

# RECORD OF ORDINANCES

BLANK BOOK CO., COL., O.

Form No. 2806-A

Ordinance No. 6

Passed 5-13 1969

ORDINANCE TO PROVIDE FUNDS FOR GENERAL OPERATIONS AND PERMANENT IMPROVEMENTS BY LEVYING A TAX ON ALL SALARIES, WAGES, COMMISSIONS, AND OTHER COMPENSATION EARNED BY RESIDENTS; ON ALL SALARIES, WAGES, COMMISSIONS, AND OTHER COMPENSATION EARNED BY NON-RESIDENTS FOR WORK DONE OR SERVICES PERFORMED IN THE VILLAGE OF WOODLAWN: ON THE NET PROFITS OF ALL UNINCORPORATED BUSINESSES, PROFESSIONS, OR OTHER ENTITIES FROM SALES MADE, WORK DONE, AND SERVICES PERFORMED, OR BUSINESS OR OTHER ACTIVITIES CONDUCTED IN THE VILLAGE OF WOODLAWN, WHETHER OR NOT SUCH UNINCORPORATED BUSINESS, PROFESSIONS, OR OTHER ENTITIES, HAVE AN OFFICE OR PLACE OF BUSINESS IN THE VILLAGE OF WOODLAWN, ON A RESIDENT'S SHARE OF THE NET PROFITS OF AN UNINCORPORATED BUSINESS, PROFESSIONS, OR OTHER ENTITY WHETHER LOCATED IN OR OUTSIDE THE VILLAGE OF WOODLAWN, NOT ATTRIBUTABLE TO WOODLAWN, AND ON THE NET PROFITS OF ALL CORPORATIONS FROM SALES MADE, WORK DONE, AND SERVICES PERFORMED, OR BUSINESS OR OTHER ACTIVITIES CONDUCTED IN THE VILLAGE OF WOODLAWN, WHETHER OR NOT SUCH CORPORATIONS HAVE AN OFFICE OR PLACE OF BUSINESS IN THE VILLAGE OF WOODLAWN; REQUIRING THE FILING OF RETURNS AND THE FURNISHING OF INFORMATION BY EMPLOYERS AND ALL THOSE SUBJECT TO SAID TAX; IMPOSING ON EMPLOYERS THE DUTY OF COLLECTING THE TAX AT THE SOURCE AND PAYING THE SAME TO THE VILLAGE OF WOODLAWN; PROVIDING FOR THE ADMINISTRATION, COLLECTION AND ENFORCEMENT OF SAID TAX; DECLARING VIOLATIONS THEREOF TO BE MISDEMEANORS, AND IMPOSING PENALTIES THEREFOR.

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF WOODLAWN, HAMILTON COUNTY, OHIO, THREE-FOURTHS (3/4ths) OF ITS MEMBERS ELECTED THERETO CONCURRING:

## SECTION I. PURPOSE.

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

## SECTION II. DEFINITIONS.

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

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

Board of Review. The Board created by and constituted as provided in Section 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.

# RECORD OF ORDINANCES

Form No. 2806-A

COLUMBUS BLANK BOOK CO., COL., O.

Form No. 2806-A

19

Ordinance No.

6

Passed

5 - 13

1969

Capital Gains. The net profits from the sale of any real or personal property if (a) such property has been owned by the taxpayer for more than one year; and (b) the taxpayer is not regularly engaged in the business of selling such kind or character of property.

Corporation. A corporation or joint stock association organized under the laws of the United States, the State of Ohio or any other state, territory, or foreign country or dependency.

Employee. One who works for wages, salary, commission or other type of compensation in the services of an employer.

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

Fiscal Year. An accounting period of twelve months ending on any day other than December 31st.

Gross Receipts. Total income of taxpayers from whatever source derived.

Net Profits. The net gain from all operations including those pertaining to capital gains and losses of a business, professions, or enterprise after provision for all ordinary and necessary expense, except taxes imposed by this Ordinance and federal and other taxes based on income paid or accrued in accordance with the accounting system used by the taxpayer for federal income tax purposes, and, in the case of an association, without deduction of salaries paid to partners or other owners.

Non-Resident. A person, whether an individual, association, corporation, or other entity, domiciled outside the Village of Woodlawn.

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

Place of Business. Any bona-fide office (other than a mere statutory office); factory, warehouse, or other space which is occupied and used by the taxpayer in carrying on any business activity, individually or through one or more of his employees, regularly in attendance.

Resident. A person, whether an individual, association, corporation, or other entity, domiciled in the Village of Woodlawn.

# RECORD OF ORDINANCES

Form No. 2806-A

COLUMBUS BLANK BOOK CO., COL., O.

Form No. 2806-A

19

Ordinance No. 6

Passed 5 - 13

19 69

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

Tax Collector. The Tax Collector of the Village of Woodlawn so designated and appointed by the Clerk Treasurer of the Village.

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

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

## SECTION III. IMPOSITION OF TAX.

A. Subject to provisions of Section XVI of this Ordinance, an annual tax for the purposes specified in Section I hereof, shall be, and is hereby levied on and after July 1, 1969, at the rate of one-half of one ( $\frac{1}{2}$  of 1%) percent per annum upon the following:

1. On all salaries, wages, including sick and vacation pay, commissions and other compensation earned during the effective period of this Ordinance, by residents.
2. On all salaries, wages, including sick and vacation pay, commissions and other compensation earned, during the effective period of this Ordinance, by non-residents for work done or service performed in the Village of Woodlawn.
3. (a) On the portion attributable to the Village of Woodlawn of the net profits, earned during the effective period of this Ordinance of all resident associations, unincorporated businesses, professions or other entities, derived from sales made, work done or services performed or rendered, or business or other activities conducted in the Village of Woodlawn.  
(b) On a resident partner's or owners share of the net profits, earned during the effective period of this Ordinance, of a resident association or other unincorporated entity not attributable to the Village of Woodlawn and not levied against such association or other unincorporated entity.
4. (a) On the portion attributable to the Village of Woodlawn of the net profits, earned during the effective period of this Ordinance, of all non-resident associations, unincorporated businesses, professions or other entities, derived from sales made, work done or services performed or rendered or business or other

# RECORD OF ORDINANCES

Form No. 2806-A

COLUMBUS BLANK BOOK CO., COL., O.

Form No. 2806-A

19

Ordinance No. 6

Passed 5 - 13 19 69

activities conducted in the Village of Woodlawn, whether or not such association or other unincorporated entity has an office or place of business in the Village of Woodlawn.

(b) On a resident partner's or owners share of the net profits, earned during the effective period of this Ordinance, or a non-resident association or other unincorporated entity not attributable to the Village of Woodlawn and not levied against such association or other unincorporated entity.

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

## B. Allocation of Net Profits.

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

1. Multiply the entire net profits of the business by a business allocation percentage to be determined by:
  - (a) ascertaining the percentage which the average net book value of the real and tangible personal property owned or used in the business and situated within the Village of Woodlawn, during the period covered by the return, is of the average net book value of all the real and tangible personal property owned or used in the business, wherever situated, during such period.
  - (b) ascertaining the percentage which the gross receipts of the business from sales made and services performed in the Village of Woodlawn, during the period covered by the return, are of the total gross receipts from all sales and services wherever made or performed, during such period.
  - (c) ascertaining the percentage which the total wages, salaries, commissions, and other compensation paid during the period covered by the return, to



# RECORD OF ORDINANCES

Form No. 2806-A

REBUS BLANK BOOK CO., COL., O.

Form No. 2806-A

19

Ordinance No.

6

Passed

5 - 13

1969

employees for services performed in the Village of Woodlawn is of the total wages, salaries, commissions and other compensation paid, during such period, to all employees within and outside the Village of Woodlawn.

(d) adding together the percentages determined in accordance with sub-paragraphs (a), (b), and (c) above or such of the aforesaid percentages as are applicable to the particular taxpayer and dividing the total so obtained by the number of percentages used in deriving said total.

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

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

C. Operating Loss Carry Forward.

1. The portion of a net operating loss sustained in any taxable year, allocable to the Village of Woodlawn, may be applied against the portion of the profit of succeeding tax years, allocable to the Village of Woodlawn, until exhausted, but in no event for more than the five (5) taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.
2. The portion of a net operating loss sustained shall be allocated to the Village of Woodlawn in the same manner as provided herein for allocating net profits to the Village of Woodlawn.
3. The Tax Collector shall provide by Rules and Regulations the manner in which such net operating loss carry forward shall be determined.

D. Consolidated Returns.

1. Filing of consolidated returns may be permitted or required in accordance with Rules and Regulations prescribed the Tax Collector.
2. In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates, or some other method, the Tax Commissioner shall require such information, in

# RECORD OF ORDINANCES

Form No. 2806-A

COLUMBUS BLANK BOOK CO., CO., O.

Form No. 2806-A

19

Ordinance No. 6

Passed 5-12

1969

addition to the return hereinafter provided for, as he may deem necessary to ascertain whether net profits are properly allocated to the Village of Woodlawn. If the Tax Collector finds net profits are not properly allocated to the Village of Woodlawn by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, he may require the filing of a consolidated return or adjust such transactions so as to produce a fair and proper allocation of net profits to the Village of Woodlawn.

## E. Capital Gains.

Capital Gains from the sales of depreciable property shall be taxable to the extent of the aggregate amount of the depreciation taken on such property for Village of Woodlawn income tax purposes.

## F. Exception.

The tax provided for herein shall not be levied upon the military pay or allowances of members of the armed forces of the United States, or upon the net profits of any civic, charitable, religious, fraternal or other organization specified in Section 5718.01 of the Revised Code of Ohio to the extent that such net profits are exempted from municipal income taxes under said Section.

## SECTION IV. EFFECTIVE PERIOD.

The tax imposed by this Ordinance shall be levied, collected and paid with respect to all income and net profits, subject to the tax, earned on or after July 1, 1969.

## SECTION V. RETURN AND PAYMENT OF TAX.

A. Each person who engaged in business, or whose salary, wages, commissions or other compensation are subject to the tax imposed by this Ordinance shall, whether or not a tax be due thereon, make and file, on or before April 30th in each year, a return with the Tax Collector. A taxpayer on a fiscal year accounting basis for federal income tax purposes shall, beginning with his first fiscal year, any part of which falls within the effective period of this Ordinance, file his return within four (4) months from the end of such fiscal year or period. The Tax Collector is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of tax deducted by said employer or employers from the salaries, wages, commissions or other compensation of an employee, and paid by him or them to the Tax Collector shall be accepted as the return required of any employee whose sole income, subject to tax under this Ordinance, is such salary, wages, commissions, or other compensation.

# RECORD OF ORDINANCES

No. 2806-A

COLUMBUS BLANK BOOK CO., COL., O.

Form No. 2806-A

19

Ordinance No. 6Passed 5 - 13 1969

B. The return shall be filed with the Tax Collector on a form or forms furnished by or obtainable upon request from the Tax Collector setting forth:

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

C. The Tax Collector may extend the time for filing of the annual return upon the request of the taxpayer for a period of not to exceed six (6) months, or one (1) month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the federal income tax return. The Tax Collector may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due. No penalty or interest shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended.

- D. 1. The taxpayer making a return shall at the time of the filing thereof, pay to the Tax Collector the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due shall have been deducted at the source, pursuant to the provisions of Section VI of this Ordinance; or where any portion of said tax shall have been paid by the taxpayer, pursuant to the provisions of Section VII of this Ordinance; or where an income tax, creditable against the Woodlawn tax pursuant to Section XV hereof, has been paid to another municipality, credit for the amount so paid shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing said return.
2. A taxpayer who has overpaid the amount of tax to which the Village of Woodlawn 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 overpayment, or part thereof, shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded.

# RECORD OF ORDINANCES

Form No. 2806-A

STANDARD BLANK BOOK CO., COL., O.

Form No. 2806-A

19

Ordinance No. 6

Passed 5 - 13 1969

## E. Amended Returns.

1. Where necessary an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and limitations contained in Section XI and XV. Such amended returns shall be on a form obtainable on request from the Tax Collector.
2. Within three (3) months from the final determination of any federal tax liability affecting the taxpayer's Woodlawn tax liability, such taxpayer shall make and file an amended Woodlawn return showing income subject to the Village of Woodlawn 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.

## SECTION VI. COLLECTION AT SOURCE.

A. Each employer within, or doing business within, the Village of Woodlawn who employs one or more persons on a salary, wage, commission or other compensation basis shall deduct at the time of the payment of such salaries, wages, commissions or other compensation, the tax of one-half of one ( $\frac{1}{2}$  of 1%) percent of the gross salaries, wages, commissions or other compensation due by said employer to each said employe and shall, on or before the last day of April, July, October and January of each year, make a return and pay to the Tax Collector the amount of taxes so deducted during the preceding calendar quarter. Said return shall be on a form or forms prescribed by or acceptable to the Tax Collector and shall be subject to the rules and regulations prescribed therefor by the Tax Collector.

B. Each employer in collecting said tax shall be deemed to hold the same, until payment is made by such employer to the Village of Woodlawn, as a Trustee for the benefit of the Village of Woodlawn and any such tax collected by such employer from his employes shall, until the same is paid to the Village of Woodlawn, be deemed a trust fund in the hands of such employer. Each employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such tax, in fact, has been withheld.

C. It shall be the responsibility, jointly and severally, of the president and treasurer of each corporation, required to withhold the tax from wages of its employees, under this section to see that all such taxes so withheld are paid to the Village of Woodlawn in accordance with the provisions of this Section. In the event taxes withheld by a corporation from the salaries of its employes are not paid to the Village of Woodlawn in accordance with the provisions of this Section, the president and treasurer of said corporation shall each be criminally liable under the provisions of Section XII hereof.



# RECORD OF ORDINANCES

m No. 2806-A COLUMBUS BLANK BOOK CO., COL., O. Form No. 2806-A

19

Ordinance No. 6

Passed 5-13 19 69

D. On or before April 30th of each year, each employer shall file a withholding return, on a form or forms prescribed by and obtainable from the Tax Collector setting forth the names and addresses of all employees from whose compensation the tax was withheld during the preceding calendar year, and the amount of tax withheld from the listed employees and such other information as may be required by the rules and regulations adopted by the Tax Collector.

E. Provided, however, that no person shall be required to withhold the tax on the wages or other compensation paid domestic servants employed exclusively in or about such person's residence.

## SECTION VII. DECLARATIONS.

A. Every person who anticipates any taxable income which is not subject to Section VI hereof, or who engages in any business, profession, enterprise or activity shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon, if any.

B. 1. Such declaration shall be filed on or before April 30th of each year during the life of this Ordinance or within four (4) months of the date the taxpayer first becomes subject to the provisions of this Section.

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

C. 1. Such declaration shall be filed upon a form furnished by or obtainable from the Tax Collector. Credit shall be taken in said declaration for the Woodlawn tax to be withheld from any portion of such income and for income taxes to be paid to another taxing municipality for which credit is allowed against the Woodlawn tax under Section XV hereof.

2. A declaration of estimated tax to be paid the Village of Woodlawn shall be accompanied by a payment of at least one-fourth (1/4) of the estimated tax, less credit for taxes withheld or paid to another municipality and at least a similar amount shall be paid on or before the last day of the seventh, tenth and thirteenth months after the beginning of the tax year.

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

D. An amended declaration must be filed on or before January 31st of any year, or in the case of a taxpayer on a fiscal

# RECORD OF ORDINANCES

n No. 2806-A

COLUMBUS BLANK BOOK CO., COL., O.

Form No. 2806-A

19 Ordinance No. 6

Passed 5 - 13 19 69

year accounting basis, on or before the date fixed by regulation of the Tax Collector, if it appears that the original declaration made by such year underestimated the taxpayer's income by 30% or more. At such time a payment which, together with prior payments, is sufficient to pay taxpayer's entire estimated liability, shall be made. If, upon the filing of the return required by Section V hereof it appears that the taxpayer did not pay 70% of his tax liability, as shown on said return, on or before January 31st, or the date fixed by regulation, whichever is applicable, the difference between 70% of said taxpayer's tax liability and the amount of estimated tax he actually paid on or before January 31st, or the date fixed by regulation, whichever is applicable, shall be subject to the interest and penalty provisions of Section X hereof.

E. On or before the last day of the fourth month of the calendar or fiscal year following that for which the declaration was filed, an annual return shall be filed and any balance which may be due the Village of Woodlawn shall be paid therewith in accordance with the provisions of Section V hereof.

## SECTION VIII. DUTIES OF THE TAX COLLECTOR.

- A. 1. It shall be the duty of the Tax Collector to collect and receive the tax imposed by the Ordinance in the manner prescribed herein, and to keep an accurate record thereof, and to report all monies so received.
2. It shall be the duty of the Tax Collector to enforce payment of all income taxes owing the Village of Woodlawn, to keep accurate records, for a minimum of five (5) years, showing the amount due from each taxpayer required to file a declaration or make any return, including a return of taxes withheld, and to show the dates and amounts of payments thereof.

B. Said Tax Collector is hereby charged with the enforcement of the provisions of this Ordinance, and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce rules and regulations authorized or required by this Ordinance, relating to any matter or thing pertaining to the collection and payment of taxes and the administration and enforcement of the provisions of this Ordinance, including provisions for the re-examination and correction of returns.

C. In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Tax Collector may determine the amount of tax appearing to be due the Village of Woodlawn from the taxpayer and may send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.

D. Subject to the consent of the Board of Review or pursuant to regulation approved by the Board of Review, the Tax Collector shall have the power to compromise any liability imposed by this Ordinance.

# RECORD OF ORDINANCES

m No. 2806-A

COLUMBUS BLANK BOOK CO., COL., O.

Form No. 2806-A

19

Ordinance No. 6

Passed 5 - 13

1969

SECTION IX. INVESTIGATIVE POWERS OF THE TAX COLLECTOR  
PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.

A. The Tax Collector or any of his authorized agents, is hereby authorized to examine the books, papers, records and federal income tax returns of any employer, or taxpayer or any person subject to, or whom the Tax Collector 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 or withholdings due under this Ordinance. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish, upon written request of the Tax Collector, or his duly authorized agent or employee, the means, facilities, and opportunity for making such examinations and investigations as are hereby authorized.

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

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

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

E. Any information gained as a result of any returns, investigations, hearings or verifications required or authorized by this Ordinance shall be confidential and no disclosure thereof shall be made except to municipal, county, state or federal taxing agencies, or, except for official purposes, or except in accordance with proper judicial order. Any person divulging such information in violation of this Section shall be fined not more than Five Hundred (\$500.00) Dollars or imprisoned for not more than six (6) months or both. Each disclosure shall constitute a separate offense. In addition to the above penalty, any employee of the Village of Woodlawn who violates the provisions of this Section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

# RECORD OF ORDINANCES

Form No. 2806-A COLUMBUS BLANK BOOK CO., COL., O. Form No. 2806-A

19

Ordinance No. 6

Passed 5-13

1969

## SECTION X. INTEREST AND PENALTIES.

A. All taxes imposed and monies withheld or required to be withheld by employers, under the provisions of this Ordinance, remaining unpaid after they become due shall bear interest at the rate of one-half of one ( $\frac{1}{2}$  of 1%) percent per month.

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

1. In the case of taxpayers failing to pay the full amount of tax due, a penalty of one-half of one ( $\frac{1}{2}$  of 1%) percent per month, or fraction thereof, of the amount of the unpaid tax, if the tax is paid during the first year after said tax became due; a penalty of one (1%) percent per month, or fraction thereof, of the unpaid tax, if said tax is paid during the second year after said tax became due; and a penalty of two (2%) percent per month, or fraction thereof, of the amount of the unpaid tax, if said tax is paid later than two (2) years after it became due.
2. In the case of employers who fail to withhold and remit to the Tax Collector the taxes to be withheld from employees, a penalty of one (1%) percent per month, or fraction thereof, of the unpaid withholding, if paid during the second to sixth month, inclusive, after it was due; a penalty of two (2%) percent per month, or fraction thereof, of the unpaid withholding, if paid during the seventh to twelfth month, inclusive, after it was due; and a penalty of four (4%) percent per month, or fraction thereof, of the unpaid withholding, if paid later than one year after it was due.

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

D. Upon an appeal from the refusal of the Tax Collector to recommend abatement of penalty and interest, the Board of Review may abate such penalty or interest, or both.

## SECTION XI. COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

A. All taxes imposed by this Ordinance shall be collectible, together with any interest and penalties thereon, by suit as other debts of like amount are recoverable. No additional assessment shall be made after three (3) years from the time of payment of any tax due hereunder; provided, however, there shall



# RECORD OF ORDINANCES

n No. 2806-A

COLUMBUS BLANK BOOK CO., COL., O.

Form No. 2806-A

19 Ordinance No. 6

Passed 5 - 13 19 69

be no period of limitation on an additional assessment in a case of a return that omits gross income in excess of twenty-five (25%) percent of that required to be reported, or in the case of filing a false or fraudulent return with intent to evade the tax, or in the case of failure to file a return. In those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitations the period within which an additional assessment may be made by the Tax Commissioner shall be extended one (1) year from the time of the final determination of the federal tax liability.

B. Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date on which such payment was made or the return was due, or within three (3) months after final determination of the federal tax liability, whichever is later.

## SECTION XII. VIOLATIONS - PENALTIES.

### A. Any person who shall:

1. Fail, neglect or refuse to make any return or declaration required by this Ordinance; or
2. make an incomplete, false or fraudulent return; or
3. fail, neglect or refuse to pay the tax, penalties or interest imposed by this Ordinance; or
4. fail, neglect or refuse to withhold the tax from his employees and remit such withholding tax to the Tax Commissioner; or
5. refuse to permit the Tax Collector or any duly authorized agent or employee to examine his or his employer's books, records, papers and federal income tax returns; or
6. fail to appear before the Tax Collector and to produce his or his employer's books, records, papers or federal income tax returns upon order or subpoena of the Tax Commissioner; or
7. refuse to disclose to the Tax Collector any information with respect to such person's or such person's employer's income or net profits; or
8. fail to comply with the provisions of this Ordinance or any order or subpoena of the Tax Commissioner; or
9. fail, neglect, or refuse to make any payment on the estimated tax for any year as required by Section VII; or
10. fail as president or treasurer of a corporation to

# RECORD OF ORDINANCES

Form No. 2806-A

COLUMBUS BLANK BOOK CO., COL., O.

Form No. 2806-A

19

Ordinance No. 6

Passed 5 - 13

19 69

cause the tax withheld from the wages of the employees of such corporation pursuant to this Ordinance to be paid to the Village of Woodlawn in accordance with the provisions of Section VI hereof; or

11. attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this Ordinance; shall be guilty of a misdemeanor, shall be fined not more than five hundred (\$500.00) Dollars or imprisoned not more than six (6) months or both for each offense.

B. All prosecutions under this Section must be commenced within five (5) years from the time of the offense complained of except in the case of failure to file a return or in the case of filing a false or fraudulent return, in which event the limitation of time within which prosecution must be commenced shall be ten (10) years from the date the return was due or the date the false or fraudulent return was filed.

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

D. The term "person" as used in this Section shall in addition to the meaning prescribed in Section II of this Ordinance, include in the case of an association or corporation not having any partner, member or officer within the Village of Woodlawn, any employee or agent of such association or corporation who can be found within the corporate limits of the Village of Woodlawn.

## SECTION XIII. BOARD OF REVIEW.

A. A Board of Review, consisting of a Chairman, and two other individuals, each to be appointed by the Mayor of the Village of Woodlawn, is hereby created.

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

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

# RECORD OF ORDINANCES

Form No. 2806-A

BLANK BOOK CO., COL., O.

Form No. 2806-A

19

Ordinance No. 6

Passed 5 - 12 1969

## SECTION XIV. ALLOCATION OF FUNDS.

The Funds collected under the provision of this Ordinance shall be placed in the "EARNED INCOME TAX FUND" and shall be applied for the following purposes, and in the following order, to-wit:

- A. Such part thereof as shall be necessary to defray all cost of collecting the taxes levied by this Ordinance and the cost of administering and enforcing the provisions hereof.
- B. Such part thereof, to be determined later, as is necessary for the purpose of paying any refunds payable under this Ordinance.
- C. The balance of the funds so collected shall be used for such specific purposes as Council may appropriate monies for from this fund, including without limitation, the appropriation of funds for general municipal operations and debt retirement, extension enlargement or improvement of municipal services and facilities, street improvement and repair, and permanent improvements.

## SECTION XV. CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

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

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

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

D. The Tax Collector is hereby authorized to provide by regulation, that a resident, working in another municipality imposing a tax on earned income shall not be required to file a declaration under Section V of this Ordinance or return under Section VII of this Ordinance, if such other municipality certifies

# RECORD OF ORDINANCES

Form No. 2806-A  
UNION BLANK BOOK CO., COL., O.  
Form No. 2806-A

19 Ordinance No. 6 Passed 5-13 1969

to the Tax Collector that a tax of one-half of one ( $\frac{1}{2}$  of 1%) percent is being deducted from the wages of such resident and is being paid to such other municipality and if the wages or other compensation subject to such withholding are said resident's only income taxable under this Ordinance.

## SECTION XVI. SAVING CLAUSE.

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

## SECTION XVII. EMERGENCY CLAUSE.

This this Ordinance shall take effect from and after the earliest date allowable by law, after the third and final reading by the Council of the Village of Woodlawn, being read on three separate and distinct days.

PASSED: 5-13-69

ATTEST:

*Wm. A. Browley*  
Mayor

## CERTIFICATE

The undersigned, Clerk of Council, of the Village of Woodlawn, Hamilton County, Ohio, hereby certifies that the foregoing is a true and correct copy of an Ordinance adopted by the Council of said Village on the 13 day of MAY, 1969.

*Wm. J. Spraul*  
Clerk of Council

## CERTIFICATE

I, Clerk of Council for the Village of Woodlawn, Hamilton County, Ohio, do hereby certify that the foregoing Ordinance was duly published by posting in five (5) of the most public places in said Village of Woodlawn, as determined by the Council of said Village.

*Wm. J. Spraul*  
Clerk of Council



Ordinance No. 14-2001

Passed November 13, 192001

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**AN ORDINANCE AMENDING SECTION VI  
OF ORDINANCE NO. 6-1969**

**BE IT ORDAINED** by the Council of the Village of Woodlawn, Hamilton County, State of Ohio,  $\frac{3}{4}$  of all the members duly elected thereto concurring

**SECTION I:** That Section No. VI of Ordinance No. 6-1969 is hereby amended to read as follows:

**SECTION VI      COLLECTION AT SOURCE (Withholding by Employer)**

A. Each employer within or doing business within the Village who employs one or more persons on a salary, wage, commission or other compensation basis as defined at Section 882.03 shall, at the time of the payment thereof, deduct the tax of two percent (2%) from the gross salaries, wages, commissions or other compensation earned or received by residents regardless of where such compensation was earned, and shall deduct the tax of two percent (2%) from the gross salaries, wages, commissions or other compensation as defined at Section 882.03 earned or received within the Village by non-residents thereof.

B. Notwithstanding the provisions of paragraph A. hereof, if such employer within or doing business within the Village who or which employs a Village resident in another taxing municipality requiring such employer to deduct its tax from all employees engaged therein, such employer shall withhold for and remit to the Village only the difference, if any, between the tax on such Village resident required to be withheld by such other taxing municipality and the tax imposed by this ordinance; or shall withhold Village tax on 100% of the income subject to Village tax if the Village resident/employee is employed at a location where a municipal tax is not imposed.

C. Each such employer shall, on or before the last day of the month following the close of each calendar quarter, make a return and remit the tax hereby required to be withheld to the Administrator. However, any employer who, in a prior year, deducted tax in the amount of \$3,600.00 or deducted \$300.00 per month in the current calendar year, is required to make a return and remit the tax withheld on or before the 15<sup>th</sup> day of the month following the close of the preceding month to the Administrator. Such return shall be on a form or forms prescribed by or acceptable to the Administrator and shall be subject to the rules and regulations prescribed therefore by the administrator. Such employer shall be liable for the payment of taxes hereby required to be deducted and withheld, whether or not such taxes have in fact been so deducted and withheld.

D. Effective January 1, 2001, Woodlawn shall not require any nonresident employer, agent of such nonresident employer, or other payor that is not situated in Woodlawn to deduct and withhold Woodlawn tax from the salaries, wages, and other compensation earned or received by an individual unless the total amount of Woodlawn Tax required to be withheld and deducted for all of the nonresident employer's employees or other payor's payees exceeds One Hundred Fifty Dollars (\$150.00) for that calendar year. (O.R.C. 718.03 A.)

E. Effective January 1, 2001, if the Woodlawn tax required to be deducted and withheld from the salaries, wages, and other compensation of all of the nonresident employer's employees or other payor's payees exceeds One Hundred Fifty Dollars (\$150.00) for any calendar year beginning with the calendar year commencing on January 1, 2001, and hereafter, then the said nonresident employer, agent of such employer, or other payor, is required to deduct and withhold Woodlawn tax in each ensuing year, even if the amount of tax required to be withheld and deducted in each of those ensuing years is One Hundred Fifty Dollars (\$150.00) or less, except as provided in paragraph F following. (O.R.C. 718.03 A.)

F. If a non resident employer, agent of such employer, or other payor that is not situated in Woodlawn is required to deduct and withhold Woodlawn tax for an ensuing year as set forth at paragraph E immediately preceding, and the total amount of tax required to be deducted and withheld in accordance with said paragraph E in each of the three (3) consecutive ensuing years is One Hundred Fifty Dollars (\$150.00) or less, then Woodlawn tax shall not be required to be deducted and withheld by the employer, employer's agent, or other payor in any subsequent year to the last of those three (3) consecutive ensuing years unless the amount required to be deducted and withheld and deducted in any such subsequent year exceeds One Hundred Fifty Dollars (\$150.00) (O.R.C. 718.03 B).



## RECORD OF ORDINANCES

BARRETT BROTHERS, PUBLISHERS, SPRINGFIELD, OHIO

Form 6220

Ordinance No. 14-2001Passed November 13, 19 2001

G. An "Other Payor" as used in the preceding three paragraphs means any person that pays an individual any item included in the taxable income of the individual, other than the individual's employer or that employer's agent (O.R.C. 718.03).

H. Such employer in collecting such tax shall be deemed to hold the same, until payment is made by such employer to the Village, as a trustee for the benefit of the Village, and any such tax collected by such employer from its employees shall, until the same is paid to the Village, be deemed a trust fund in the hands of such employer.

I. The officer or the employee having control of or charged with the responsibility of filing the return and making payment, shall be personally liable for failure to file the return or pay the tax due as required by this section. The dissolution, bankruptcy or reorganization of any such employer does not discharge an officer's or employee's liability for a prior failure of the corporation to file returns or pay taxes, penalties, or interest due.

J. On or before January 31 following any calendar year, such employer shall file with the Administrator, an annual reconciliation return along with an information return for such employee from whom Woodlawn income tax has been or should have 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 municipal income tax withheld from the employee with the municipality for which said tax was withheld identified. The information return shall also include all of the information required to be reported by the employer to IRS on a W-2 Form. At the time of filing the annual reconciliation return, the employer shall pay over any amount deducted or which should have been deducted during the preceding year but which was not remitted. The annual reconciliation form shall be obtained from the Administrator.

K. All individuals, businesses, employers, brokers or others who are, required under The Internal Revenue Code, to furnish 1099 Forms to IRS for individuals or businesses to whom or which they have non-employee compensation shall furnish copies of the said 1099 Forms to the Administrator or in lieu thereof, a list containing the same information as required by IRS on the 1099's on or before the due date for such 1099 Forms as established by IRS. Failure to provide the foregoing information may result in any deduction for payment by the taxpayer taken on the taxpayer's return to be disallowed.

L. Every employer shall retain all records necessary to compute withholding taxes due Woodlawn for a period of five years from the date the Reconciliation Form, W-2 Forms, and 1099 Forms are filed.

**SECTION II:** A copy of the former language of old Section VI is attached hereto marked Exhibit "A".

**SECTION III:** That all unamended portions of Ordinance No. 6-1969, not inconsistent with the amended Section No. VI as provided herein, are hereby ratified and reaffirmed.

**SECTION IV:** That this ordinance is hereby declared to be an emergency measure, necessary to the peace, health, safety and welfare of the Village, and being fiscal in nature, shall take effect immediately. The reason for the emergency is that it is necessary that Ordinance No. 6-1969 be made consistent with recent changes in state law.

Susan Hopton Farley  
Mayor

Date: 11-13-01

Attest: Brenda K. Lane  
Clerk of Council

# RECORD OF ORDINANCES

381

8-00

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BARRETT BROTHERS, PUBLISHERS, SPRINGFIELD, OHIO

Form 6220

P. 303

Ordinance No. 14-2001

Passed November 13, 192001

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## CERTIFICATE

I, Brenda B. Love, Clerk of Council of the Village of Woodlawn, Ohio, hereby certify that the foregoing is a true and correct copy of an ordinance adopted by the council of the VILLAGE of WOODLAWN, Ohio, on the 13<sup>th</sup> day of November, 2000.

Brenda B. Love  
Clerk of Council

## CERTIFICATE

I, Brenda B. Love, certify that the foregoing ordinance was posted in five of the most public places as determined by the VILLAGE of WOODLA\_\_, Ohio.

Brenda B.  
Clerk of Council

Approved as to form:

Louis F. Lausche, Law Director