

VILLAGE OF GEORGETOWN, OHIO

ORDINANCE NO. 1150

AN ORDINANCE AMENDING SUBSECTIONS 170.03 AND 170.14 OF THE
CODIFIED ORDINANCES OF THE VILLAGE OF GEORGETOWN TO INCREASE
THE RATE OF TAX AND TO RE-ALLOCATE THE DISTRIBUTION OF FUNDS
DERIVED FROM THE GEORGETOWN MUNICIPAL INCOME TAX
AND DECLARING AN EMERGENCY

BE IT ORDAINED by the Council of the Village of Georgetown, Brown County, Ohio,
two-thirds (2/3) or more of all members thereof concurring as follows:

SECTION 1. That existing Subsection 170.03 of Ordinance No. 579 (the Codified Ordinances of the Village of Georgetown), as amended by Ordinance No. 769 of the Ordinances of the Village of Georgetown on June 20, 1989 be and the same is hereby repealed.

SECTION 2. That existing Subsection 170.14 of Ordinance No. 579 (the Codified Ordinances of the Village of Georgetown), as amended by Ordinance No. 769 of the Ordinances of the Village of Georgetown on June 20, 1989, as amended by Ordinance No. 845, as amended by Ordinance No. 990 and as amended by Ordinance No. 999 of the Ordinances of the Village of Georgetown be and the same is hereby repealed.

SECTION 2. That Ordinance No. 579 (the Codified Ordinances of the Village of Georgetown), as amended by Ordinance No. 769, be further amended to include the following Subsection 170.03 which shall be a part of Title XVII, Taxation, Chapter 170, Income Tax:

170.03 IMPOSITION OF TAX.

(A) Subject to the provisions of Section 170.16, an annual tax for the purposes specified in Section 170.01 shall be imposed on and after January 1, 2014 at the rate of one percent (1.0 %) per year upon the following:

(1) On all income, qualifying wages, commissions and other compensation earned and/or received on and after January 1, 2014, by residents of the Municipality. For clarification "income" includes, but is not limited to:

(a) Lottery, gambling and sports winnings, games of chance, and prizes and/or awards. No deductions against this income are permitted.

(b) If the taxpayer is considered a professional gambler for federal income tax purposes, related deductions as permitted by the Internal Revenue Code shall be allowed against gambling and sports winnings.

(2) On all income, qualifying wages, commissions and other compensation earned and/or received on and after January 1, 2014, by nonresidents for work done or services performed or rendered in the Municipality. In the event that a nonresident is employed by an employer having a physical location within the Municipality which is a base of operations to which the employee regularly reports, it shall be presumed that all of such nonresident employee's work is done or services are performed or rendered within the Municipality. Separation pay, termination pay, reduction-in-force pay, and other compensation paid as a result of an employee leaving the service of an employer shall be allocable only to the Municipality.

(a) The Municipality shall not, however, tax the compensation of a non-resident individual who will be deemed to be an occasional entrant if all of the following apply:

(1) The compensation is paid for personal services performed by the individual in this municipality on twelve or fewer days during the calendar year, in which case the individual shall be considered an occasional entrant for purposes of this municipality's income tax. A day is a full day or any fractional part of a day.

(2) In the case of an individual who is an employee, the principal place of business of the individual's employer is located outside the Municipality and the individual pays tax on compensation described in Section 170.03(A)(2) to the Municipality, if any, in which the employer's principal place of business is located, and no portion of that tax is refunded to the individual.

(3) The individual is not a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such a promoter, all as may be reasonably defined by the Municipality.

(b) Beginning with the thirteenth day, if an individual deemed to have been an occasional entrant to the Municipality performs services within the Municipality, the employer of said individual shall begin withholding the Municipality's income tax from remuneration paid by the employer to the individual, and shall remit the withheld income tax to the Municipality in accordance with the requirements of this ordinance. Since the individual can no longer be considered to have been an occasional entrant, the employer is further required to remit taxes on income earned in the Municipality by the individual for the first twelve days.

(c) If the individual is self-employed, it shall be the responsibility of the individual to remit the appropriate income tax to the Municipality.

(3) (a) On the portion attributable to the Municipality of the net profits earned on and after January 1, 2014, of all resident unincorporated businesses, professions, associations or other activities, derived from work done or services performed or rendered and business or other activities conducted in the Municipality.

(b) On the portion of the distributive share of the net profits earned and/or received on and after January 1, 2014 by a resident partner and/or owner of a resident

unincorporated business entity, including associations, not attributable to the Municipality, and not levied against such unincorporated business entity.

(4) (a) On the portion attributable to the Municipality of the net profits earned on and after January 1, 2014 by all nonresident unincorporated businesses, professions, associations or other activities, derived from work done or services performed or rendered and business or other activities conducted in the Municipality, whether or not such unincorporated business entity has an office or place of business in the Municipality.

(b) On the portion of the distributive share of the net profits earned and/or received on and after January 1, 2014 by a resident partner and/or owner of a nonresident unincorporated business entity, including associations, not attributable to the Municipality and not levied against such unincorporated business entity.

(5) On the portion attributable to the Municipality of the net profits earned on and after January 1, 2014, of all corporations derived from work done or services performed or rendered and business or other activities conducted in the Municipality, whether or not such corporations have an office or place of business in the Municipality.

(6) Effective for tax years 2004 and later, the distributive share of income paid to an S corporation shareholder shall be taxable only to the extent of the portion, if any, that represents wages, or net earnings from self-employment.

(B) Rentals from real property.

(1) Rentals received by the taxpayer are to be included in the computation of net profits from business activities only if, and to the extent that, the rental, ownership, management or operation of the real estate from which such rentals are derived (whether so rented, managed or operated by the taxpayer individually or through agents or other representatives) constitutes a business activity of the taxpayer in whole or in part.

(2) Where the gross monthly rental of any real properties, regardless of number and value, aggregate in excess of two hundred fifty dollars (\$250.00) in this Municipality, it shall be prima facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer and the net income of such rental properties shall be subject to tax; provided that in the case of commercial property, the owners shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds the rental rate of this Municipality; provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in the crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds the rental rate of this Municipality; and provided further that the person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds the rental rate of this Municipality.

(3) Rental income received by a taxpayer engaged in the business of buying or selling real estate shall always be considered as part of business income.

(4) Owners of rental property who are non-residents of this Municipality, whether individuals or business entities, are subject to tax only on the income from real property located in this Municipality. In determining whether gross monthly rentals exceed the rental rate of this Municipality, only the income from such properties located within this Municipality shall be considered. Net losses may be offset against net profits only between rental properties located in this Municipality.

(5) Owners of rental property who are residents of this Municipality are subject to tax on the net income from rentals (to the extent above specified), regardless of the location of the real property owned, excepting that if any such property is located and subject to a municipal income tax by another taxing municipality, credit shall be claimed in accordance with Section 170.15.

(6) Corporations owning or managing real estate are taxable only on the portion of income derived from property located in this Municipality.

(C) Determination of Allocation of Tax (Method of Determination).

(1) Net profit from a business or profession conducted both within and without the boundaries of the Municipality shall be considered as having a taxable situs in the Municipality for purposes of municipal income taxation in the same proportion as the average ratio of:

(a) The average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in the Municipality 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 this section, 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 the Municipality to wages, salaries, and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed. For tax year 2004 and subsequent tax years, wages, salaries, and other compensation shall be included to the extent they represent qualifying wages.

(c) Gross receipts of the business or profession from sales made and services performed during the taxable period in the Municipality to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

(2) In the event that the foregoing allocation formula in Section 170.03(c)(1) does not produce an equitable result, another basis (including the books and records method) may, under uniform regulations of the Municipality, be substituted so as to produce such result.

(3) As used in subsection (c)(1) hereof, "sales made in the Municipality" means:

(a) All sales of tangible personal property which is delivered within the Municipality regardless of where title passes if shipped or delivered from a stock of goods within the Municipality;

(b) All sales of tangible personal property which is delivered within the Municipality regardless of where title passes even though transported from a point outside the Municipality if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the Municipality and the sales result from such solicitation or promotion;

(c) All sales of tangible personal property which is shipped from a place within the Municipality to purchasers outside the Municipality 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) The following provisions apply with respect to the carry forward of net operating losses:

(1) The portion of a net operating loss sustained by a taxpayer in any taxable year, attributable to the Municipality, may be applied against the portion of the net profits of the taxpayer attributable to the Municipality in succeeding taxable years until exhausted, but in no event for more than five (5) taxable years immediately following the taxable year in which the loss occurred. No portion of a net operating loss sustained by a taxpayer shall be carried back against net profits of any prior taxable year.

(2) The portion of a net operating loss sustained by a taxpayer for any taxable year attributable to the Municipality shall be determined in the same manner as provided herein for determining net profits attributable to the Municipality.

(E) Exemptions. The tax provided for herein shall not be levied upon the following:

(1) Military pay or allowances of members of the armed forces of the United States and of members of their reserve components, including the National Guard.

(2) Social security benefits, unemployment compensation (excluding supplemental unemployment compensation), payments from pension plans, retirement benefits, annuities and similar payments made to an employee or to the beneficiary of an employee under a retirement program or plan (whether qualified or nonqualified), disability payments received from

private industry, or local, state, or federal governments, or from charitable, religious or educational organizations to the extent they are not taxable to Medicare, and the proceeds of sick, accident, or liability insurance policies.

(3) Receipts by bona fide charitable, religious and educational organizations and associations, when those receipts are from casual entertainment, amusements, sports events and health and welfare activities conducted by bona fide charitable, religious and educational organizations and associations.

(4) The income of religious, fraternal, charitable, scientific, literary and educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities, but only to the extent that the said income is exempt from federal income tax.

(5) Dues, contributions and similar payments received by charitable, religious, educational or literary organizations or labor unions, lodges and similar organizations.

(6) Alimony and child support received.

(7) Earnings and income of all individuals under eighteen years of age, whether residents or nonresidents.

(8) Compensation for personal injuries and/or for damages to property by way of insurance or otherwise, but this exemption does not apply to compensation paid for lost salaries or wages and/or to compensation from punitive damages.

(9) Compensation paid to a precinct election official, to the extent that such compensation does not exceed one thousand dollars (\$1,000.00) annually.

(10) Parsonage allowance, to the extent of the rental allowance or rental value of a house provided as a part of an ordained clergy's compensation. The clergy must be duly ordained, commissioned, or licensed by a religious body constituting a religious denomination, and must have authority to perform all sacraments of the religious body.

(11) Expenses deductible on Part 1 of federal form 2106 in accordance with federal guidelines, and subject to audit and approval by the Tax Commissioner. The 2106 expenses must be apportioned to municipalities in the same manner to which the related income is apportioned.

(12) 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. However, subject to Section 5745 of the Ohio Revised Code, starting January 1, 2002 this exemption does not apply to the income of an electric company or combined company, and starting January 1, 2004 it does not apply to the income of a telephone company, as both are defined in Section 5727.01 of the Revised code.

(13) Gains from involuntary conversions, cancellation of indebtedness (individual taxpayers only), interest on federal obligations, items of income already taxed by the State from which the Municipality is specifically prohibited from taxing, and income of decedent's estate during the period of administration, except such income from the operation of a business.

(14) Income, salaries, wages, commissions and other compensation and net profits, of which the taxation is prohibited by the United States Constitution or any act of Congress limiting the power of the states or their political subdivisions to impose net income taxes on income derived from interstate commerce, and/or is prohibited by the Constitution of the State of Ohio or any act of the Ohio General Assembly limiting the power of a municipality to impose net income taxes.

SECTION 3. That Ordinance No. 579 (the Codified Ordinances of the Village of Georgetown), as amended by Ordinance No. 769 and as further amended by Ordinance No. 999, be further amended to include the following Subsection 170.14 which shall be a part of Title XVII, Taxation, Chapter 170, Income Tax:

170.14 ALLOCATION OF FUNDS.

The funds collected under the provisions of this ordinance shall be deposited in the General Fund and said funds collected shall be disbursed for the following, to wit:

(A) Such part thereof as shall be necessary to defray all cost of collection of the taxes and the cost of implementing, administering and enforcing the provisions thereof.

(B) The balance of any monies collected under the provisions of this ordinance shall be allocated as follows:

(1) one-half of such balance shall remain a part of the General Fund for General Fund purposes with the remaining one-half of such balance shall be allocated as follows:

(2) fifty-five percent (55%) for the purpose of providing and maintaining motor vehicles, communications, and other equipment used directly in the operation of the police department of this municipality and the payment of salaries of police personnel, including the payment of the policemen employer's contribution required of this municipality under Section 742.33 of the Ohio Revised Code.

(3) nine percent (9%), with the first \$15,000.00 thereof annually, for the purpose of providing and maintaining fire apparatus, equipment, appliances, buildings, or sites therefor and any amount of said nine percent (9%) in excess of \$15,000.00 for the purpose of the capital improvement for said Village of Georgetown Fire Department.

(4) six and one-half percent (6.5%), but not to exceed \$20,000.00 annually, for the purpose of acquiring, establishing, constructing, improving, equipping, maintaining or operating parks and recreational facilities of this municipality; and

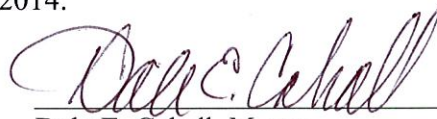
(5) all remaining amounts for the payment of labor, materials, equipment and expenses for the purpose of planning, constructing, improving, maintaining and repairing public roads, streets and alleys of this municipality.

SECTION 4. That all other Subsections of Ordinance Number 769 of the Ordinances of the Village of Georgetown not specifically repealed or amended herein shall be and remain in full force and effect.

SECTION 5. It is found and determined that all formal actions of this council relating to the adoption of this ordinance were adopted in an open meeting of this council, and that all deliberations of this council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION 6. That this ordinance is hereby declared to be an emergency ordinance necessary for the health, safety and welfare of the inhabitants of this municipality and more particularly to enable this municipality to provide adequate funding for this municipality and this ordinance shall be in full force and effect immediately upon its passage provided however, that the imposition of the tax at the rate provided for herein and the allocation of funds provided herein shall apply only from and after January 1, 2014.

PASSED: December 12, 2013



Dale E. Cahall, Mayor

ATTEST:


Natalie K. R. Newberry, Fiscal Officer