

## ORDINANCE NO. 1594

### TITLE:

AN ORDINANCE levying a Tax to provide funds for the purpose of general municipal operations, maintenance of equipment, new equipment, extension, enlargement and improvement of municipal services and facilities and capital improvements, on all salaries, wages, commissions and other compensation earned by residents of the Village of Dennison; on all salaries, wages, commissions and other compensation earned by residents of the Village of Dennison; on all salaries, wages, commissions and other compensation earned by non-residents of the Village of Dennison for work done or services performed or rendered in the Village of Dennison; on the net profits earned on all businesses, professions or other activities conducted by residents of the Village of Dennison; on the net profits earned on all businesses, professions or other activities conducted in the Village of Dennison by non-residents, and on the net profits earned by all corporations doing business in the Village of Dennison as the result of work done or services performed or rendered in the Village of Dennison; 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 Dennison; providing for the administration, collection, and enforcement of said tax; declaring violation thereof to be a misdemeanor and imposing penalties therefore; and declaring an emergency.

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF DENNISON, OHIO, THREE-FOURTHS (3/4) OF THE MEMBERS CONCURRING, AND DECLARING AN EMERGENCY:

### SECTION 1: DEFINITIONS

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

- A. "Taxpayer" – A person, whether an individual, partnership, limited partnership, corporation, association or other entity, required hereunder to file a return or to pay a tax hereunder.
- B. "Association" – A partnership, limited partnership, or any other form of unincorporated enterprise, owned by two (2) or more persons.
- C. "Business" – An enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, limited partnership, corporation, association or any other entity.
- D. "Corporation" – A corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory, foreign country or dependency.
- E. "Employee" – An individual whose earnings are subject to the withholding of Federal Income Tax or Social Security Tax.
- F. "Employer" – An individual, partnership, limited partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one (1) or more persons on a salary, wage, commission or other compensation basis.
- G. "New Profits" – The net gain from the operation of a business, profession or enterprise after provision for all cost and expense incurred in the conduct thereof, including reasonable allowance for depreciation, depletion, amortization and reasonable additions to reserve for bad debts, either paid or accrued in accordance with recognized principles of accounting applicable to the method of accounting regularly employed and without deducting of Federal taxes based on income, and without deducting taxes imposed by this Ordinance.
- H. "Non-Resident" – An individual, partnership, limited partnership, corporation, association, or other entity domiciled outside the Village of Dennison.
- I. "Person" – Every natural person, partnership, limited partnership, corporation, fiduciary or association. Whenever used in any clause prescribing and imposing a penalty, the term "persons" as applied to any association, shall mean the partners or members thereof, and as applied to corporation, the officers thereof.
- J. "Resident" – An individual, partnership, limited partnership, corporation, association, or other entity domiciled in the Village of Dennison.
- K. "Other Entity" – The term "other entity" means any person or unincorporated body not previously named or defined and includes inter alia, fiduciaries located within the Village of Dennison.

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

### SECTION 2. IMPOSITION OF TAX

To provide funds for the purpose of general municipal operations, maintenance of equipment, new equipment, extension, enlargement and improvement of municipal services and facilities and capital improvements of the Village of Dennison, there be, and hereby is levied a tax upon the earnings at the rate of one percent upon the following:

- A. On all salaries, wages, commissions, and other compensation earned and after January 1, 1973 by resident individuals of the Village of Dennison.

- B. On all salaries, wages, commissions and other compensation earned on and after January 1, 1973 by non-resident individuals of the Village of Dennison, for work done or services performed or rendered in the Village of Dennison.
- C. On the net profits attributable to Dennison, earned on and after January 1, 1973 of all resident unincorporated businesses, professions and other activities derived from work done or services rendered or performed and business or other activities conducted in the Village of Dennison.
- D. On the portion of the distributive share of the net profits earned on and after January 1, 1973 of a resident individual, partner or owner of a resident unincorporated business entity attributable to Dennison and not levied against such unincorporated business entity.
- E. On the net profits attributable to Dennison earned on and after January 1, 1973, of all non-resident unincorporated businesses, professions or other activities, derived from work done or services performed or rendered and business or other activities conducted in the Village of Dennison.
- F. On the portion of the distributive share of the net profits earned on and after January 1, 1973, of a resident individual, partner or owner of a non-resident unincorporated business entity not attributable to Dennison and not levied against such unincorporated business entity.
- G. On the net profits earned on and after January 1, 1973, of all corporations derived from work done or services performed or rendered and business or other activities conducted in the Village of Dennison.
- H. The portion of the net profits attributable to the Village of Dennison of a taxpayer conducting a business, profession or other activity both within and without the boundaries of the Village of Dennison shall be determined as provided in Section 718.02 of the revised Code of Ohio and in accordance with the Rules and Regulations adopted by the Council of the Village of Dennison pursuant to this Ordinance.

OHIO REVISED CODE SECTION 718.02  
DETERMINED OF INCOME SUBJECT TO TAX.

(A) In the Taxation of income which is subject to taxation by the provisions of this Ordinance, if the books and records of a taxpayer conducting a business or profession both within and without the boundaries of the Village of Dennison shall disclose with reasonable accuracy what portion of its net profit is attributable to that part of the business or profession conducted within the boundaries of the Village of Dennison, then only such portion shall be considered as having a taxable situs in the Village of Dennison for purposes of income taxation. In the absence of such records, net profit from a business or profession conducted both within and without the boundaries of the Village of Dennison shall be considered as having a taxable situs in the Village of Dennison for purposes of income taxation in the same proportion as the average ratio of:

1. The average net book value of the real and tangible personal property owned or used by the taxpayer in the business or profession in the Village of Dennison during the taxable period to the average net book value of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

As used 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.

2. Wages, salaries, and other compensation paid during the taxable period to persons employed in the business or profession for services performed in the Village of Dennison to wages, salaries, and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed.

3. Gross receipts of the business or profession from sales made and services performed during the taxable period in the Village of Dennison to gross receipts of the business or profession during the same period from sales and services, where ever made or performed.

In the event that the foregoing allocation formula does not produce an equitable result, another basis may, under uniform regulations be substituted so as to produce such result.

(B) As Used in Division (A) of this subsection, "Sales made in the Village of Dennison" mean:

1. All sales of tangible personal property which is delivered within the Village of Dennison regardless of where title passes if shipped or delivered from a stock of goods within such village.

2. All sales of tangible personal property which is delivered within the Village of Dennison regardless of where title passes even though transported from a point outside such village if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the Village of Dennison and the sales result from such solicitation or promotion.

3. All sales of tangible personal property which is shipped from a place within the Village of Dennison to purchasers outside such village 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.

#### SECTION 3. EFFECTIVE DATE

Said tax shall be levied, collected and paid with respect to salaries, wages, commissions and other compensation earned on and after January 1, 1973, and with respect to the net profit of businesses, professions and other activities earned on and after January 1, 1973. Provided, however, that where the fiscal year of the business, profession or other activity differs from the calendar year, the tax shall be applied to that part of the net profit for the fiscal year as shall be earned on and after January 1, 1973, to the close of the taxpayer's fiscal year; thereafter the taxpayer shall report on its fiscal year basis.

#### SECTION 4. RECIPROCITY PROVISION – CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES

Every individual taxpayer who resides in the Village of Dennison but who receives net profits, salaries, wages, commissions or other personal service compensation, for work done, or services performed or rendered outside of said Village, if it be made to appear that he has paid a municipal income tax on such net profits, salaries, wages, commissions or other compensation 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 net profit, salary, wages, commissions or compensation earned in such other municipality or municipalities where such tax is paid.

#### SECTION 5. ADMINISTRATION – DUTIES OF THE VILLAGE CLERK.

A. It shall be the duty of the Village Clerk to receive the tax imposed by this Ordinance in the manner prescribed herein from the taxpayers; to keep an accurate record thereof; and to report all monies so received. All cashiers handling tax monies shall be subject directly to the Village Clerk and shall give daily accountings to the Village Clerk.

B. It shall be the duty of the Village Clerk to enforce payment of all taxes owing the Village of Dennison, 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 taxes withheld, and to show the dates and amounts of payments thereof.

C. Said Village Clerk is hereby charged with the enforcement of the provisions of this Ordinance and to enforce the rules and regulations of Council of the Village of Dennison, Ohio, relating to any matter or thing pertaining to the collection of Village income taxes and the administration and enforcement of the provisions of this Ordinance, including provisions for the examination and correction of returns and payments.

D. 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 Village Clerk may determine the amount of tax appearing to be due the Village of Dennison from the taxpayer and shall send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.

E. Subject to the consent of the Board of Review or pursuant to regulations approved by the Council of the Village, the Village Clerk shall have the power to compromise any interest or penalty, or both, imposed by this Ordinance.

F. A Department of Taxation is hereby created within the office of the Village Clerk of the Village of Dennison. Such Department of Taxation shall have such deputies, clerks and other employees as may be from time to time determined by the Council of the Village of Dennison, and shall receive such salary as may be determined by Village Council. The Village Clerk shall recommend all appointments of personnel and purchase all equipment, supplies and material for the Department of Taxation subject to the approval of Council. The Department of Taxation shall be charged with the administration and operation of this Ordinance, under the direction of the Village Clerk. The Village Clerk shall prescribe

the form and method of accounts and reports for said department as well as the forms for taxpayer's returns and declarations, and shall be charged with the internal examination and audit all such accounts, and shall exhibit accurate records showing the amount received from each taxpayer, and the date of said receipt. The Village Clerk shall also make written report to Council annually of all monies collected hereunder during the preceding year.

#### SECTION 6. INVESTIGATIVE POWERS OF THE VILLAGE CLERK – PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION

A. The Village Clerk or his duly authorized agent or employee, is hereby authorized to examine the books, papers and records of any employer, or of any taxpayer or person subject to the tax, or believed to be subject to the provisions of this Ordinance, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due. Every such employer, supposed employer, taxpayer or supposed taxpayer, is hereby directed and required to furnish to the Village Clerk or his duly authorized agent or employee, within thirty (30) days following a written request by the Village Clerk or his duly authorized agent or employee, the means, facilities, and opportunity for making such examination and investigations as are hereby authorized.

B. The Village Clerk, or his duly authorized agent or employee, is hereby authorized to examine any person, employer or employee under oath, concerning any income which was or should have been returned for taxation, and for this purpose may compel the production of books, Federal income tax records, papers and records and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income.

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 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 any order or subpoena of the Village Clerk authorized hereby shall be deemed a violation of this Ordinance, punishable as provided in Section 8 hereof.

D. Tax returns, investigations, hearings and all audit papers and information connected therewith are confidential and shall be carefully preserved so that they shall not be available for inspection by anyone other than the proper agents of the Village of Dennison for official purposes.

E. Any information gained as the result of the filing of any tax returns, investigations, hearings or verifications required or authorized by this Ordinance shall be confidential, except for official purposes and except in accordance with proper judicial order. Any person divulging such information shall upon conviction thereof be deemed guilty of a misdemeanor and shall be subject to a fine or penalty of not more than Five Hundred Dollars (\$500.00) or imprisoned for not more than six (6) months, or both. Each disclosure shall constitute a separate offense. In addition to the above penalties, any employee of the Village of Dennison who violates the provisions of this section relative to disclosures of confidential information shall be immediately dismissed from the service of the Village.

#### SECTION 7. INTEREST AND PENALTIES

All taxes imposed by this Ordinance, including taxes withheld or required to be withheld from wages by an employer and remaining unpaid after they have become due, shall bear interest on the amount of the unpaid tax at the rate of eight (8%) percent per annum, and the taxpayers upon whom said taxes are imposed, and the employers required by this Ordinance to deduct, withhold and pay taxes imposed by the Ordinance shall be liable, in addition thereto, to a penalty of one-half (1/2) of one percent (1%) of the amount of the unpaid tax for each month or fraction of a month for the first six (6) months of non-payment, or FIVE DOLLARS (\$5.00), whichever is the greater.

#### SECTION 8. VIOLATIONS – PENALTIES

A. The following shall be considered violations of this Ordinance:

1. Failing, neglecting or refusing to make any return or declaration required by this Ordinance; or
2. Making any incomplete, false or fraudulent return; or
3. Failing, neglecting, or refusing to pay the tax, penalties, or interest imposed by this Ordinance; or
4. Failing, neglecting or refusing to withhold the tax from employees or to remit such withholding to the Village Clerk; or

5. Refusing to permit the Village Clerk or any duly authorized agent or employee to examine books, records and papers and Federal income tax returns relating to the income or net profits of a taxpayer; or
6. Failing to appear before the Village Clerk and to produce books, records, Federal income tax returns and papers relating to the income or net profits of a taxpayer under order or subpoena of the Village Clerk; or
7. Refusing to disclose to the Village Clerk any information with respect to the income or net profits of a taxpayer; or
8. Failing to comply with the provisions of this Ordinance or any order or subpoena of the Village Clerk authorized hereby; or
9. Attempting to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this Ordinance.

B. Any person who violates any of the provisions of Section 8A above shall be guilty of a misdemeanor and shall be fined not more than FIVE HUNDRED DOLLARS (\$500.00) for each offense.

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

#### SECTION 9. ALLOCATION OF FUNDS

The funds collected under the provisions of this Ordinance shall be deposited in the General Fund and said funds collected for the tax period shall be disbursed in the following order, to-wit:

1. Such part thereof as shall be necessary to defray all costs of collecting the taxes and the cost of administering and enforcing the provisions thereof.
2. Not more than Seventy percent (70%) of the net available income tax receipts received annually may be used to defray operating expenses of the Village.
3. At least Thirty percent (30%) of net available Income tax receipts received annually shall be set aside and used for capital improvements for the village including, but not limited to, developments and construction of storm sewers and street improvements; for public buildings, parks and playgrounds; and for equipment necessary for the police, fire, street, traffic, and safety departments.

#### SECTION 10. BOARD OF REVIEW

A. A Board of Review, consisting of three (3) electors of the Village of Dennison, one to be appointed by the Mayor, one to be appointed by the Village Treasurer, and the third to be selected by the two so appointed, is created by the Ordinance. No member shall be appointed to the Board of Review who holds other public office of appointment. The members of the Board of Review shall serve without pay.

B. A majority of the members of the Board of Review shall constitute a quorum. The Board of Review shall adopt its own procedural rules and shall keep a record of its transactions.

C. All hearings of the Board shall be conducted privately and the provisions of Section 6 of the Ordinance 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 Review on appeal.

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

E. Any person dissatisfied with any ruling or decision of the Board of Review may appeal therefrom to a court of competent jurisdiction within thirty (30) days from the announcement of such ruling or decision.

F. The Board of Review, as created, shall serve during the life of the Ordinance.

#### SECTION 11. APPLICABILITY

This Ordinance shall not apply to any person, firm, corporation, or to any property as to whom or which it is beyond the power of the Village Council of the Village of Dennison to impose the tax herein provided for.

#### SECTION 12. SAVINGS CLAUSE

If any sentence, clause, section or part of this Ordinance, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such sentence, clause, 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 Dennison that this Ordinance would have been adopted had such unconstitutional illegal or invalid sentence, clause, section or part thereof not been included herein.

#### SECTION 13. EXEMPTIONS

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

1. Funds received from local, state or Federal governments because of service in the Armed Forces of the United States by the person rendering such service, or as a result of another person rendering such service.
2. Poor relief, pensions, social security, unemployment compensation, and disability benefits received from private industry or local, state or Federal governments, or from charitable, religious or educational organizations.
3. Dues, contributions and similar payments received by charitable, religious, educational or literary organizations or labor unions, lodges and similar organizations.
4. Receipts from casual entertainment, amusements, sports events and health and welfare activities conducted by bona fide charitable, religious and educational organizations and associations.
5. Any association, organization, corporation, club or trust, which is exempt from Federal taxes on income by reason of its charitable, religious, educational, literary, scientific, etc., purposes.
6. Gains from involuntary conversions, cancellation of indebtedness, interest on Federal obligations, items of income already taxed by the State of Ohio, from which the Village is specifically prohibited from taxing and income of a decedent's estate during the period of administration (except such income from the operation of a business).
7. Earnings and income of all persons under eighteen (18) years of age, whether residents or non-residents.

#### SECTION 14. REFUNDS

Should it appear that any taxpayer has paid more than the amount of the tax to which the Village of Dennison is entitled under the provisions of the Ordinance, a refund of the amount so overpaid shall be made, provided a proper claim for refund of such overpayment of tax has been filed by the taxpayer, or same may be applied toward the declaration of tax due for the ensuing year. Claims for refunds shall be made on forms prescribed by and obtainable from the Village Clerk.

All applications for refunds shall be made within three (3) years of the due date of a final return.

#### SECTION 15. EFFECTIVE PERIOD

The Ordinance or any amendment or supplement thereto shall be effective on and after January 1, 1973. Said Ordinance, insofar as the collection of taxes levied in the aforesaid period and actions or proceedings for collecting any tax so levied, or enforcing any provisions of said Ordinance are concerned, 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.

#### SECTION 16. EMERGENCY CLAUSE

This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, welfare and safety, the emergency being the necessity of immediately raising additional funds for the operation of necessary governmental functions imposed by law, including proper police and fire protection, but not limited thereto and, as such, this Ordinance shall take effect and be in force immediately upon its passage by Council and approval

by the Mayor.

Passed in Council this 19<sup>th</sup> day of December A.D., 1972.

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John Freeman      12-19-72  
President of Council

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Eugene Hart      12-19-72  
Mayor

**ATTEST:**

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Robert Murphy  
Acting Clerk