deduct and withhold the tax at the source is liable to the Village of Frazeytsburg for payment of such tax whether actually collected from such employee or not.
- 4. On or before the 31st day of January, following any calendar year in which such deductions have been made by any employers, such employer shall file with the Administrator, in the form prescribed by the Administrator, an information return for each employee from whom the Village of Frazeytsburg's income tax had been withheld, showing the name, address and social security number of the employee, the total amount of compensation paid during the year and the amount of the Village of Frazeytsburg's income tax withheld from such employee.
- 5. The gross compensation to be reported for each employee shall be for the full twelve (12) calendar months of the year of such portion thereof as the employee reported was employed.
- 6. All payments not subject to withholding returns, and at the time the same are filed, such employer shall file with Administrator a form to enable the Administrator to reconcile the sum total of compensation paid and taxes withheld as disclosed by information return W-2, or list of employee, prior returns and remittances made pursuant to this ordinance.

C. FRACTIONAL PARTS OF PERCENTAGE

In deducting and withholding the tax at the source and in payment of any tax due under the ordinance, a fractional part of a cent shall be disregarded unless it amounts to one half cent or more in which case it shall be increased to one cent.

**ARTICLE VII
DECLARATIONS**

A. REQUIREMENT OF FILING

- 1. A declaration of estimated tax shall be filed by every taxpayer who reasonably is expected to have taxable income, the tax on which is not or will not be withheld by employer or employers. Where required such declaration shall be filed within four (4) months after beginning of the taxable year.

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2. A taxpayer's final return for the preceding year may be used as the basis for computing his declaration of estimated tax for the current year. In the event a taxpayer has not previously been required to file a return, a declaration of estimated tax on anticipated income shall be filed in good faith.

B. DATE OF FILING

1. A person or other entity conducting a business not previously subject to the tax, or whose employer does not withhold tax shall file a declaration within four (4) months after the date he becomes subject to the tax.
2. Those taxpayers having a fiscal year or period differing from the calendar year shall file a declaration within four (4) months after the start of each fiscal year period.

C. FORM FOR FILING

1. Such declaration shall be filed upon a form or forms furnished by or obtainable from the Administrator. Provided, however, credit shall be taken for the Village of Frazeytsburg's tax to be withheld from any portion of such income. In accordance with the provisions of Article XV of this ordinance, credit may be taken for tax to be due, withheld and remitted to another taxing municipality.
2. The original estimate of tax liability or any subsequent amendment thereof may be increased or decreased by filing an amended declaration on or before any quarterly payment date as set forth in Article VII-D.1. Such amendment may be on the regular declaration form or on back of any quarterly notice.

D. DATES OF PAYMENTS

1. Beginning January 1, 2001, the Village of Frazeytsburg will require taxpayers who are individuals to remit payment of estimated taxes as follows:
- a. Not more than twenty-two and one-half percent of the taxpayer's estimated tax liability for the current year shall be required to have been remitted on 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 the Village of Frazeytsburg.
 - b. Not more than forty five percent of the taxpayer's estimated tax liability for the current year shall be required to have been remitted on or before the thirty first day of July.
 - c. Not more than sixty-seven and one-half percent of the taxpayer's estimated tax liability for the current year shall be required to have been remitted on or before the thirty first day of October.
 - d. Not more than ninety percent of the taxpayer's liability for the previous year shall be required to have been remitted on or before the thirty first day of January of the following year.
2. 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 in this section.
3. Beginning January 1, 2001 the Village of Frazeytsburg requiring taxpayers that are not individuals to remit payment of estimated taxes will require such taxpayers to remit such payments only as prescribed below:
- a. Not more than twenty-two and one-half percent of the taxpayer's estimated tax liability for the current year shall be required to have been 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 case of a fiscal year taxpayer, the fifteenth (15) day of the fourth (4) month of the taxpayer's taxable year.
 - b. Not more than forty five percent of the taxpayer's estimated tax liability for the current year shall be required to have been remitted on or before the fifteenth (15) day of the sixth (6) month of the taxpayer's taxable year.
 - c. Not more than sixty-seven and one-half percent of the taxpayer's estimated tax liability for the current year shall be required to have been remitted on or before the fifteenth (15) day of the ninth (9) month of the taxpayer's taxable year.
 - d. Not more than ninety percent of the taxpayer's estimated liability for the current year shall be required to have been remitted on or before the fifteenth (15) day of December or, in case of a fiscal year taxpayer, the fifteenth (15) day of the twelfth (12) month of the taxpayer's taxable year.

E. FINAL RETURNS REQUIRED

The filing of declaration does not relieve the taxpayer of the necessity of filing a final return even though there is no charge in the declared tax liability. A final return must be filed to obtain a refund of any overpayment over \$1.00

ARTICLE VIII DUTIES OF THE ADMINISTATOR

A. COLLECTION OF TAX AND RETENTION OF RECORDS

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- 1. It shall be the duty of the Administrator to receive the tax imposed by this ordinance in the manner prescribed herein from the taxpayers; to keep an accurate record thereof, to report all monies so received, and to surrender all monies to the Fiscal Officer for the deposit into the General Fund as provided in Article XIV of this ordinance.
- 2. It shall be the duty of the Administrator to enforce payment of all taxes owed the Village of Frazeyzburg, to keep accurate records for a minimum of six (6) years showing the amount due from each taxpayer required to file a declaration and/or make any return, including taxes withheld, and to show the dates and amounts of payments thereof.

B. ENFORCEMENT PROVISIONS

- 1. The Administrator is charged with the administration and enforcement of the provisions of this ordinance and is, subject to the approval of the Board of Appeals, empowered to adopt, promulgate, and enforce rules and regulations or any amendment thereof relating to any matter of thing pertaining to the administration and enforcement of this ordinance. The rules shall be filed with the clerk of legislative authority and made available for public inspection at the office of administering officer. The rules shall not conflict with the Village's ordinances and resolutions. The Administrator has the authority to correct or adjust any return submitted, when a correction or adjustment is necessary to accomplish the intent of this ordinance.
- 2. Any taxpayer or employer desiring a special ruling on any matter pertaining to this ordinance should submit to the Administrator in writing all the facts involved and the ruling sought.
- 3. This ordinance, together with all amendments and supplements hereto and all changes herein as well as all regulations adopted pursuant hereto, will be on file at the office of Income Tax Administrator, 7 W Second Street, PO Box 160, Frazeyzburg, Ohio, and will be open to public inspection.
- 4. The Administrator is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proved to the Administrator that, due to certain hardship conditions, he is unable to pay the full amount of tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under this ordinance.
- 5. Failure to make payment when due shall cause the total unpaid amount, including penalties and interest, to become payable on demand and the provisions of Article XI and XII of this ordinance shall apply.

C. ESTIMATION OF TAX BY ADMINISTRATOR WHEN NO TAX RETURN FILED

- 1. Whenever the Administrator has been unable to secure information from the taxpayer as to his taxable income for any year, he or she may determine the amount of tax appearing to be due and assess the taxpayer upon the basis of such determination, together with the interest and penalties as prescribed in Article X of this ordinance.
- 2. Such determination of tax may be adjusted upon submission by the taxpayer of actual income from which his tax may be computed.

D. POWER TO COMPROMISE

Subject to the consent of the Board of Appeals or pursuant to regulation approved by said Board of Appeals, Administrator shall have the power to compromise any interest or penalty, or both, imposed by Article X of this ordinance.

ARTICLE IX
EXAMINATION OF BOOKS AND RECORDS; INFORMATION SO OBTAINED CONFIDENTIAL;
PENALTY

A. INVESTIGATIONS BY ADMINISTRATOR

- 1. The Administrator, or his duly authorized agent, is authorized to examine the books, paper, records, and Federal Income Tax returns of any employer, taxpayer or person subject to the ordinance, or whom the Administrator believes is subject to the provisions of this ordinance, for the purpose of verifying the accuracy of any return made; or, if no return was made, to ascertain the tax due under this ordinance.
- 2. An employer or taxpayer shall furnish, within ten (10) days following a written request by the Administrator, or his duly authorized agent, the means, facilities and opportunity for making examinations and investigations authorized by this ordinance.

B. SUBPOENA OF RECORDS AND PERSON

- 1. The Administrator, or any person acting in his capacity, is authorized to examine any person, under oath, concerning any income which was, or should have been, returned for taxation, or any transaction tending to affect such income. The administrator may compel the production of books, paper

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and records the attendance of all persons before him whether as parties or witness whenever he believes such person has knowledge of the facts concerning any supposed transaction of the taxpayer.

2. The Administrator's order to examine any document mentioned in the preceding paragraph shall state whether the examination is to be at the office of the taxpayer or at the office of the Administrator.

3. The Administrator may order the appearance before him, or his duly authorized agent, of any party whom he believes to have any knowledge of a taxpayer's income or withholdings, or any information pertaining to the taxpayer under investigation, whether or not the individual so ordered has actual custody of the records of the taxpayer being investigated. The Administrator is specifically authorized to order the appearance of a local manager or representative of any taxpayer.

4. Persons required to attend any hearings shall be notified not less than ten (10) days prior to the time of the hearing. The notice shall show the time and place of the hearing and what books, papers or records the witness is to make available at such hearing.

5. The notice shall be served by the Administrator, or his duly authorized agent, by delivering it to person named personally, or by leaving a notice at his usual place of business or residence, or by mailing it to the person by registered mail, return receipt requested, addressed to his usual place of business or residence.

C. PENALTY FOR NONCOMPLIANCE

Refusal by any employer, supposed employer, taxpayer, or supposed taxpayer, or the refusal of any such person to appear before the Administrator or his duly authorized agent, to submit such examination and to produce records requested constitutes a misdemeanor punishable by a fine or imprisonment, or both, as prescribed by Article XII of this ordinance.

D. CONFIDENTIAL NATURE OF EXAMINATIONS

Any information gained as a result of any returns, investigations, verifications or hearings before the Administrator, required by this ordinance shall be confidential and no disclosure thereof shall be made except for official purpose or as ordered by a court or competent jurisdiction. Any person divulging such information shall be guilty of a misdemeanor punishable by a maximum fine of \$50.00 or imprisonment for not more than six months, or both.

The Tax Administrator of the Village of Frazeyzburg may furnish copies of returns under this ordinance to the Internal Revenue Service and to the tax commissioner without fine or penalty.

In addition to the above penalty, any employee of the Village of Frazeyzburg who violates the provisions of this Article relative to the disclosure of confidential information shall be guilty of the offense punishable by immediate dismissal.

E. RETENTION OF RECORDS

All employers and taxpayers are required to keep such records as will enable the filing of true and accurate returns whether of taxes withheld at the source or of taxes payable upon earnings or net profits, or both. Such records shall be preserved for a period of not less six (6) years from the date the final return is filed and paid or the withholding taxes are paid.

ARTICLE X
INTEREST AND PENALTIES

A. INTEREST (FAILURE TO PAY)

1. Except as provided in paragraph C of this Article, all taxes imposed and all monies withheld, or required to be withheld, by employers under the provision of this ordinance and remaining unpaid after they have become due shall bear interest, in addition to the amount of the unpaid tax or withholdings, at the rate of one-half percent (1/2 of 1%) per month or fraction thereof.

2. *Failure to File* Returns filed after April 30 without an extension (Federal extension) will be subject to a 10% interest charge on taxes owed.

B. PENALTIES (FAILURE TO PAY)

In addition to interest as provided in paragraph A hereof, penalties based on the unpaid tax are hereby imposed as follows:

1. Failure to pay taxes due, other than taxes withheld: one and one-half percent (1-1/2%) per month or fraction thereof.

2. For failure to remit taxes withheld from employees: five (5) percent per month or fraction thereof.

3. *Failure to File* Returns filed after April 30 without an extension (Federal extension) will be

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subject to a \$25.00 penalty even if no tax is owed.

C. EXCEPTIONS

1. No penalty shall be assessed on additional taxes found on audit to be due when return was timely filed in good faith and the tax paid thereon within the prescribed time.
2. In the absence of fraud neither penalty nor interest shall be assessed on any additional taxes resulting from a federal audit for income tax purpose and amended return is filed and the additional tax paid within three (3) months after provided and amended return is filed and the additional tax paid within three (3) months after the final determination of the federal tax liability.
3. A taxpayer or employer shall have thirty (30) days after receipt of notice of any proposed imposition of interest and penalties within to file a written protest or explanation with the Administrator. If no protest or explanation is filed within the prescribed time, the purposed imposition of interest and penalties shall become and be the final assessment. Upon filing of a written protest or explanation, the Administrator shall withdraw the assessment or he shall adjust or reaffirm the assessment and it shall then become final.
4. The Village of Frazeyzburg shall not impose any penalty, interest, interest penalty or other similar assessment or charge against a taxpayer for late payment or nonpayment of estimated liability in either of the following circumstances:
 1. Frazeyzburg resident but was not domiciled there on the first day of January of the current year
 2. The taxpayer has remitted, and amount at least equal to one hundred percent of the taxpayer's liability for the preceding year, provided that the return for the preceding year reflected a twelve (12) month period and the taxpayer filed for the preceding year.

D. APPEAL FROM ASSESSMENT

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

**ARTICLE XI
COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS**

A. UNPAID SUMS; CIVIL SUIT

1. In addition to any criminal penalties which may be imposed pursuant to Article XII of this ordinance, all taxes imposed by Article III of this ordinance and not paid when due shall be collectable, together with any interest and penalties thereon, by civil suit. Employers who are required, under Article VI of this ordinance, to withhold and remit taxes, required to be withheld at the source, to withhold and to remit, become liable to the municipality in a civil suit to enforce the payment of the deficiency created by such failure.
2. No additional assessment shall be made by the Administrator after three (3) years from the time the return was due or filed, whichever is later, provided, however, there shall be no period of limitation on such additional assessment in the case of a return that omits a substantial portion of income, of filing a false or fraudulent return to evade payment of the tax, or failure to file a return. Failure to report twenty-five (25) percent or more of income required to be reported shall be considered a substantial omission.
3. In those cases in which the Commissioner of Internal Revenue and taxpayer have executed a waiver of the federal statute of limitation, the period within which an assessment may be made by the Administrator is extended to one (1) year from the time of final determination of federal tax liability.

B. REFUNDS AND OVERPAYMENTS

1. Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date the tax was due or the return was filed, or three (3) months after the determination of the federal income tax liability whichever is later.
2. No refund shall be made to any taxpayer until he has complied with all provisions of this ordinance and has furnished all information required by the Administrator.
3. Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of overpayment until the date of the refund of the overpayment, except that if any overpayment is refunded within ninety days after the final date of the annual return or ninety days after the complete return is filed, whichever is later, no interest shall be allowed on refunded overpayment. For purposes of computing the payment of interest on overpayment, no amount of the tax for any taxable year shall be treated as having been paid before the date on which the return for the year was due without regard to any extension of time for filing that return. The interest shall be paid at the rate of interest prescribed by section 5703.47 of the Ohio Revised Code.
4. Overpayment will either be refunded or credited to the taxpayer's current year's liability at his

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option. Where no election has been made by the taxpayer, overpayments of any year's taxes shall be applied as follows:

- a. To taxes owed for any previous years in the order in which such taxes become due.
- b. To his current estimated tax liability
- c. Limitation – where the total amount due or refund claimed for a tax year is less than \$1.00, such amount should not be collected or refunded.

ARTICLE XII VIOLATION; PENALTIES

A. VIOLATION LISTED

Any person who shall:

1. Fail, neglect or refuse to make any return or declaration required by this ordinance; or
2. Make any incomplete, false or fraudulent return; or
3. Willfully fail, neglect or refuse to pay the tax, penalties or interest imposed by this ordinance; or
4. Willfully fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator; or
5. Refuse to permit the Administrator or any duly authorized agent or employee to examine his books, records, papers and federal income tax returns relating to the income or net profits of a taxpayer; or
6. Fail to appear before the Administrator and to produce his books, records, papers or federal income tax returns relating to the income or the net profits of a taxpayer upon order or subpoena of the Administrator; or
7. Refuse to disclose to the Administrator any information with respect to the income or net profits or net profits of a tax payer; or
8. Fail to comply with the provisions of this ordinance or any order or subpoena of the Administration authorizes hereby; or
9. Give to an employer false information as to his true name, correct social security number and residence address, or fail to promptly notify an employer or any change in residence address and date thereof; or
10. Fail to use ordinary diligence in maintaining proper records of employee's residence addresses, total wages paid and the Village of Frazeysburg income tax withheld, or to knowingly give the Administrator false information; or
11. Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this ordinance.

Shall be guilty of a misdemeanor and shall be fined not more than Five Hundred Dollars (\$500.00) or imprisoned not more than six (6) months, or both for each offense.

B. PROSECUTIONS

Prosecutions for an offense made punishable under this Article or any other provision of this ordinance 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 (25) percent or more of the income required to be reported, prosecutions may be commenced within six (6) years after the commission of offense.

C. FAILURE TO RECEIVE 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, declaration or return, from filing such form, or from paying the tax.

ARTICLE XIII BOARD OF APPEALS

A. A Board of Appeals, consisting of a chairman and two (2) other individuals to be appointed by the Village Council is hereby created. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep record of its transactions. Any hearing by the Board may be conducted privately and the provision of Article IX hereof with reference to the confidential character of information required to be disclosed by this ordinance shall apply to such matters as may be heard before the Board of Appeal.

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

C. Any person is aggrieved by aggrieved by decision by the tax Administrator and who has filed the

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Village of Frazeyzburg the required returns or other documents pertaining to the municipal income 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 days after the Tax Administrator issues the decision complained of.

The Board shall schedule a hearing within forty-five 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, CPA, or other representative.

The Board may affirm, reverse, or modify the Tax Administrator'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 (15) days after issuing the decision.

Each Board of Appeals created pursuant to this section shall adopt rules governing its procedures and shall keep a record of its transactions. Such records are not public records available for inspection under Section 149.43 of the Ohio Revised Code.

Hearings requested by a taxpayer before a Board of Appeals created pursuant to this section are not meetings of public body subject to Section 121.22 of the Ohio Revised Code.

ARTICLE XIV
USE OF FUNDS

A. The funds collected under the provisions of this ordinance shall be deposited in the General Fund, and said funds shall be disbursed in the following manner:

- 1. Administrator cost: Such part thereof as shall be necessary to defray all cost of collecting the tax and the cost of administering and enforcing the provisions hereof and making refunds there from.
- 2. Other use of funds: The balance remaining after providing for the expense referred to above, shall be appropriated by council for current operating expenses, equipment, debt retirement and capital improvement of the Village of Frazeyzburg.

B. The term appropriated as used in this section shall mean appropriations made by the Village Council in the manner required by law.

ARTICLE VX
CREDITS

CREDIT ALLOWED FOR TAX PAID IN ANOTHER MUNICIPALITY

A. LIMITATION

- 1. When the taxable income of a resident of the Village of Frazeyzburg is subject to municipal income tax in another municipality on the same income taxable under this ordinance, such resident shall be allowed a credit of the amount of income tax paid on such taxable income to such other municipality, equal to one hundred (100) percent of the amount (obtained by multiplying the lower tax rate of such other municipality or of the municipality by the taxable income earned in or attributable to the municipality of employment or business activity).
- 2. On and after January 1, 2003, The Village of Frazeyzburg shall grant a credit to taxpayers that are domiciled in the Village of Frazeyzburg for taxes paid to another municipal corporation by a pass-through entity that does not conduct business in the Village of Frazeyzburg. The amount of the credit shall equal the lesser of the following amounts; subject to division (c) of this section.
 - a. The amount, if any, of tax paid by the pass-through entity to another Municipal Corporation in this state, apportioned ratably according to the ownership interest of the taxpayer in proportion to the ownership interest of all owners of the entity.
 - b. The amount of tax that would be impose on the pass-through entity by the municipal corporation, in which the taxpayer is domiciled if the pass-through entity conducted business in the Village of Frazeyzburg, apportioned ratably according to the ownership of all owners of the entity.
- 1. If the Village of Frazeyzburg grants a credit for a percentage, less than one hundred (100) percent, of the amount of income tax paid on compensation by an individual who resides or is domiciled in the Village of Frazeyzburg to another municipal corporation, the amount of credit otherwise required by division of this section shall be multiplied by that percentage.

B. METHOD OF APPLYING FOR CREDIT

- 1. No credit will be given unless the taxpayer claims such on his final return or other form prescribed by the Administrator, and presents such evidence of the payment of a similar tax to another municipality,

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as the Administrator may require.

2. A statement satisfactory to the Administrator from the taxing authority of the municipality to which the taxes are paid that a Village of Frazeytsburg resident or his employer is paying the tax shall be considered as fulfilling the requirement of this Article.

C. OTHER CREDITS

A. The Tax Administrator is hereby authorized to grant a credit to a business entity who also receives a credit under ORC 122.17. The credit shall be measured as a percentage of the new income tax revenue the Village derives from new employees of the business entity and shall be for a term not exceeding 10 years. The Village and the business entity shall enter into an agreement specifying all the conditions of the credit.

B. The Tax Administrator is hereby authorized to grant a credit to a resident who works in a Joint Economic Zone or Joint Economic Development Zone created under ORC Sections 715.691, 70.71, 715.71, or 715.72 to the same extent it grants a credit against its tax on income to its residents who are employed in another municipal corporation.

ARTICLE XVI SAVING CLAUSE

If any sentence, clause, section or part of this ordinance, or any tax imposed against, or exemption from tax granted to, any taxpayer or forms of income specified herein is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section or part of this ordinance so found and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this ordinance. It is hereby declared to be the intention of the legislative authority of the Municipality that this ordinance would not have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included in this ordinance.

ARTICLE XVII COLLECTION OF TAX AFTER TERMINATION OF ORDINANCE

A. AUTHORITY TO COLLECT AFTER TERMINATION OF ORDINANCE

The tax imposition provisions of this ordinance are effective until this ordinance is repealed, subject, however, to the provisions of Article XI of this ordinance with respect to the limitation of time within which an additional assessment may be made.

I. PAYMENT OF TAXES

1. Taxes due and unpaid on account of compensation paid or received and on account of profits earned in last effective year of this ordinance or any part thereof remains unpaid, are payable in full on or before the dates specified in Articles V and VI of this ordinance and all final returns and withholding reports must be filed on or before that date, unless extended by the Administrator.

2. For purpose of collection of delinquent or unpaid taxes, actions or proceeding for such collection and/or the collection of interest and penalties thereon, or enforcing any provisions of the ordinance including prosecutions under the criminal sections of the ordinance and including appeals before the Board of Appeals, this ordinance remains in full force and effect until such time as all taxes accruing during the term of ordinance shall have been fully paid, and all actions, suits, prosecutions, appeals and other judicial or administrative proceeding relative to the collection or payment of such taxes have been finally terminated.

ARTICLE XVIII

On and after January 1, 2002, The Village of Frazeytsburg shall make electronic versions of any rules or ordinance governing the tax available to the public through the internet, including but not limited to, ordinance or rules governing the rate of tax; payment and withholding of taxes; filing any prescribed returns, reports, or other documents; dates for filing or paying taxes, including estimated taxes; penalties, interest, assessments, and other collection remedies; rights of taxpayers to appeal; and procedures for filing appeals. On and after that date, the Village of Frazeytsburg shall make blanks of such returns, reports, documents, and any instructions pertaining thereto, available to the public electronically through the Internet. Electronic versions of rules, ordinance, blanks, and instructions shall be made available either by posting them on the electronic site established by the tax commissioner under section 5703.49 of the Ohio Revised Code or by posting them on an electronic site established by the Village of Frazeytsburg that is accessible through the Internets. If the Village of Frazeytsburg establishes such an electronic site, the Village of Frazeytsburg shall incorporate an electronic link between that site established pursuant to section 5703.49 of revised code, and shall provide to the tax commissioner the uniform resource locator of the site established pursuant to the division.


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Council finds and determines that all formal actions relative to the passage of this ordinance were taken in an open meeting and that all deliberations of Council which resulted in the passage of this ordinance were taken in meetings open to the public, in full compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

PASSED IN COUNCIL THIS 14th DAY OF December, 2015.




Gary A. Middlemus
Mayor

Attest:



Jessica A. Everson
Fiscal Officer

APPROVED AS TO FORM ONLY:



Gerald J. Tiberio, Jr.
Village Solicitor