

**VILLAGE OF FORT RECOVERY TAX ORDINANCE NO. 1984-10**

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## **VILLAGE OF FORT RECOVERY INCOME TAX ORDINANCE**

Levying a tax to provide funds for the purposes of general municipal operation, maintenance of equipment, extension, enlargement and improvement of municipal services and facilities and capital improvements, on all qualifying wages, commissions, other compensation and other income earned and received by residents of Ft. Recovery, Ohio; on all qualifying wages, commissions and other compensation earned by non-residents of Ft. Recovery, Ohio, for work done or services performed or rendered in Ft. Recovery, Ohio; on the net profits earned on all businesses, professions or other activities conducted by residents of Ft. Recovery, Ohio; on the net profits earned on all businesses, professions or other activities conducted in Ft. Recovery, Ohio, by non-residents, and on the net profits earned by all corporations doing business in Ft. Recovery, Ohio; as a result of work done or services performed or rendered in Ft. Recovery, Ohio; requiring the filing of returns and furnishing of information by employers and all those subject to said tax; imposing on employers the duty of collecting the tax at the source and paying the same to the Village of Ft. Recovery, Ohio; providing for the administration, collection and enforcement of said tax; declaring violation thereof to be a misdemeanor and imposing penalties therefor; repealing prior ordinance; declaring effective date.

**BE IT ORDAINED BY the Council of the Village of Ft. Recovery, State of Ohio:**

### **SECTION 1. PURPOSE**

To provide funds for the purposes of general municipal operations, including wages and salaries of employees, purchase of new equipment, maintenance, extension and enlargement of municipal services and facilities and capital improvements of the Village of Ft. Recovery, Ohio, and for necessary debt service, there shall be and is hereby, levied a tax on qualifying wages, salaries, commissions and other compensation, and on net profits and other taxable income as hereinafter provided.

### **SECTION 2. DEFINITIONS**

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

1. “Adjusted federal taxable income” means a C corporation’s federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, but including subsequent adjustments from required additions and deductions. Pass-through entities must compute adjusted federal taxable income as if the pass-through entity was a C corporation. This definition does not apply to any taxpayer required to file a return under Ohio Revised Code section 5745.03 or to the net profit from a sole proprietorship.
2. “Administrator” means the individual designated by the ordinance and appointed by the mayor with confirmation of Council to administer and enforce the provisions of this ordinance.
3. “Association” means a partnership, limited partnership, S corporation, or any other form of unincorporated enterprise, owned by one or more persons.

4. "Board of Review" means the Board created by and constituted as provided in Section 13 of this ordinance.
5. "Business" means 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.
6. "Corporation" means a corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory, or foreign country or dependency.
7. "Domicile" means a principal residence that the taxpayer intends to use for an indefinite time and to which whenever he is absent he intends to return. A taxpayer has only one domicile even though he may have more than one residence.
8. "Employee" means one who works for wages, salary, commission or other types of compensation in the services of an employer.
9. "Employer" means an individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profits, who or that employs one or more persons on a salary, wage, commission, or other compensation basis.
10. "Fiscal year" means an accounting period of twelve (12) months or less ending on any day other than December 31.
11. "Form 2106" means Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
12. "Generic form" means an electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability or for filing a refund claim that is not prescribed by a particular municipality for reporting of that municipality's tax on income.
13. "Gross Receipts" means the total income of taxpayers from whatever source derived.
14. "Income from a pass-through entity" means partnership income of partners, membership interest of members of a limited liability company, distributive shares of shareholders of an S corporation or other distributive or proportionate ownership shares of income from other pass-through entities.
15. "Intangible income" means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including , but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, trade names, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation.

“Intangible income does not include prizes, awards, or other income associated with any lottery winnings, gambling winnings, or other similar games of chance.

16. “Internal Revenue Code” means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.
17. “Internet” means the international computer network of both Federal and nonfederal interoperable packet switched data networks, including the graphical sub-network know as the World Wide Web.
18. “Joint Economic Development District” means districts created under the Ohio Revised Code sections 715.70 through 715.83 as amended from time to time.
19. “Limited Liability Company” means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.
20. “Municipality” means the Village of Fort Recovery, Mercer County, Ohio.
21. “Net profit” for a taxpayer other than an individual means adjusted federal taxable income; and “net profit” for a taxpayer who is an individual means the individual’s profit, other than amounts described in paragraph (H) of Section 3, required to be reported on schedule C, schedule E, or schedule F.
22. “Nonqualified deferred compensation plan” means a compensation plan described in section 3121(v)(2)(C) of the Internal Revenue Code.
23. “Nonresident” means an individual domiciled outside the Village of Fort Recovery, Ohio.
24. “Nonresident incorporated business entity” means an incorporated business entity not having an office or place of business within the Village of Fort Recovery, Ohio.
25. “Nonresident unincorporated business entity” means an unincorporated business entity not having an office or place of business within the Village of Fort Recovery, Ohio.
26. “Ohio Business Gateway” means a centralized electronic filing and payment system maintained by the State of Ohio.
27. “Other payer” means any person, other than an individual’s employer or the employer’s agent that pays an individual any amount included in the federal gross income of the individual.
28. “Owner” means a partner of a partnership, a member of a limited liability company, a shareholder of an S corporation, or other person with an ownership interest in a pass-through entity.
29. “Owners proportionate share”, with respect to each owner of a pass-through entity means the ratio of (a) the owner’s income from the pass-through entity

that is subject to taxation by the municipality, to (b) the total income from that entity of all owners whose income from the entity is subject to taxation by that municipal corporation.

30. "Pass-through entity" means a partnership, limited liability company, S corporation\*\*, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code. \*\*See Section 3(H)(18)
31. "Person" includes individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities, and any other entity. Whenever used in any clause prescribing and imposing a penalty, the term "person," as applied to any unincorporated entity, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.
32. "Place of business" means 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 regular employees regularly in attendance.
33. "Principal place of business" means in the case of an employer having headquarters' activities at a place of business within a taxing municipality, the place of business at which the headquarters is situated. In the case of any employer not having its headquarters' activities at a place of business within a taxing municipality, the term means the largest place of business located in a taxing municipality.
34. "Qualified plan" means a retirement plan satisfying the requirements under section 401 of the Internal Revenue Code as amended.
35. "Qualifying wages" means wages, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted in accordance with section 718.03(A)(2) of the Ohio Revised Code.
36. "Resident" means an individual domiciled in the Village of Fort Recovery, Ohio.
37. "Resident incorporated business entity" means an incorporated business entity whose office, place of operations or business situs is within the Village of Fort Recovery, Ohio.
38. "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the Village of Fort Recovery, Ohio.
39. "Return preparer" means any person other than a taxpayer that is authorized by a taxpayer to complete or file an income tax return, report or other document for or on behalf of the taxpayer.

40. "Rules and Regulations" means the Rules and Regulations as set forth in this ordinance.
41. "Schedule C" means Internal Revenue Service schedule C filed by a taxpayer pursuant to the Internal Revenue Code.
42. "Schedule E" means Internal Revenue Service schedule E filed by a taxpayer pursuant to the Internal Revenue Code.
43. "Schedule F" means Internal Revenue Service schedule F filed by a taxpayer pursuant to the Internal Revenue Code.
44. "S Corporation" means a corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year. See Section 3 (H)(18).
45. "Taxable Income" means qualifying wages paid by an employer or employers, compensation for personal services, or other income defined by statute as taxable, and/or adjusted federal taxable income from the operation of a business, profession, or other enterprise or activity adjusted in accordance with the provisions of the ordinance.
46. "Taxable year" means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.
47. "Taxing municipality" means a municipality levying a tax on income earned by nonresidents working within such municipality or on income earned by its residents.
48. "Taxpayer" means a person subject to a tax on income levied by the Village of Fort Recovery, Ohio. "Taxpayer" does not include any person that is a disregarded entity or a qualifying subchapter S subsidiary for federal income tax purposes, but "taxpayer" includes any other person who owns the disregarded entity or qualifying subchapter S subsidiary.
49. "Village" means the Village of Fort Recovery, Mercer County, Ohio.

B. The singular shall include the plural, and the masculine shall include the feminine and the neuter, and all periods set forth shall be inclusive of the first and last mentioned dates.

### **SECTION 3. IMPOSITION OF TAX**

- A. Basis of Imposition. Subject to the provisions of Section 16 of this ordinance, an annual tax for the purposes specified in Section 1 hereof shall be imposed on and after January 1, 1985, at the rate of one percent (1%) per annum upon the following:
  1. On all qualifying wages, bonus payments, commissions, other compensation, and other taxable income, earned or received during the effective period of this Ordinance by residents of the Village.

2. On all qualifying wages, commissions, other compensation, and other taxable income earned or received during the effective period of the ordinance by non-residents for work done or services performed or rendered in the Village.
3. On the portion attributable to the Village of the net profits earned during the effective period of this ordinance by all resident unincorporated businesses, entities, professions or other activities, derived from sales made, work done, services performed or rendered and business or other activities.

On the portion of the distributive share of the net profits earned during the effective period of this ordinance by a resident owner of a resident unincorporated business entity not attributable to the Village and not levied against such unincorporated business entity.

4. On the portion attributable to the Village of the net profits earned during the effective period of this ordinance by all non-resident unincorporated businesses, professions or other activities, derived from sales made, work done or services performed or rendered and business or other activities conducted in the Village, whether or not such unincorporated business entity, profession, or other entity has an office or place of business in the Village.

On the portion of the distributive share of the net profits earned during the effective period of this ordinance by a resident owner of a non-resident unincorporated business entity not attributable to the Village and not levied against such unincorporated business entity.

5. On the portion attributable to the Village of the net profits earned during the effective period of this ordinance by all corporations, including S Corporations, derived from sales made, work done, services performed or rendered and business or other activities conducted in the Village, whether or not such corporations have an office or place of business in the Village.
6. On all income received as gambling winnings as reported on IRS Form W-2G, Form 5754 and or any other Form required by the Internal Revenue Service that reports winnings from gambling, prizes, and lottery winnings.

B. Businesses Both In and Outside the Municipal Boundaries. This section does not apply to taxpayers that are subject to and required to file reports under Chapter 5745, of the Ohio Revised Code. Except as otherwise provided in paragraph (D) of this section, net profit from a business or profession conducted both within and without the boundaries of a municipal corporation shall be considered as having a taxable situs in such municipal corporation for purposes of municipal income taxation in the same proportion as the average ratio of the following:

1. Multiply the entire net profits of the business by a business apportionment percentage to be determined by:

- a. The average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in such municipal corporation during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

As used in the preceding paragraph, real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;

- b. Wages, salaries, and other compensation paid during the taxable period to persons employed in the business or profession for services performed in such municipal corporation to wages, salaries, and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed, excluding compensation that is not taxable by the municipal corporation under section 718.011 of the Ohio Revised Code;
- c. Gross receipts of the business or profession from sales made and services performed during the taxable period in such municipal corporation to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.
- d. Adding together the percentages determined in accordance with paragraph B(1)(a-c) hereof, 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 such total.

- .1 A factor is applicable even though it may be apportioned entirely in or outside the Municipality.

- .2 Provided however, that in the event a just and equitable result cannot be obtained under the formula provided for herein, the Tax Administrator, upon application of the taxpayer, shall have the authority to substitute other factors or methods calculated to effect a fair and proper apportionment.

C. As used in paragraph (B) of this section, "sales made in a municipal corporation" mean:

1. All sales of tangible personal property delivered within such municipal corporation regardless of where title passes if shipped or delivered from a stock of goods within such municipal corporation;
2. All sales of tangible personal property delivered within such municipal corporation regardless of where title passes even though transported from a

point outside such municipal corporation if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such municipal corporation and the sales result from such solicitation or promotion;

3. All sales of tangible personal property shipped from a place within such municipal corporation to purchasers outside such municipal corporation regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

D. This section does not apply to individuals who are residents of the municipal corporation and, except as otherwise provided in section 718.01 of the Ohio Revised Code, a municipal corporation may impose a tax on all income earned by residents of the municipal corporation to the extent allowed by the United States Constitution.

E. Except as otherwise provided in paragraph (D) of this section, net profit from rental activity not constituting a business or profession shall be subject to tax only by the municipal corporation in which the property generating the net profit is located.

F. Net Operating Loss (NOL).

1. The portion of the net operating loss sustained in any taxable year subsequent to January 1, 1985, apportioned to the Village may be applied against the portion of the profit of succeeding year(s) apportioned to the Village until exhausted but in no event for more than 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 apportioned to the Village in the same manner as provided herein for apportioning net profits to the Village.
3. The Administrator shall provide by Rules and Regulations the manner in which such net operating loss carry-forward shall be determined.
4. The net operating loss of a taxpayer that loses its legal identity, by any means such as merger or consolidation, shall not be allowed as a carry-forward loss deduction to the surviving or new taxpayer.
5. The net operating loss sustained by a business or profession is not deductible from employee earning, but may be carried forward as provided in paragraph F(1). However, if a taxpayer is engaged in two or more taxable business activities to be included in the same return, the net loss of one unincorporated business activity (except any portion of a loss reportable for municipal income tax purposes to another municipality) may be used to offset the profits of another for purposes of arriving at overall net profits.

G. Consolidated Returns.

1. A consolidated return may be filed by a group of corporations who are affiliated through stock ownership if that affiliated group filed for the same tax period a consolidated return for Federal income tax purposes pursuant to section 1501 of the Internal Revenue Code. A consolidated return must include all companies that are so affiliated.
2. Once a consolidated return has been filed for any taxable year, consolidated returns shall continue to be filed in subsequent years unless the applicable requirements of the Rules and Regulations for discontinuing the filing of consolidated returns have been met.

#### H. Exclusions.

The provisions of this Ordinance shall not be construed as levying a tax upon the following:

1. Proceeds from welfare benefits, unemployment insurance benefits, pensions, social security benefits, and qualified retirement plans as defined by the Internal Revenue Service.
2. Proceeds of insurance, annuities, workers' compensation insurance, permanent disability benefits, compensation for damages for personal injury and like reimbursements, not including damages for loss of profits and wages.
3. Dues, contributions and similar payments received by charitable, religious, and educational organizations, or labor unions, trade or professional associations, lodges and similar organizations.
4. Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations and income of a decedent's estate during the period of administration (except such income from the operation of a business).
5. Alimony.
6. Compensation for damage to property by way of insurance or otherwise.
7. Interest and dividends from intangible property.
8. Military pay or allowances of members of the Armed Forces of the United States and of members of their reserve components, including the Ohio National Guard (ORC 718.01).
9. Income of any charitable, educational, fraternal or other type of nonprofit association or organization enumerated in Ohio Revised Code 718.01 to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.
10. Any association or organization falling in the category listed in the preceding paragraph receiving income from non-exempt real estate,

tangible or intangible personal property, or business activities of a type ordinarily conducted for profit by taxpayers operating for profit shall not be excluded hereunder.

11. In the event any association or organization receives taxable income as provided in the preceding paragraph from real or personal property ownership or income producing business located both within and without the corporate limits of the Village, it shall calculate its income apportioned to the Village under the method or methods provided above.
12. If exempt for federal income tax purposes, fellowship and scholarship grants are excluded from Municipal income tax.
13. The rental value of a home furnished to a minister of the gospel as part of his compensation, or the rental allowance paid to a minister of the gospel as part of his compensation, to the extent used by him to rent or provide a home pursuant to section 107 of the Internal Revenue Code.
14. Compensation paid under section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct official, to the extent that such compensation does not exceed one thousand dollars (\$1,000) annually. Such compensation in excess of one thousand dollars may be subjected to taxation. The payer of such compensation is not required to withhold Village tax from that compensation.
15. Compensation paid to an employee of a transit authority, regional transit authority, or a regional transit commission created under Chapter 306 of the Ohio Revised Code for operating a transit bus or other motor vehicle for the authority or commission in or through the Municipality, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such tax by reason of residence or domicile in the Municipality, or the headquarters of the authority or commission is located within the Municipality.
16. The Village shall not tax the compensation paid to a nonresident individual for personal services performed by the individual in the Village on twelve (12) or fewer days in a calendar year unless one of the following applies:
  - a. The individual is an employee of another person, the principal place of business of the individual's employer is located in another municipality in Ohio that imposes a tax applying to compensation paid to the individual for services paid on those days; and the individual is not liable to that other municipality for tax on the compensation paid for such services.
  - b. The individual is a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such promoter, all as may be reasonably defined by the Municipality.

For purposes of this section, “day” means any part of a twenty four (24) hour calendar day where compensation is earned in the Village.

17. The income of a public utility, when that public utility is subject to the tax levied under section 5727.24 or 5727.30 of the Ohio Revised Code, except a municipal corporation may tax the following, subject to Chapter 5745 of the Ohio Revised Code:

- a. The income of an electric company or combined company;
- b. The income of a telephone company.

As used in paragraph H(17) of this section, “combined company”, “electric company”, and “telephone company” have the same meanings as in section 5727.01 of the Ohio Revised Code.

18. An S corporation shareholder’s distributive share of net profits or losses of the S Corporation.

19. Generally the above noted items in this section are the only forms of income not subject to the tax. Any other income, benefits, or other forms of compensation shall be taxable.

#### I. Mandatory Registration

- 1. Each new resident of the Village of Fort Recovery and each resident upon attaining their eighteenth (18<sup>th</sup>) birthday, shall register with the Village Income Tax Department within (30) days of residency or eighteenth (18<sup>th</sup>) birthday in the Village.
- 2. All employers, contractors or subcontractors who do work in the Village shall register with the Tax Administrator when work begins and shall present him/her with a list of all employees, subcontractors or others who may do work for them that are not already registered with the Village or whose profits, wages or earnings are not presently subject to withholding of the Village of Fort Recovery income tax.
- 3. On January 1, 2003 and each year thereafter, all landlords who rent property or dwellings in the Village of Fort Recovery must submit an up-to-date list of all their tenants residing in their rentals, apartments, room or any other dwelling, to the Tax Administrator. The list is not required if the tenants are responsible for their own water utility payments.
- 4. Any person who violates this section shall be subject to the provision of Section 12, paragraph A, line 8 of the Village of Fort Recovery Income Tax Ordinance.

#### **SECTION 4. EFFECTIVE PERIOD**

Said tax shall be levied, collected and paid with respect to the qualifying wages, bonus payments, commissions, other compensation and or other taxable income earned or

received and with respect to the net profits of businesses, professions or other activities earned or received on and after January 1, 1985.

## **SECTION 5. RETURN AND PAYMENT OF TAX**

- A. Each resident of the Village, except as herein provided, shall, whether or not a tax be due thereon, make and file a return on or before April 15 of the year following the effective date of this ordinance, and on or before April 15 of each year thereafter and each person who engages in business or other activity, whose qualifying wages, commissions, other compensation, and other taxable income is subject to the tax imposed by this ordinance. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed on or before the fifteenth (15) day of the fourth month from the end of such fiscal year or period. The Administrator is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of Village tax deducted by said employer or employers from the qualifying wages, salaries, bonus payments, commissions, other compensation, and other taxable income of a non-resident employee, and paid by him or them to the Administrator, shall be accepted as the return required of any non-resident employee whose sole income subject to tax under this Ordinance, is such qualifying wages, salary, bonus payments, commissions or other compensation and other taxable income. No resident taxpayer shall be required to file a return who is not 18 years of age at the end of the tax year. The tax administrator is hereby authorized to provide by regulation, relief from the annual filing requirement to certain retired individuals who no longer are expected to have income taxable to the Village.
- B. A husband and wife may file either separate returns or a joint return for municipal purposes, even though one of the spouses has neither taxable income nor deductions included on the municipal return regardless of whether their federal and state returns were filed separately or jointly. If a joint Village return is made, the tax shall be computed on the aggregate taxable income and the liability with respect to the tax shall be joint and several.
- C. The return shall be filed with the Administrator on a form or forms furnished by or obtainable upon request from such Administrator, or on a generic form, if the generic form, once completed and filed, contains all of the information required to be submitted with the Village's prescribed returns, and if the taxpayer or return preparer filing the generic form otherwise complies with the rules and ordinances of the Village governing the filing of returns.
- D. The return shall set forth:
1. The aggregate amounts of qualifying wages, bonus payments, commissions and other compensation received, allocated, apportioned or set aside, other income defined by statute as taxable, 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; and

2. The amount of the tax imposed by this ordinance on such earnings and profits; and
3. Such other pertinent statements, information returns, copies of federal or state tax returns and /or schedules, or other information as the Administrator may require, including a statement that the figures used in the return are the figures used for federal income tax adjusted to set forth only such income as is taxable under the provisions of the Ordinance.
4. The tax returns shall be subject to limitations as provided in Section 3, F5.

E. Extension Request.

1. Any taxpayer that has requested an extension for filing a federal income tax return may request an extension for the filing of a Village Income Tax Return by filing a copy of the taxpayer's federal extension request with the Village Tax Office. Any taxpayer not required to file a federal income tax return may request an extension for filing a Village Income Tax Return in writing. The request for extension must be filed on or before the original due date for the annual return. If the request is granted, the extended due date of the municipal income tax return shall be the last day of the month following the month to which the due date of the federal income tax return has been extended.
2. The Tax Administrator may deny a taxpayer's request for an extension if the taxpayer:
  - a. fails to timely file the request; or
  - b. fails to file a copy of the federal extension request (if applicable); or
  - c. owes the Village any delinquent income tax, penalty, interest or other charge for the late payment or nonpayment of income tax; or
  - d. has failed to file any required income tax return, report, or other related document of a prior tax period.
3. The granting of an extension for filing a Village tax return does not extend the due date as provided in this section for payment of the tax; hence, penalty and interest may apply to any unpaid tax during the period of extension at the rate set out by section 10. No penalty shall be assessed in those cases in which the return is filed and the final tax paid within the extension period provided all other filing and payment requirements of the Tax Ordinance have been met. Any extension by the Tax Administrator shall be granted upon the condition that declaration filing and payment requirements have been fulfilled; however, if, upon further examination it then becomes evident that declaration filing and payment requirements have not been fulfilled, penalty and interest may be assessed in full and in the same manner as though no extension had been granted.

F. PAYMENT OF TAX

1. The taxpayer making a return shall, at the time of the 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 pursuant to the provisions of Section 6 of this ordinance, or where any portion of said tax shall have been paid by the taxpayer pursuant to the provisions of Section 7 of this ordinance, or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with Section 15 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. Subject to the limitations contained in Sections 11 and 15 of this tax ordinance, any taxpayer who has overpaid the amount of tax to which the Village 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 and ONE CENT (\$1.01) shall be collected, refunded, or credited to the taxpayer or his account.
3. The mere submission of a tax return reporting a tax liability shall not constitute filing unless accompanied by the required payment.

#### G. 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/or limitations contained in Sections 11 and 15. The Tax Administrator shall provide by regulation the format in which such amended return shall be filed. 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 tax liability, such taxpayer shall make and file an amended Village return showing income subject to the Village 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.

H. Information returns, schedules and statements required to support tax returns which are incomplete without such information shall be filed within the time limits set forth for filing of the tax returns and the failure to file such information returns, schedules and statements shall be a violation of this Tax Ordinance. Provided, however, that the taxpayer shall have ten (10) days after notification by the Tax Administrator, or his authorized representative, to file the items required by this paragraph.

## SECTION 6. COLLECTION AT SOURCE

- A. Withholding by Employer. Each employer within, or doing business within the Village who employs one or more persons on a salary, wage, commission or other compensation basis shall deduct, when such salary, wage, commission or other compensation is paid, allocated, apportioned or set aside, the tax at the rate provided in section 3 hereof on the qualifying wages due by such employer to each such employee and shall, on or before the last day of the month following the close of each calendar quarter, make a return and pay to the Tax Administrator the amount of taxes so deducted. The return shall be on a form or forms prescribed by or acceptable to the Tax Administrator and shall be subject to the Rules and Regulations prescribed by the Tax Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in fact been withheld.
- B. An employer is not required to make any withholding with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of the corporation with respect to whose stock the option has been issued.
- C. 1. An employee is not relieved from liability for a tax by the failure of the employer to withhold the tax as required by a municipal corporation or by the employer's exemption from the requirement to withhold the tax.
2. The failure of an employer to remit to the municipal corporation the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer in connection with the failure to remit the tax withheld.
- D. Employer Considered as Trustee. Each 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 his employees shall, until the same is paid to the Village, 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 of not such tax, in fact, has been withheld.
- E. Any person who is required to withhold tax from qualifying wages shall pay all such tax to the Village in accordance with the provisions of this section. In the event taxes withheld from the qualifying wages of employees are not paid to the Village in accordance with the provisions of this section, all officers, members, managers, employees, and trustees having control or supervision of or charged with the responsibility of filing the return and making payment are jointly and severally personally liable for the tax not returned or paid to the Village as well as any related interest and penalties, and are also liable under the provisions of section 12 hereof. The dissolution, termination, or bankruptcy of a corporation, limited liability company, or business trust does not discharge an officer's member's, manager's, employee's, or trustee's liability for a failure of the corporation, limited liability company, or business trust to file returns or pay said taxes.

- F. Withholding Return; List of Employees. Each employer shall file a withholding tax reconciliation showing the sum total of all compensation paid all employees, the portion of which, (if any) was not subject to withholding along with an explanation for same, and the portion of which was subject to withholding, together with the amount of such withholdings remitted. Such return shall include information concerning each employee from whom the Village tax was withheld, showing the name, address, zip code and social security number of each such employee, the total amount of compensation paid during the year and the amount of Village tax withheld. If the total tax withheld from any employee included tax withheld and remitted to another municipality, the amount of same shall be separately shown on the return of information to the Village concerning each employee. The withholding tax reconciliation shall be filed by each employer on or before February 28 following the end of such calendar year.
- G. In addition to the wage reporting requirement of this section, any person required by the Internal Revenue Service to report on Form 1099-Misc. payments to individuals not treated as employees for services performed shall also report such payments to the Village when the services were performed in the Village. The information may be submitted on a listing, and shall include the name, address and social security number (or federal identification number), and the amount of the payments made. Federal form(s) 1099 may be submitted in lieu of such listing. The information shall be filed annually on or before February 28 following the end of such calendar year.
- H. Domestic Servants. No person shall be required to withhold the tax on the qualifying wages, commissions, other compensation, and other taxable income paid domestic servants employed exclusively in or about such person's residence. However, such domestic servants shall be responsible for filing and paying their own returns and taxes.

## **SECTION 7. DECLARATIONS**

A. Requirement for Filing.

Every person who anticipates any taxable income which is not subject to Section 6 hereof, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 3 hereof, and such income results in estimated tax due of One Hundred Dollars (\$100.00) or more, 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; provided, however, that if a person's income is wholly from qualifying wages from which the tax will be withheld and remitted to the Village, in accordance with Section 6 hereof, such person need not file a declaration.

B. Dates for Filing.

1. Such declaration shall be filed on or before April 15 of each year during the life of this Ordinance, or on or before the fifteenth (15<sup>th</sup>) day of the fourth

(4<sup>th</sup>) month following the date the taxpayer becomes subject to tax for the first time.

2. Those taxpayers reporting on a fiscal year basis or period differing from the calendar year shall file a declaration on or before the fifteenth (15<sup>th</sup>) day of the fourth (4<sup>th</sup>) month following the start of each fiscal year or period.

C. Forms; Credit for Tax Withheld or Paid Another Community.

1. Such declaration shall be filed upon a form furnished by or obtainable from the Tax Administrator or an acceptable generic form, and credit shall be taken for the Municipal tax to be withheld from any portion of such income. In accordance with the provisions of Section 15, credit may be taken for tax to be withheld and remitted to another taxing municipality.
2. The original declaration (or any subsequent amendment thereof) may be increased or decreased on or before any subsequent quarterly payment date as provided for herein.
3. For taxpayers who are individuals, such declaration of estimated tax to be paid the Municipality shall be accompanied by a payment of at least twenty percent (20%) of the estimated annual tax liability for the current year 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 taxable year.
4. For taxpayers that are not individuals, such declaration of estimated tax to be paid the Municipality shall be accompanied by a payment of at least twenty percent (20%) of the estimated annual tax liability for the current year 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 taxable year.
5. The mere submission of a declaration estimating a tax liability shall not constitute filing unless accompanied by the required payment.
6. A taxpayer may pay one hundred percent (100%) of his liability for the preceding year in estimated tax for the current year, provided the tax due for the preceding year reflected a liability for a twelve-month period. In such case, the eighty percent (80%) rule will not apply.

D. Amended Declaration.

1. A declaration may be amended at any time.
2. In the event that an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

E. Annual Return Required.

On or before the fifteenth (15<sup>th</sup>) day of the fourth month of the calendar or fiscal year, following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the Municipality shall be paid therewith in accordance with the provisions of section 5.

## **SECTION 8. DUTIES OF THE ADMINISTRATOR**

- A. It shall be the duty of the Administrator to collect and receive the tax imposed by this ordinance in the manner prescribed therein, to keep an accurate record thereof, and to report all monies so received. It shall be the duty of the Administrator to enforce payment of all income taxes owing the Village, to keep accurate records for a minimum of five (5) years showing the amount due from each taxpayer required to file a declaration and/or make any return, including a return of taxes withheld, and to show the dates and amounts of payments thereof.
- B. Said Administrator is hereby charged with the enforcement of the provisions of this ordinance, including the interpretation and enforcement of the Rules and Regulations set forth in articles 1 through 18, and is hereby empowered, subject to the approval of the Village Council, to adopt, promulgate and enforce rules and regulations relating to any matter of thing pertaining to the collection of taxes hereunder and the administration and enforcement of the provisions of this ordinance, including provisions for the re-examination and correction of returns.

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 satisfaction of the Administrator that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under the ordinance.

Failure to make any installment payment when due shall cause the total unpaid amount, including penalty and interest, to become payable on demand, and the provisions of Sections 11 and 12 of the ordinance shall apply.

- 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 Administrator may determine the amount of tax appearing to be due the Village from the taxpayer and shall send to such taxpayer a written statement showing the amount of tax so determined, together with any interest and penalties due thereon.
- D. Subject to the consent of the Board of Review in each case or pursuant to regulations approved by said Board of Review, the Administrator shall have the power to compromise any interest or penalty, or both, imposed by Section 10 of this ordinance.

- E. Upon the demonstration and documentation of good cause, the Tax Administrator shall have the power to compromise penalty and interest liabilities imposed by this Ordinance, consistent with this Ordinance and the Rules and Regulations. In no case shall the Tax Administrator possess the authority to abate or compromise a tax liability.

**SECTION 9. INVESTIGATIVE POWERS OF THE ADMINISTRATOR – PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION**

- A. The Administrator, or his duly authorized agent or employee, is hereby authorized to examine the books, papers, records and federal income tax returns of any employer or of any taxpayer or person subject to, or whom the administrator believes is subject to the provisions of this ordinance, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax or withholding due under this ordinance. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish upon written request by the Administrator, or his duly authorized agent or employee, the means, facilities, and opportunities for making such examinations and investigations as are hereby authorized.
- B. The Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before him and may examine such person under oath concerning any income which was or should have been reported for taxation or withholding, or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and federal income tax returns, and the attendance of any 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 Administrator authorized hereby, shall be deemed a violation of this ordinance, punishable as provided in Section 12 hereof.
- D. Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this ordinance shall be confidential, and no person shall disclose such information except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of the Village as authorized by this Ordinance. The Tax Administrator of the Village may furnish copies of returns filed under this Ordinance to the Internal Revenue Service and the State Tax Commissioner. Any person divulging such information in violation of this ordinance, shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine of not more than One Thousand Dollars (\$1000.00) or shall be imprisoned for not more than six (6) months, or both. No part of the fine imposed shall be suspended. Each disclosure shall constitute a separate offense.

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

- E. 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.

## **SECTION 10. INTEREST AND PENALTIES**

- A. All taxes imposed and all monies withheld or required to be withheld by employers under the provisions of this ordinance and remaining unpaid after they become due shall bear interest at the rate of one percent (1%) per month or fraction thereof.
- B. In addition to interest as provided in Paragraph A hereof, penalties based on the unpaid tax and failure to file a return, are hereby imposed as follows:
  - 1. For failure to pay taxes due, other than taxes withheld: five percent (5%) per month or fraction thereof not to exceed fifteen percent (15%), or twenty-five dollars (\$25.00), whichever is greater.
  - 2. For failure to remit taxes withheld from employees: three percent (3%) per month or fraction thereof, or twenty-five dollars (\$25.00), whichever is greater.
  - 3. Where the taxpayer has failed to file a return by the due date or by the date resulting from extension, twenty-five dollars (\$25.00).
  - 4. An underpayment penalty shall be imposed on a final return if the estimated tax payments and withholding equal less than eighty percent (80%) of the final tax liability except when payment due on the final return is less than One Hundred Dollars (\$100.00). When the estimated declaration payments and withholding equal or exceed the previous tax year liability, no penalty or interest shall be assessed.
  - 5. No penalty or interest shall be charged against a taxpayer for the late payment or nonpayment of estimated tax liability if the taxpayer is an individual who resides in the municipal corporation but was not domiciled there on the first day of January of the current calendar year.
- C. **EXCEPTIONS.** A penalty shall not be assessed on an additional tax assessment made by the Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Administrator; and provided further, that, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment 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 recommendation of the Administrator, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the

Administrator to recommend abatement of penalty and interest concerning an item of income or expense, the Board may, nevertheless, abate penalty or interest, or both.

## **SECTION 11. COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.**

- A. All taxes imposed by this ordinance shall be collectable, 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 the tax was due or the return was filed, whichever is later; provided, however, there shall be no period of limitation on an additional assessment in the case of a return that omits gross income in excess of twenty-five per cent (25%) of that required to be reported or in the case of filing a false or fraudulent return with intent to evade the tax, or in the case of 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 Administrator 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 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.
- C. Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment, with the following exception: No interest shall be allowed on any overpayment that is refunded within ninety (90) days after the final filing date of the annual return or ninety (90) days after the complete return is filed, whichever is later. For purposes of computing the payment of interest on overpayments, no amount of tax for any taxable year shall be treated as having been paid before the date on which the tax return for that 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 Ohio R.C. 5703.47.
- D. Amounts of less than One Dollar and One Cent (\$1.01) shall not be collected, refunded, or credited to the taxpayer or his account.

## **SECTION 12. VIOLATIONS – PENALTIES**

- A. Any person who shall:
  - 1. Fail, neglect or refuse to make any return or declaration required by this ordinance; or
  - 2. Knowingly 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 and remit such withholding to the Administrator; or
5. Refuse to permit the Administrator 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 Administrator and to produce his or his employer's books, records, papers or Federal income tax returns upon order or subpoena of the Administrator; or
7. Refuse to disclose to the Administrator 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 Administrator authorized hereby; or
9. Willfully give to an employer by an employee false information as to his true name, correct social security number and residence address; or failure of such employee to promptly notify an employer of any change in residence address and the date thereof; or
10. Failure on the part of any employer to maintain proper records of employees' residence addresses, total wages paid and Village tax withheld; or to knowingly give the Administrator false information; or
11. Willfully fail or willfully refuse to make any payment on the estimated tax for any year or part of any tax year as required by Section 7; or
12. Fail to cause the tax withheld from the qualifying wages of the employees pursuant to this Ordinance to be paid to the Municipality in accordance with the provisions of section 6; or
13. 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 and shall be fined not more than One Thousand Dollars (\$1000.00) or imprisoned not more than six (6) months or both, for each offense. No part of the fines imposed shall be suspended.

- B. All prosecutions under this Section must be commenced within three (3) 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 six (6) 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 or withholding the tax.

- D. The term “person” as used in this section shall, in addition to the meaning prescribed in section 2, include in the case of an association or corporation not having any partner, member or officer within the Municipality, any employee or agent of such association or corporation who can be found within the corporate limits of the Municipality.

### **SECTION 13. 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, is hereby created and shall be maintained to hear appeals. Such appointments shall be confirmed by Village Council and no elected officer or employee of the Village may qualify for such appointment. 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. Hearings requested by the taxpayer before a Board of Review created pursuant to this section are not meetings of a public body subject to section 121.22 of the Ohio Revised Code. Such records are not public records available for inspection under section 149.43 of the Ohio Revised Code.
- B. All rules and regulations and amendments or changes thereto, which are adopted by the Administrator under the authority conferred by this ordinance, must be approved by Village Council 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 apportionment.
- C. Whenever the Tax Administrator issues a decision regarding an income tax obligation that is subject to appeal, as provided in this section, or in an ordinance or regulation of the Village, the Tax Administrator shall notify the taxpayer in writing at the same time of the taxpayer’s right to appeal the decision and of the manner in which the taxpayer may appeal the decision .

Any person who is aggrieved by a decision by the Tax Administrator and who has filed with the Village the required returns or other documents pertaining to the Village income tax obligation at issue in the decision may appeal the decision to the Board of Review by filing a written request with the Board.

The request shall be in writing, shall state with particularity why the decision should be deemed incorrect or unlawful, and shall be filed within thirty (30) days after the Tax Administrator has issued the decision.

The imposition of penalty and interest as prescribed in the Village Income Tax Ordinance is not a sole basis for an appeal.

The Board of Review shall schedule a hearing within forty-five (45) days after receiving a request, unless the taxpayer waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the Board and may be

represented by an attorney at law, certified public accountant or other representative, provided a letter of authorization is presented.

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 (90) days after the Board's final hearing on the appeal, and send notice of its decision by ordinary mail to all of the parties of the appeal within fifteen (15) days after issuing the decision. The taxpayer or Tax Administrator may appeal the board's decision as provided in Section 5717.011 of the Ohio Revised Code.

- D. The original appointments to the Board of Review shall be for terms of one (1), two (2) and three (3) years respectively, and thereafter all appointments shall be for terms of three (3) years. Vacancies on said Board shall be filled by appointment by the Mayor, subject to confirmation by Council, and shall be for the unexpired term of the Board member replaced. All original terms shall begin on January 2, 1985, and end on January 1 of the appropriate year, and thereafter all terms shall begin on January 2 and end on January 1. All appointments and confirmations thereof shall state the dates of beginning and ending of the term for which the appointment is made, calculated in accordance with this Section. Members of the Board shall receive no compensation, but shall be allowed such amounts for actual expenses, including but not limited to mileage, as Council may provide.

#### **SECTION 14. ALLOCATION OF FUNDS**

The allocation of funds is to be determined by the Council of the Village of Fort Recovery, Mercer County, Ohio.

#### **SECTION 15. CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY**

- A. Where a resident of Ft. Recovery, Ohio, is subject to an Indiana county income tax or 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 Ft. Recovery, Ohio, who receives net profits, salaries, wages, bonus payments, commissions or other personal service compensation for work done or services performed or rendered outside of the Village, if it be made to appear that he has paid a municipal income tax on the same income taxable under this ordinance to another municipality, shall be allowed a credit against the tax imposed by this ordinance of the amount so paid by him or in his behalf to such other municipality. The credit shall not exceed the tax assessed by this ordinance on such income earned in such other municipality or municipalities where such tax is paid.
- C. Every individual tax payer who resides in Fort Recovery, Ohio, who receives net profits, salaries, wages, bonus payments, commissions or other personal service compensation for work done or services performed or rendered in the State of Indiana if it be made to appear that he has paid a county income tax on the same income taxable under this ordinance to a county in the State of Indiana, shall be allowed an Indiana Non-Resident credit against the tax imposed by this ordinance of the amount so paid by him or in his behalf to such

other county in Indiana. The credit shall not exceed the tax accessed by this ordinance on such income earned in such other county in Indiana where such tax is paid.

- D. Except as provided in paragraph (E) of this section, if tax or withholding is paid to a municipal corporation on income or wages, and if a second municipal corporation imposes a tax on that income or wages after the time period allowed for a refund of the tax or withholding paid to the first municipal corporation, the second municipal corporation shall allow a nonrefundable credit, against the tax or withholding the second municipality claims is due with respect to such income or wages, equal to the tax or withholding paid to the first municipal corporation with respect to such income or wages.
- E. If the tax rate in the second municipal corporation is less than the tax rate in the first municipal corporation, then the credit described in paragraph (D) of this section shall be calculated using the tax rate in effect in the second municipal corporation.
- F. A claim for refund or credit under this section shall be made in such manner as the Administrator may by regulation provide.

#### **SECTION 16. 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. If 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, 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 the Council of the Village of Ft. Recovery that this ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section or part thereof not been included herein.

#### **SECTION 17. COLLECTION OF TAX AFTER TERMINATION OF ORDINANCE**

- A. This ordinance shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this ordinance are concerned, it shall continue effective until all of said taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of said taxes or for the punishment of violations of this ordinance shall have been fully terminated, subject to the limitations contained in Sections 11 and 12 hereof.
- B. Annual returns and payments due for all or any part of the last effective year of this ordinance shall be due on the date provided in Sections 5 and 6 of this ordinance as though the same were continuing.

**SECTION 18. STUDENTS**

The provisions of this ordinance shall not apply to persons who have not, during the taxable year, attained their eighteenth (18<sup>th</sup>) birthday, nor shall the provisions of Section 6 hereof apply to employers of such persons with respect to such persons.

**SECTION 19.**

Ordinance No. 1983-10 is hereby repealed as of January 1, 1985, except for those portions relative to collection of 1984 tax and enforcement thereof.

**SECTION 20.**

This ordinance shall take effect and be in force from and after the earliest period allowed by law.

**DISCLAIMER:** This document does not constitute legal advice.

Passed this 17<sup>th</sup> day of December, 1984.

Gerald Collins  
Mayor

Attest:

Freida Acheson  
Clerk

Approved as to form:

Thomas D. Lammers  
Solicitor