

**ORDINANCE NUMBER 30, 1964 AS AMENDED**

AN ORDINANCE LEVYING A TAX TO PROVIDE FUNDS FOR THE PURPOSE OF GENERAL MUNICIPAL OPERATIONS AND OTHER MUNICIPAL PURPOSES, ON ALL SALARIES, WAGES, COMMISSIONS AND OTHER COMPENSATION EARNED BY RESIDENTS OF THE CITY OF EAST LIVERPOOL; ON ALL SALARIES, WAGES, COMMISSIONS AND OTHER COMPENSATION EARNED BY NON-RESIDENTS OF THE CITY OF EAST LIVERPOOL FOR WORK DONE OR SERVICES PERFORMED OR RENDERED IN THE CITY OF EAST LIVERPOOL; ON THE NET PROFITS EARNED ON ALL BUSINESSES, PROFESSIONS OR OTHER ACTIVITIES CONDUCTED BY RESIDENTS OF THE CITY OF EAST LIVERPOOL; ON THE NET PROFITS EARNED ON ALL BUSINESSES, PROFESSIONS OR OTHER ACTIVITIES CONDUCTED IN THE CITY OF EAST LIVERPOOL BY NON-RESIDENTS, AND ON THE NET PROFITS EARNED BY ALL CORPORATIONS HAVING AN OFFICE OR PLACE OF BUSINESS IN THE CITY OF EAST LIVERPOOL, AS THE RESULT OF WORK DONE OR SERVICES RENDERED OR PERFORMED IN THE CITY OF EAST LIVERPOOL, 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 CITY OF EAST LIVERPOOL; PROVIDING FOR THE ADMINISTRATION, COLLECTION AND ENFORCEMENT OF SAID TAX; DECLARING VIOLATION THEREOF TO BE A MISDEMEANOR AND IMPOSING PENALTIES THEREFOR.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF EAST LIVERPOOL, STATE OF OHIO:

SECTION 1. As used in this Ordinance, the following words shall have the meaning ascribed to them in this section, except as and if the context clearly indicates or requires a different meaning:

- A. "TAXPAYER" - A person, whether an individual, copartnership, 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 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, co-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. "EFFECTIVE DATE OF THIS ORDINANCE" - The date on which this Ordinance shall go into effect under the provisions of the Revised Code of Ohio.
- F. "EMPLOYEE" - An individual whose earnings are subject to the withholding of Federal Income Tax or Social Security Tax.

G. "EMPLOYER" - An individual, co-partnership, limited partnership, association, corporation, governmental body, unit or agency, or any other entity who or that employs one or more persons on a salary, wage, commission or other compensation basis.

H. "NET PROFITS" - The net profit 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 deduction of federal taxes based on income, and without deducting taxes imposed by this Ordinance.

I. "NON-RESIDENT" - An individual, co-partnership, limited partnership, corporation, association or other entity domiciled outside of the City of East Liverpool.

J. "PERSON" - Every natural person, co-partnership, limited partnership, corporation, fiduciary or association, whenever used in any clause prescribing and imposing a penalty. The term "person" as applied to association, shall mean the partners or members thereof, and as applied to corporation, the officers thereof.

K. "RESIDENT" - An individual, co-partnership, limited partnership, corporation, association or other entity domiciled in the City of East Liverpool.

L. "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 City of East Liverpool from business conducted within the City of East Liverpool.

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

SECTION 2. To provide funds for the purpose of general municipal operations, and other municipal purposes of the City of East Liverpool, there be and hereby is levied a tax upon the earnings at the rate of one and one-half per cent earned on and after January 1, 1965, upon the following:

A. On all salaries, wages, commissions, and other compensation earned by resident individuals of the City of East Liverpool.

B. On all salaries, wages, commissions and other compensation earned by non-resident individuals of the City of East Liverpool, for work done or services performed or rendered in the City of East Liverpool.

C. On the net profits attributable to East Liverpool 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 City of East Liverpool.

D. On the portion of the distributive share of the net profit of a resident individual, partner or owner of a resident unincorporated business entity attributable to East Liverpool and not levied against such unincorporated business entity.

E. On the net profits attributable to East Liverpool 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 City of East Liverpool.

F. On that portion of the distributive share of the net profits of a resident individual, partner or owner of a non-resident unincorporated business entity not attributable to East Liverpool and not levied against such unincorporated business entity.

G. On the net profits of all corporations derived from work done or services performed or rendered and business or other activities conducted in the City of East Liverpool.

The portion of the entire net profits of a taxpayer to be allocated as having been made within and attributable to the City of East Liverpool, shall be determined in accordance with the provisions of Section 718.02 of the Revised Code of Ohio and in accordance with rules and regulations adopted pursuant to this ordinance.

SECTION 3. Said tax shall be levied, collected and paid with respect to salaries, wages, commissions and other compensation earned on or after January 1, 1965 and with respect to the net profit of businesses, professions and other activities earned on and after said date. Provided, however, that where the fiscal year of the businesses, professions or other activities 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 said January 1, 1965 to the close of the taxpayer's fiscal year; thereafter the taxpayer shall report on its fiscal year basis.

#### SECTION 4. RETURN AND PAYMENT OF TAX.

A. Each taxpayer shall, whether or not a tax is due thereon, make and file a return on or before April 15 of each year following the effective date of this section. When the return is made for a fiscal year or other period different from the calendar year, the return shall be made within 105 days from the end of fiscal year or other period.

B. East Liverpool taxpayers who are retired for the entire tax year receiving only Social Security, pension, interest, or dividend income, and who are not self-employed or owners of rental property are required to file an East Liverpool City exemption return once to identify their status. However, if the taxpayer's income or employment status changes during any year, the taxpayer would again be required to comply with Section 4 (C) herein.

C. The return shall be filed with the Treasurer on a form or forms furnished by or obtainable on request from such Treasurer setting forth:

1. The aggregate amounts of salaries, wages, commissions, and compensation earned and gross income from business, profession or other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to the tax; and,
  2. The amount of the tax imposed by this chapter on such earnings and profits; and,
  3. Such other pertinent statements, returns or other information as the Treasurer may require.
- D. The taxpayer, in addition to the City provided forms, may file copies of all W-2 forms, 1099 Misc. Income forms, 1040, 1120, 1120S, 1065, Schedule C, Schedule E, 2106, and any other Federal schedules.
- E. The return shall also show the amount of the tax imposed on such earnings and profit. The taxpayer making the return shall, at the time of the filing thereof, pay to the treasurer the amount of taxes shown as due thereon. Provided, however, that where any portion of the tax shall have been paid by such taxpayer pursuant to the provisions of Section 5 and/or Section 6 of this chapter, credit for the amount so paid shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing the final return.
- F. Upon written request of the taxpayer, prior to the due date, the Treasurer may extend the time for filing the annual return for a period of not more than six (6) months or not more than thirty (30) days beyond any extensions requested of and granted by the Internal Revenue Service for the filing of the federal income tax return.
- G. In the computation of any tax due under this section, a business loss of a previous tax year shall not be carried forward to reduce the tax due in any subsequent year.
- H. Any person required to file a tax return with the City who fails to timely file a return, shall be liable to pay a penalty of Twenty-five Dollars (\$25.00) if no tax is found to be due.

SECTION 5. COLLECTION AT SOURCE

Every resident and nonresident employer who employs one or more persons within the City of East Liverpool on a salary, wage, commission or other compensation basis, excluding exempted incomes set forth in Section 14 of this Ordinance, shall deduct at the time of the payment of such salary, wage, commission or other compensation, the tax of one and one-half per cent, of salaries, wages, commissions or other compensation due by the said employer to the said employee and shall make a return and pay to the City Treasurer the amount of taxes so deducted as follows:

A. For the three months ending March 31st, on or before April 30th; for the three months ending June 30, on or before July 31st; for the three months ending September 30th, on or before October 31st; for the three months ending December 31st, on or before the following January 31st.

Said return shall be on a form prescribed by the City Auditor and furnished by the City Treasurer. Such employer in collecting said tax, shall be deemed to hold the same as trustee for the benefit of the City of East Liverpool until payment is made by such employer to the City of East Liverpool, and any such tax collected by such employer from his employees shall, until the same is paid to the City of East Liverpool, be deemed a trust fund in the hands of such employer.

B. Notwithstanding the above, employers within the City of East Liverpool, who employ within the City eleven or more persons, inclusive of employers engaged in the business said employees are employed, on a salary, wage, commission or other compensation basis, excluding exempted incomes set forth in Section 14 of Ordinance Number 18, 1968, shall deduct at the time of the payment of such salary, wage, commission or other compensation, the tax of one and one-half per cent, of salaries, wages, commissions or other compensation due by the said employer to the said employee and shall make a return and pay to the City Treasurer the amount of taxes so deducted on a monthly basis, not later than the fifteenth day following the end of each month.

SECTION 6. DECLARATIONS

Every taxpayer who anticipates any income which is not subject to the provisions of Section 5 hereof shall file a declaration of the estimated tax for each calendar year on or before April 15th of each year.

Such declaration shall be filed upon a form prescribed by the City Auditor, and furnished by the City Treasurer and which form may simply state that the figures used in making such declaration are the figures used in making the declaration of the estimate for the Federal Income Tax, provided that it is understood that such figures may be modified according to the provisions of this Ordinance so that the declaration required by this section shall set forth only such income as is taxable under the provisions of this Ordinance. Said estimated tax declaration must be in the amount of at least seventy per cent (70%) of the amount of tax computed on the previous year's income subject to city income tax unless taxpayer produces satisfactory evidence that the tax for the current year will be less.

The declaration to be filed on the dates set forth above shall be accompanied by payment of at least one-fourth of the estimated annual tax, and at least a similar amount shall be paid on or before June 30th, September 30 and December 31 of such year. Provided, however, that such estimate may be amended at the time of the making of any quarterly payment, and further provided that on or before April 15 of the year following that for which declaration was filed, a final return shall be filed and any balance which may be due the City of East Liverpool shall be paid therewith. Should it appear that such taxpayer has paid more than the amount of tax to which the City of East Liverpool would be entitled, a refund of the amount so overpaid shall be made, or same may be applied toward the declaration of tax due for the ensuing year, provided that if the total refund claimed for a tax year is less than one dollar (\$1.00) said refund will be applied on the next years estimate of tax, unless the person entitled to the refund ceases to be a taxpayer and refund is requested.

SECTION 7. ADMINISTRATION, DUTIES OF CITY AUDITOR AND CITY TREASURER

The taxes imposed and levied pursuant to the provisions of this Ordinance, shall be administered by such deputies and clerks within the City Treasurer's department as may be from time to time determined by Council of the City of East Liverpool.

The City Auditor shall prescribe the form of accounts and reports to be rendered to his office, the form and method of keeping accounts within the income tax office. The City Auditor shall be charged with the internal audit of all accounts and returns, including the correction of the returns.

The City Treasurer shall demand, collect and receive the tax imposed by this Ordinance, shall keep an accurate record showing the amount received from each taxpayer and the date of said receipt, and shall make a written report to Council each quarter of all monies collected hereunder during the preceding quarter.

SECTION 8. The City Treasurer, or any authorized employee, is hereby authorized to examine the books, papers and records of any employer, or any taxpayer or person subject to the tax, 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 City Treasurer, or his duly authorized agent or employee, the means, facilities and opportunity for making such examination and investigations as are hereby authorized.

The City Treasurer, 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, 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.

The refusal of such examination by any employer, employee or person subject or presumed to be subject to the tax shall be deemed a violation of this Ordinance.

Tax returns 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 City of East Liverpool for official purposes.

Any information gained as the result of any 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 in the city jail, or both

such fine and imprisonment for such offense. In addition to the above penalties, any employee of the City of East Liverpool who violates the provisions of this section relative to disclosures of confidential information shall be immediately dismissed from the service of the City.

#### SECTION 9. INTEREST AND PENALTIES

All taxes imposed by this Ordinance, including taxes 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 six per cent (6%) 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 of one per cent of the amount of the unpaid tax for each month or fraction of month, or fifty cents for each month or fraction thereof, whichever is the greater. The City Treasurer may waive or remit any such interest or penalties as he, in his discretion, deem proper.

#### SECTION 10. COLLECTION OF UNPAID TAXES

All taxes imposed and administered by this Ordinance shall be collectible together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable.

When a final return is filed as prescribed in Section 4 hereof and a deficiency is determined to be due to the City of East Liverpool, action to collect the same shall not be commenced after two (2) years from the due date of said return, and when a taxpayer fails to file a return, action to collect tax due to the City of East Liverpool shall not be commenced after five years from the due date of said return.

All applications for refund shall be made within six (6) months of the due date of a final return or shall be forever barred thereafter. Provided, however, an extension may be granted by the City Treasurer on written application.

#### SECTION 11. VIOLATIONS, PENALTIES

Any person, firm or corporation who shall fail, neglect or refuse to make any return, questionnaire or declaration required by this Ordinance, or any taxpayer who shall refuse to pay the tax, penalties and interest imposed by this Ordinance, or any person who shall refuse to permit the City Treasurer, or any duly authorized agent or employee, to examine his books, records and papers, or who shall knowingly make any incomplete, false or fraudulent return, or who shall attempt to do anything whatever to avoid the payment of the whole or any part of the tax, shall be guilty of a misdemeanor and shall be fined not more than One Hundred Dollars (\$100.00) or imprisoned for not more than sixty (60) days, or both. The failure of any employer or taxpayer to receive or procure a return, questionnaire or declaration form shall not excuse him from making a return, questionnaire or declaration or from paying the tax.

SECTION 12.

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 City of East Liverpool to impose the tax herein provided for. 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 clause, sentence, section or part of this Ordinance 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 City of East Liverpool 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, unemployment compensation, supplemental unemployment benefits or similar payments, including disability benefits received from private industry or local, state or federal governments, or from charitable, religious or educational organizations.
3. Alimony received.
4. Dues, contributions and similar payments received by charitable, religious, educational or literary organizations or labor unions, lodges and similar organizations.
5. Receipts from casual entertainment, amusements, sports events and health and welfare activities conducted by bona fide charitable, religious, educational organizations and associations.
6. Any association, organization, corporation, club or trust, which is exempt from federal tax on income by reason of its charitable, religious, educational, literary, scientific, etc. purposes.
7. Gains from involuntary conversions, 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).
8. Earnings and income of all persons under 18 years of age, whether residents or non-residents.

9. Employment of duly enrolled full-time students by their school, college, university or any public library, and services performed by student nurses and hospital interns.

SECTION 14. REFUNDS

Should it appear that any taxpayer has paid more than the amount of tax to which the City of East Liverpool is entitled under the provisions of this 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, subject to the exception set forth in Section 6.

SECTION 14-A. SET-OFF OF BUSINESS LOSS AGAINST INCOME EARNED FROM

SALARY OR WAGES PROHIBITED.

1. In the case of an individual having salary or wages, whether or not subject to withholding under the city income tax, if said individual has a business, including farm and rental property, which reflects a loss for same accounting period, said individual may not off-set the business loss against income earned on salary or wages.

2. If an individual operated more than one business, the profits of which were subject to East Liverpool City Income Tax, said individual may off-set profits from one business with the net loss from another business, and report the resulting net profit or loss for city income tax purposes.

3. In any event, the net loss on a business used to off-set net income from another business must exactly agree with the net loss as reported on Federal Income Tax Return Form 1040, as filed with the Federal Government.

SECTION 15.

The Ordinance shall continue effective insofar as the levy of taxes is concerned until repealed.

SECTION 16. BOARD OF REVIEW

A. A board of review, consisting of three (3) electors of the City of East Liverpool, Ohio, one to be appointed by the Mayor, one to be appointed by the City Treasurer, and the third to be selected by the two so appointed, is hereby created. No member shall be appointed to the Board of Review who holds other public office or 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 8 hereof with reference to the confidential character of information required to be disclosed by the Ordinance shall apply to such matters as may be heard before the Board of Review on appeal.

D. Any person dissatisfied with any ruling or decision of the City Treasurer, which is made under the authority conferred by this Ordinance may appeal to the Board of Review within thirty (30) days from the announcement of such ruling or decision by the City Treasurer, 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 hereinbefore created, shall serve during the Life of this Ordinance.