ORDINANCE NO. 2017 - 29

AN ORDINANCE AMENDING VARIOUS PROVISIONS OF THE TAX CODE
TO INCORPORATE RECENT REVISIONS IN THE STATE CODE,
AND DECLARING AN EMERGENCY

Whereas, it is the intention and desire of the Village Council that the terms of the New London Income Tax ordinance will be and remain consistent with the terms of Revised Code Chapter 718; and

Whereas, various revisions have recently been made by the Legislature within that Chapter; Now, Therefore,

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF NEW LONDON, HURON COUNTY, OHIO, AS FOLLOWS

Section 1. That, effective for tax years beginning on or after January 1, 2018, there is hereby enacted a new Section 181.01 of the Codified Ordinances of the Village of New London, which shall read as follows:

181.01 DEFINITIONS.

As used in this chapter, 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) "Adjusted federal taxable income," for a person required to file as a C corporation, **OR FOR A PERSON THAT HAS ELECTED TO BE TAXED AS A C CORPORATION UNDER SUBSECTION (J)(5),** means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

(1) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.

(2) Add an amount equal to five per cent of intangible income deducted under division (a)(1) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code.

(3) Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code.

(4) (A) Except as provided in division (a)(4)(B) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code.

(B) Division (a)(4)(A) of this section does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.

(5) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income.

(6) In the case of a real estate investment trust or regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income.

(7) Deduct, to the extent not otherwise deducted or excluded in computing federal taxable income, any income derived from a transfer agreement or from the enterprise transferred under that agreement under section 4313.02 of the Revised Code;

(8) **DEDUCT EXEMPT INCOME TO THE EXTENT NOT OTHERWISE DEDUCTED OR EXCLUDED IN COMPUTING ADJUSTED FEDERAL TAXABLE INCOME.**

~~**(A) Except as limited by divisions (a)(8)(B), (C), and (D) of this section, deduct any net operating loss incurred by the person in a taxable year beginning on or after January 1, 2017. The amount of such net operating loss shall be deducted from net profit that is reduced by exempt income to the extent necessary to reduce municipal taxable income to zero, with any remaining unused portion of the net operating loss carried forward to not more than five consecutive taxable years following the taxable year in which the loss was incurred, but in no case for more years than necessary for the deduction to be fully utilized.**~~

~~**(B) No person shall use the deduction allowed by division (a)(8) of this section to offset qualifying wages.**~~

~~**(C) (i) For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, a person may not deduct more than fifty per cent of the amount of the deduction otherwise allowed by division (a)(8)(A) of this section.**~~

~~**(ii) For taxable years beginning in 2023 or thereafter, a person may deduct the full amount allowed by division (a)(8)(A) of this section.**~~

~~(D) Nothing in divisions (a)(8)(C)(i) and (ii) of this section precludes a person from carrying forward, for the period otherwise permitted under division (a)(8)(A) of this section, any amount of net operating loss that was not fully utilized by operation of divisions (a)(8)(C)(i) and (ii) of this section.~~

(9) Deduct any net profit of a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that net profit in the group's federal taxable income in accordance with division (E)(3)(b) of section 718.06 of the Revised Code.

(10) Add any loss incurred by a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that loss in the group's federal taxable income in accordance with division (E)(3)(b) of section 718.06 of the Revised Code.

(11) If the taxpayer is not a C corporation, is not a disregarded entity **THAT HAS MADE AN ELECTION DESCRIBED IN DIVISION (P)(2) OF THIS SECTION, IS NOT A PUBLICLY TRADED PARTNERSHIP THAT HAS MADE THE ELECTION DESCRIBED IN DIVISION (J)(5) OF THIS SECTION,** and is not an individual, the taxpayer shall compute adjusted federal taxable income under this section as if the taxpayer were a C corporation, except guaranteed payments and other similar amounts paid or accrued to a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deductible expense unless such payments are in consideration for the use of capital and treated as payment of interest under section 469 of the Internal Revenue Code or United States treasury regulations. Amounts paid or accrued to a qualified self-employed retirement plan with respect to a partner, former partner, shareholder, former shareholder, member, or former member of the taxpayer, amounts paid or accrued to or for health insurance for a partner, former partner, shareholder, former shareholder, member, or former member, and amounts paid or accrued to or for life insurance for a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deduction. "Disregarded entity" means a single member limited liability company, a qualifying subchapter S subsidiary, or another entity if the company, subsidiary, or entity is a disregarded entity for federal income tax purposes.

(12) Nothing in division (a) of this section shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.

(b) "Association" means a partnership, limited partnership, or any other form of unincorporated enterprise, owned by two or more persons.

(c) "Business" means 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" means 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" means an individual who is an employee for federal income tax purposes.

(f) "Employer means a person that is an employer for federal income tax purposes.

(g) "Fiduciary" means a guardian, trustee, executor, administrator or any other person acting in any fiduciary capacity for any individual, trust, estate or business.

(h) "Income" means the following:

(1) For residents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the resident, including the resident's distributive share of the net profit of pass-through entities owned directly or indirectly by the resident and any net profit of the resident, **EXCEPT AS PROVIDED IN SUBSECTION (J)(5) OF THIS DIVISION.**

(2) In the case of nonresidents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the nonresident for work done, services performed or rendered, or activities conducted in the municipal corporation, including any net profit of the nonresident, but excluding the nonresident's distributive share of the net profit or loss of only pass-through entities owned directly or indirectly by the nonresident.

(3) For taxpayers that are not individuals, net profit of the taxpayer;

(4) Lottery, sweepstakes, gambling and sports winnings, winnings from games of chance, and prizes and awards. If the taxpayer is a professional gambler for federal income tax purposes, the taxpayer may deduct related wagering losses and expenses to the extent authorized under the Internal Revenue Code and claimed against such winnings.

(i) "Net operating loss" means a loss incurred by a person in the operation of a trade or business. "Net operating loss" does not include unutilized losses resulting from basis limitations, at-risk limitations, or passive activity loss limitations.

(j) (1) ~~"Net profit" for a person other than an individual means adjusted federal taxable income.~~ "Net profit" for a person who is an individual means the individual's net profit required to be reported on schedule C, schedule E, or schedule F reduced by any net operating loss carried forward. For the purposes of division (j)(2) of this section, the net operating loss carried forward shall be calculated and deducted in the same manner as provided in division (j)(3) ~~(a)(8)~~ of this section.

(2) "NET PROFIT" FOR A PERSON OTHER THAN AN INDIVIDUAL MEANS ADJUSTED FEDERAL TAXABLE INCOME REDUCED BY ANY NET OPERATING LOSS INCURRED BY THE PERSON IN A TAXABLE YEAR BEGINNING ON OR AFTER JANUARY 1, 2017, SUBJECT TO THE LIMITATIONS OF DIVISION (J)(3) OF THIS SECTION.

(3) (i) THE AMOUNT OF SUCH OPERATING LOSS SHALL BE DEDUCTED FROM NET PROFIT TO THE EXTENT NECESSARY TO REDUCE MUNICIPAL TAXABLE INCOME TO ZERO, WITH ANY REMAINING UNUSED PORTION OF THE NET OPERATING LOSS CARRIED FORWARD TO NOT MORE THAN FIVE (5) CONSECUTIVE TAXABLE YEARS FOLLOWING THE TAXABLE YEAR IN WHICH THE LOSS WAS INCURRED, BUT IN NO CASE FOR MORE YEARS THAN NECESSARY FOR THE DEDUCTION TO BE FULLY UTILIZED.

(ii) NO PERSON SHALL USE THE DEDUCTION ALLOWED BY THIS OF THIS SUBSECTION TO OFFSET QUALIFYING WAGES.

(iii) (a) FOR TAXABLE YEARS BEGINNING IN 2018, 2019, 2020, 2021, OR 2022, A PERSON MAY NOT DEDUCT MORE THAN FIFTY PERCENT (50%) OF THE AMOUNT OF THE DEDUCTION OTHERWISE ALLOWED BY THIS SUBSECTION.

(b) FOR TAXABLE YEARS BEGINNING IN 2023 OR THEREAFTER, A PERSON MAY DEDUCT THE FULL AMOUNT ALLOWED BY (C)(24)(c) OF THIS SECTION WITHOUT REGARD TO THE LIMITATION OF THIS SUBSECTION.

(iv) ANY PRE-2017 NET OPERATING LOSS CARRYFORWARD DEDUCTION THAT IS AVAILABLE MAY BE UTILIZED BEFORE A TAXPAYER MAY DEDUCT ANY AMOUNT PURSUANT TO THIS SUBSECTION.

(v) NOTHING IN THIS SUBSECTION PRECLUDES A PERSON FROM CARRYING FORWARD, FOR USE WITH RESPECT TO ANY RETURN FILED FOR A TAXABLE YEAR BEGINNING AFTER 2018, ANY AMOUNT OF NET OPERATING LOSS THAT WAS NOT FULLY UTILIZED BY OPERATION OF THIS SUBSECTION. TO THE EXTENT THAT AN AMOUNT OF NET OPERATING LOSS THAT WAS NOT FULLY UTILIZED IN ONE OR MORE TAXABLE YEARS BY OPERATION OF THIS SUBSECTION IS CARRIED FORWARD FOR USE WITH RESPECT TO A RETURN FILED FOR A TAXABLE YEAR BEGINNING IN 2019, 2020, 2021, OR 2022, THE LIMITATION DESCRIBED IN THIS S U B SECTION SHALL APPLY TO THE AMOUNT CARRIED FORWARD.

(4) For the purposes of this chapter, and notwithstanding **THE FOREGOING** ~~division (j)(1) of this section~~, net profit of a disregarded entity shall not be taxable as against that disregarded entity, but shall instead be included in the net profit of the owner of the disregarded entity.

(5) A PUBLICLY TRADED PARTNERSHIP THAT IS TREATED AS A PARTNERSHIP FOR FEDERAL INCOME TAX PURPOSES, AND THAT IS SUBJECT TO TAX ON ITS NET PROFITS BY THE VILLAGE OF NEW LONDON, MAY ELECT TO BE TREATED AS A C CORPORATION FOR THE VILLAGE OF NEW LONDON, AND SHALL NOT BE TREATED AS THE NET PROFIT OR INCOME OF ANY OWNER OF THE PARTNERSHIP. THE ELECTION SHALL BE MADE ON THE ANNUAL RETURN FOR THE VILLAGE OF NEW LONDON. THE VILLAGE OF NEW LONDON WILL TREAT THE PUBLICLY TRADED PARTNERSHIP AS A C CORPORATION IF THE ELECTION IS SO MADE.

(k) "Nonresident" means an individual that is not a resident.

(l) "Other entity" means any person or unincorporated body not previously named or defined and includes, inter alia, fiduciaries located within the Village.

(m) "Person" means every individuals, firms, companies, joint stock companies, business trusts, estates, trusts, partnerships, limited liability partnerships, limited liability companies, associations, C corporations, S corporations, governmental entities, and any other entity. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to any association, shall mean the partners or members thereof, and as applied to corporation, the officers thereof.

(n) "Qualifying wages" means wages, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:

(1) Deduct the following amounts:

(A) Any amount included in wages if the amount constitutes compensation attributable to a plan or program described in section 125 of the Internal Revenue Code.

(B) Any amount included in wages if the amount constitutes payment on account of a disability related to sickness or an accident paid by a party unrelated to the employer, agent of an employer, or other payer.

(C) Any amount included in wages that is exempt income.

(2) Add the following amounts:

(A) Any amount not included in wages solely because the employee was employed by the employer before April 1, 1986.

(B) Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option and the municipal corporation has not, by resolution or ordinance, exempted the amount from withholding and tax adopted before January 1, 2016. This paragraph applies only to those amounts constituting ordinary income.

(C) Any amount not included in wages if the amount is an amount described in section 401(k), 403(b), or 457 of the Internal Revenue Code. Division (n)(2)(C) of this section applies only to employee contributions and employee deferrals.

(D) Any amount that is supplemental unemployment compensation benefits described in section 3402(o)(2) of the Internal Revenue Code and not included in wages.

(E) Any amount received that is treated as self-employment income for federal tax purposes in accordance with section 1402(a)(8) of the Internal Revenue Code.

(F) Any amount not included in wages if all of the following apply:

(i) For the taxable year the amount is employee compensation that is included in the taxpayer's gross income for federal income tax purposes;

(ii) For no preceding taxable year did the amount constitute wages as defined in section 3121(a) of the Internal Revenue Code;

(iii) For no succeeding taxable year will the amount constitute wages; and

(iv) For any taxable year the amount has not otherwise been added to wages pursuant to either division (n)(2) of this section or section 718.03 of the Revised Code, as that section existed before the effective date of H.B. 5 of the 130th general assembly.

(o) "Resident" means an individual who is domiciled in the municipal corporation as determined under section 181.011 of these Codified Ordinances.

(p) (1) "Taxpayer" means a person subject to a tax levied on income by the Village of New London in accordance with this Chapter. "Taxpayer" does not include a grantor trust or, except as provided in division (p)(2) of this section, a disregarded entity.

(2) A single member limited liability company that is a disregarded entity for federal tax purposes may be a separate taxpayer from its single member if it either filed as a separate taxpayer or did not file for its taxable year ending in 2003, if all of the following conditions are met:

(A) The limited liability company's single member is also a limited liability company.

(B) The limited liability company and its single member were formed and doing business in one or more Ohio municipal corporations for at least five years before January 1, 2004.

(C) Not later than December 31, 2004, the limited liability company and its single member each made an election to be treated as a separate taxpayer.

(D) The limited liability company was not formed for the purpose of evading or reducing Ohio municipal corporation income tax liability of the limited liability company or its single member.

(E) The Ohio municipal corporation that was the primary place of business of the sole member of the limited liability company consented to the election. For this purpose, a municipal corporation was the primary place of business of a limited liability company if, for the limited liability company's taxable year ending in 2003, its income tax liability was greater in that municipal corporation than in any other municipal corporation in Ohio, and that tax liability to that municipal corporation for its taxable year ending in 2003 was at least four hundred thousand dollars.

(q) "Village" means the Village of New London, Ohio.

(r) "TAX ADMINISTRATOR" MEANS THE INDIVIDUAL CHARGED WITH THE NEW LONDON FISCAL OFFICER, OR THE FISCAL OFFICER'S DESIGNEE, AS SPECIFIED IN ACCORDANCE WITH THIS ORDINANCE. TAX ADMINISTRATOR DOES NOT INCLUDE THE STATE TAX COMMISSIONER.

(s) "TAX COMMISSIONER" MEANS THE TAX COMMISSIONER APPOINTED UNDER SECTION 121.03 OF THE REVISED CODE.

Section 2. That there is hereby enacted a new Section 181.15 of the Codified Ordinances of the Village of New London, which shall read as follows:

181.15 ANNUAL RETURN AND PAYMENT OF TAX.

(a) (1) Effective January 1, 1997, each **INDIVIDUAL** taxpayer eighteen years of age or older whose earnings or profits are subject to the tax imposed by this chapter shall, whether or not tax is due but, subject to paragraph (b) following, on or before April 15th of each year make and file a return with the Income Tax Clerk on a form furnished by or obtainable from the Income Tax Clerk setting forth the aggregate amount of salary, wages or other compensation and net profits earned by him during the preceding year and subject to the tax, together with other pertinent information as the Income Tax Clerk may require. However, when the final 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 such fiscal year or other period whether or not a tax is due thereon. The tax due shall be computed on the return and the taxpayer shall pay the tax due at the time of filing. No remittance is required if the amount shown to be due is ten dollars or less. A person may round to the nearest whole dollar all amounts the person is required to enter on any return, report, voucher, or other document required under this chapter. Any fractional part of a dollar that equals or exceeds fifty cents shall be rounded to the next whole dollar, and any fractional part of a dollar that is less than fifty cents shall be dropped. If a person chooses to round amounts entered on a document, the person shall round all amounts entered on the document. Such return shall be deemed filed when postmarked by the United States Post Office or delivered during normal business hours to the Tax office. Notwithstanding any filing deadlines prescribed by this section, an annual income tax return or report due to the Village may be filed within the time prescribed in the federal income tax code for the corresponding tax reporting period, **OR ON OR BEFORE THE DATE PRESCRIBED FOR THE FILING OF STATE INDIVIDUAL INCOME TAX RETURNS UNDER DIVISION (G) OF SECTION 5747.08 OF THE REVISED CODE,** if such period is later than the time allowed in this section.

(2) **(a) A PERSON MAY NOTIFY THE TAX CLERK THAT THE PERSON DOES NOT EXPECT TO BE A TAXPAYER SUBJECT TO THE VILLAGE OF NEW LONDON INCOME TAX ORDINANCE FOR A TAXABLE YEAR IF BOTH THE FOLLOWING APPLY:**

(i) THE PERSON WAS REQUIRED TO FILE A TAX RETURN WITH NEW LONDON FOR THE IMMEDIATELY PRECEDING TAXABLE YEAR BECAUSE THE PERSON PERFORMED SERVICES AT A WORKSITE LOCATION (AS DEFINED IN SECTION 4(C)(1)(G)) WITHIN NEW LONDON.

(ii) THE PERSON NO LONGER PROVIDES SERVICES IN NEW LONDON AND DOES NOT EXPECT TO BE SUBJECT TO NEW LONDON INCOME TAX FOR THE TAXABLE YEAR.

(b) THE PERSON SHALL PROVIDE THE NOTICE IN A SIGNED AFFIDAVIT THAT BRIEFLY EXPLAINS THE PERSON'S CIRCUMSTANCES, INCLUDING THE LOCATION OF THE PREVIOUS WORKSITE LOCATION AND THE LAST DATE ON WHICH THE PERSON PERFORMED SERVICES OR MADE ANY SALES WITHIN NEW LONDON. THE AFFIDAVIT SHALL ALSO INCLUDE THE FOLLOWING STATEMENT: "THE AFFIANT HAS NO PLANS TO PERFORM ANY SERVICES WITHIN NEW LONDON, MAKE ANY SALES IN NEW LONDON, OR OTHERWISE BECOME SUBJECT TO THE TAX LEVIED BY NEW LONDON DURING THE TAXABLE YEAR. IF THE AFFIANT DOES BECOME SUBJECT TO THE TAX LEVIED BY NEW LONDON FOR THE TAXABLE YEAR, THE AFFIANT AGREES TO BE CONSIDERED A TAXPAYER AND TO PROPERLY COMPLY AS A TAXPAYER WITH THE NEW LONDON INCOME TAX ORDINANCE AND RULES AND REGULATIONS." THE PERSON SHALL SIGN THE AFFIDAVIT UNDER PENALTY OF PERJURY.

(c) IF A PERSON SUBMITS SUCH AN AFFIDAVIT, THE TAX CLERK SHALL NOT REQUIRE THE PERSON TO FILE A TAX RETURN FOR THE TAXABLE YEAR UNLESS THE TAX CLERK POSSESSES INFORMATION THAT CONFLICTS WITH THE AFFIDAVIT OR IF THE CIRCUMSTANCES DESCRIBED IN THE AFFIDAVIT CHANGE.

(d) NOTHING IN OF THIS SECTION PROHIBITS THE TAX CLERK FROM PERFORMING AN AUDIT OF THE PERSON.

(b) If an individual is deceased, any return or notice required of that individual shall be completed and filed by that decedent's executor, administrator, or other person charged with the property of that decedent. If an individual is unable to complete and file a return or notice required, the return or notice required of that individual shall be completed and filed by the individual's duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual. Returns or notices required of an estate or a trust shall be completed and filed by the fiduciary of the estate or trust. Spouses may file a joint return.

(C) **EXCEPT AS OTHERWISE PROVIDED IN THIS ORDINANCE, EACH ANNUAL NET PROFIT RETURN REQUIRED TO BE FILED UNDER THIS CHAPTER BY A TAXPAYER THAT IS NOT AN INDIVIDUAL SHALL BE COMPLETED AND FILED AS REQUIRED BY THE TAX CLERK ON OR BEFORE THE FIFTEENTH DAY (15TH) OF THE FOURTH MONTH FOLLOWING THE END OF THE TAXPAYER'S TAXABLE YEAR. THE TAXPAYER SHALL COMPLETE AND FILE THE RETURN OR NOTICE ON FORMS PRESCRIBED BY THE TAX CLERK OR ON GENERIC FORMS, TOGETHER WITH REMITTANCE MADE PAYABLE TO THE VILLAGE OF NEW LONDON. NO REMITTANCE IS REQUIRED IF THE NET AMOUNT DUE IS TEN DOLLARS OR LESS.**

(d) Each return required to be filed under this section shall contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer, and shall include the taxpayer's social security number or taxpayer identification number. Each return shall be verified by a declaration under penalty of perjury. Each return required to be filed shall include a box that the taxpayer may check to authorize another person, including a tax return preparer who prepared the return, to communicate with the tax administrator about matters pertaining to the return. The return or instructions accompanying the return shall indicate that by checking the box the taxpayer authorizes the tax administrator to contact the preparer or other person concerning questions that arise during the examination or other review of the return and authorizes the preparer or other person only to provide the tax administrator with information that is missing from the return, to contact the tax administrator for information about the examination or other review of the return or the status of the taxpayer's refund or payments, and to respond to notices about mathematical errors, offsets, or return preparation that the taxpayer has received from the tax administrator and has shown to the preparer or other person. When income tax returns, reports, or other documents require the signature of a tax return preparer, a facsimile of such a signature shall be acceptable in lieu of a manual signature.

(e) The Income Tax clerk may require a taxpayer who is an individual to include, with each annual return, amended return, or request for refund required under this section, copies of only the following documents: all of the taxpayer's Internal Revenue Service form W-2, "Wage and Tax Statements," including all information reported on the taxpayer's federal W-2, as well as taxable wages reported or withheld for any municipal corporation; the taxpayer's Internal Revenue Service form 1040, **OR, IN THE CASE OF A RETURN OR REQUEST REQUIRED BY A QUALIFIED MUNICIPAL CORPORATION, OHIO FORM IT-1040**; and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return. An individual taxpayer who files the annual return required by this section electronically is not required to provide paper copies of any of the foregoing to the tax administrator unless the tax administrator requests such copies after the return has been filed. The Income Tax Clerk may require a taxpayer that is not an individual to include, with each annual net profit return, amended net profit return, or request for refund required under this section, copies of only the following documents: the taxpayer's Internal Revenue Service form 1041, form 1065, form 1120, form 1120-REIT, form 1120F, or form 1120S, and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return. A taxpayer that is not an individual and that files an annual net profit return electronically through the Ohio business gateway or in some other manner shall either mail the documents required under this division to the tax administrator at the time of filing or, if electronic submission is available, submit the documents electronically through the Ohio business gateway. After a taxpayer files a tax return, the Income Tax Clerk may request, and the taxpayer shall provide, any information, statements, or documents required by the municipal corporation to determine and verify the taxpayer's municipal income tax liability.

(f) The return of an employer or employers showing the amount of tax deducted by such employer or employers from the salaries, wages, or compensation of any employee and paid by him or them to the Income Tax Clerk, shall be accepted as the return required of any employee whose sole income subject to the tax is such salary, wages or compensation.

(g) (1) Extension of time for filing returns. Any taxpayer that has duly requested an automatic six-month extension for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the fifteenth day of the tenth month after the last day of the taxable year to which the return relates. An extension of time to file under this division is not an extension of the time to pay any tax due unless the tax administrator grants an extension of that date. **A COPY OF THE FEDERAL EXTENSION REQUEST SHALL BE INCLUDED WITH THE FILING OF THE VILLAGE OF NEW LONDON INCOME TAX RETURN.**

(2) If the State Tax Commissioner extends for all taxpayers the date for filing state income tax returns under division (G) of section 5747.08 of the Revised Code, a taxpayer shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the same as the extended due date of the state income tax return.

(3) A member of the national guard of any state, or of a reserve component of the armed forces of the United States called to active duty, or a civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces, may apply to the income tax clerk for both an extension of time for filing of the return and an extension of time for payment of taxes pursuant to the provisions of Revised Code Section 718.052.

(4) A TAXPAYER THAT HAS NOT REQUESTED OR RECEIVED A SIX-MONTH EXTENSION FOR FILING THE TAXPAYER'S FEDERAL INCOME TAX RETURN MAY SUBMIT A WRITTEN REQUEST THAT THE TAX ADMINISTRATOR GRANT THE TAXPAYER A SIX-MONTH EXTENSION OF THE DATE FOR FILING THE TAXPAYER'S VILLAGE OF NEW LONDON INCOME TAX RETURN. IF THE REQUEST IS RECEIVED BY THE TAX ADMINISTRATOR ON OR BEFORE THE DATE THE VILLAGE OF NEW LONDON INCOME TAX RETURN IS DUE, THE TAX ADMINISTRATOR SHALL GRANT THE TAXPAYER'S REQUESTED EXTENSION.

(h) "Pass-through entities" (e.g., partnerships, limited liability companies and S corporations) as that term is defined in Ohio R.C. 718.01, must file an annual return and shall pay the applicable tax on the income of the pass-through entity in the hands of that entity, and the same income shall not be taxed, nor a return filed, for said income in the hands of the owners of the entity.

(i) If a taxpayer operates a business (including rentals or leasing) which sustains a net operating loss during the taxable year and has no other source of business income which is subject to the tax, the net operating loss may be carried forward for a period of up to five consecutive years subsequent to the year of the loss to be used against future profits generated by a business; but such net operating business losses shall not be deducted from any individual's "qualifying wages" or nonbusiness income under any circumstances.

(j) Subject to subsection (h), if a taxpayer has multiple sources of income subject to the tax, he or she may combine the sources of income to arrive at the income subject to New London income tax. This includes income from husbands and wives which may be combined to arrive at the income subject to New London income tax.

(k) In lieu of the forms adopted by the Income Tax Clerk as provided in paragraph (a) above, a taxpayer may file a generic form of any return, report, or other document if the generic form, once completed and filed, contains all of the information required to be submitted in the standard form prescribed by the Income Tax Clerk, so long as the taxpayer complies with the rules or ordinances of the Village governing the filing of returns, reports, or other documents.

(l) **AT THE ELECTION OF THE TAXPAYER,** the Village of New London shall accept for filing a consolidated income tax return from any affiliated group of corporations subject to the Village's tax if that affiliated group filed for the same tax reporting period a consolidation return for Federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code; the rules, conditions or eligibility, **TIME CONSTRAINTS,** and calculations prescribed in Revised Code 718.06 shall govern any such consolidated returns.

(m) On and after January 1, 2005, the Village will accept a return, an estimated return, and payments of tax, which have been properly submitted in accordance with the Ohio Business Gateway.

(n) A taxpayer shall file an amended return with the Income Tax Clerk if any of the facts, figures, computations, or attachments required in the taxpayer's annual return to determine the tax due levied by the Village must be altered as the result of an adjustment to the taxpayer's federal income tax return, whether initiated by the taxpayer or the internal revenue service, and such alteration affects the taxpayer's tax liability under this chapter. If a taxpayer intends to file an amended consolidated municipal income tax return, or to amend its type of return from a separate return to a consolidated return, based on the taxpayer's consolidated federal income tax return, the taxpayer shall notify the Income Tax Clerk before filing the amended return.

Section 3. That there is hereby enacted a new Section 181.18 of the Codified Ordinances of the Village of New London, which shall read as follows

181.18 COLLECTION AT SOURCE; WITHHOLDING BY EMPLOYER.

(a) It is required of each employer within the Village of New London (as defined in Section 181.01(f)) who employs one or more persons on a salary, wage, commission or other compensation basis, to deduct from compensation paid to such employee subject to this chapter at the time of such payment, the tax imposed in Section 181.02 on such salary, wage, bonus, incentive payment, commission or other compensation due by said employer to said employee.

(b) Notwithstanding the provisions of subsection (a) hereof, when, an employer within the Village of New London employs a Village of New London resident in another taxing municipality which requires the employer to deduct the tax from such taxing municipality from the New London resident employed there, such employer shall withhold and remit to the Village of New London the difference, if any, between the tax imposed by such other taxing municipality and the tax imposed by this chapter or shall withhold New London tax on one hundred percent (100%) of the income subject to New London tax if the New London resident/employee is employed in a location which does not impose municipal tax.

(c) (1) Each employer shall make and file a withholding tax return with the Income Tax Clerk and pay to the Income Tax Clerk the taxes deducted and withheld on the fifteenth day of the month following the end of each calendar quarter, i.e., April 15th , July 15th , October 15th and January 15th .

(2) Notwithstanding the foregoing, if the total taxes deducted and withheld or required to be deducted and withheld by the employer, agent, or other payer on behalf of the municipal corporation in the preceding calendar year exceeded two thousand three hundred ninety-nine dollars, or if the total amount of taxes deducted and withheld or required to be deducted and 2017 withheld on behalf of the municipal corporation in any month of the preceding calendar quarter exceeded two hundred dollars, Taxes required to be deducted and withheld shall be remitted monthly to the tax administrator Payment shall be made **TO** ~~so that the payment is received by~~ the tax administrator not later than fifteen days after the last day of each month.

(d) Such return shall be on a form or forms prescribed by and obtainable from the Income Tax Clerk and shall be deemed filed when postmarked by the United States Post Office or delivered to the Tax office during normal business hours. Such employer, in collecting the tax, shall be deemed to hold the same as Trustee for the benefit of the City until payment is made by such employer to the City and any such tax collected by such employer from his employees shall, until the same is paid to the City, be deemed a trust fund in the hands of such employer.

(e) The officer or employee having control or supervision or charged with the responsibility of filing the return and making the payment, shall be personally liable for failure to file the return and making the payment, or pay the taxes, penalty and interest due as required herein. The dissolution, bankruptcy or reorganization of any such employer does not discharge an officer's or employee's liability for a prior failure of such business to file a return or pay taxes and penalty and interest due.

(f) On or before the last day of February of each year, an employer shall file a withholding reconciliation return with the Income Tax Clerk listing the names, addresses, and social security numbers of all employees from whose qualifying wages tax was withheld or should have been withheld for the municipal corporation during the preceding calendar year, the amount of tax withheld, if any, from each such employee, the total amount of qualifying wages paid to such employee during the preceding calendar year, the name of every other municipal corporation for which tax was withheld or should have been withheld from such employee during the preceding calendar year, any other information required for federal income tax reporting purposes on Internal Revenue Service form W-2 or its equivalent form with respect to such employee, and other information as may be required by the Income Tax Clerk. At the time of filing this return, the employer shall pay over any amount deducted or which should have been deducted or withheld during the preceding year but which was not remitted.

(g) All individuals, businesses, employers, brokers or others who are required under the Internal Revenue Code to furnish forms 1099 to IRS for individuals or businesses to whom or which they have paid nonemployee compensation, shall furnish copies of the said form 1099s to the Income Tax Clerk or in lieu thereof, a listing containing the same information as required by IRS on the 1099s on or before the due date for such forms 1099 as established by IRS. Failure to provide the foregoing information will result in any deduction for payment by the taxpayer taken on the taxpayer's tax return to be disallowed.

(1) The deducting and withholding of personal service compensation of all other employees (including officers of corporations) shall attach to the portion of the personal service compensation of such employee which the total number of working days employed within the Village bears to the total number of working days employed within and outside the Village.

(2) If it is impossible to apportion the earnings as provided above, because of the peculiar nature of the service of the employee, or the unusual basis of compensation, apportionment shall be made in accordance with the facts and the tax deducted and withheld accordingly.

(3) The occasional entry into the Village of a nonresident employee who performs the duties for which he is employed entirely outside the Village, but enters the Village for the purpose of reporting, receiving instructions, accounting, etc., incidental to his duties outside the Village, shall not be deemed to take such employee out of the class of those rendering their service entirely outside the Village.

(H) AN EMPLOYER IS REQUIRED TO DEDUCT AND WITHHOLD THE VILLAGE OF NEW LONDON INCOME TAX ON TIPS AND GRATUITIES RECEIVED BY THE EMPLOYER'S EMPLOYEES AND CONSTITUTING QUALIFYING WAGES, BUT ONLY TO THE EXTENT THAT THE TIPS AND GRATUITIES ARE UNDER THE EMPLOYER'S CONTROL. FOR THE PURPOSES OF THIS DIVISION, A TIP OR GRATUITY IS UNDER THE EMPLOYER'S CONTROL IF THE TIP OR GRATUITY IS PAID BY THE CUSTOMER TO THE EMPLOYER FOR SUBSEQUENT REMITTANCE TO THE EMPLOYEE, OR IF THE CUSTOMER PAYS THE TIP OR GRATUITY BY CREDIT CARD, DEBIT CARD, OR OTHER ELECTRONIC MEANS.

(I) THE TAX CLERK SHALL CONSIDER ANY TAX WITHHELD BY AN EMPLOYER AT THE REQUEST OF AN EMPLOYEE, WHEN SUCH TAX IS NOT OTHERWISE REQUIRED TO BE WITHHELD BY THIS ORDINANCE, TO BE TAX REQUIRED TO BE WITHHELD AND REMITTED FOR THE PURPOSES OF THIS SECTION

(j) An employer shall withhold the tax on the full amount of any advance made to an employee on account of commissions where such advances are in excess of commissions earned. (i) An employer, required to withhold the tax on compensation paid to an employee shall, in determining the amount on which the tax is to be withheld, ignore any amount allowed and paid by the employer to the employee for expense necessarily and actually incurred by the employee in the actual performance of his services, provided, that such expense must be of the kind and in the amount recognized and allowed as deductible expense for Federal income tax purposes.

(k) The mere fact that the tax is not withheld will not relieve the employee of the responsibility of filing a return and paying the tax on the compensation received. However, if the tax has been withheld but has not been paid over to the Village, the employee is relieved of responsibility to the extent of the taxes withheld, unless the employee colluded with the employer in connection with the failure to remit payment.

(l) Commissions and fees paid to professional men, brokers, and others who are independent contractors and not employees of the payor, are not subject to withholding or collection of the tax at the source. Such taxpayers must in all instances file returns and pay the tax pursuant to the provisions of Section 181.02.

(m) The failure of any employer, residing either within or outside the Village, to collect the tax and to make any return prescribed herein, shall not relieve the employee from the payment of such tax in compliance with this chapter respecting the making of returns and the payment of taxes.

(n) The requirements of this section shall apply to any nonresident employer, or to the agent of such a nonresident employer, or to any other nonresident payer, who pays an individual any item included in the taxable income of that individual employee or payee, if the total amount of tax required to be deducted and withheld for the Village on account of all of the employer's employees or payer's payees exceeds one hundred fifty dollars ($150.00) for the calendar year.

(o) For tax years 2004 and thereafter, the obligations to withhold taxes described herein shall extend only to qualifying wages as defined in this chapter.

Section 4. That, effective for tax years beginning on or after January 1, 2018, there is hereby enacted a new Section 181.19 of the Codified Ordinances of the Village of New London, which shall read as follows:

181.19 DECLARATIONS.

(a) An employee whose entire wages, salaries or other compensation for any taxable year will be subjected to the withholding provisions under Section 181.18 and whose tax will accordingly be withheld as to this entire earnings for such year by his employer, and who during such taxable year expects to derive no other compensation or other income which is subject to tax under this chapter, need not file a declaration as provided in this section.

(b) All other taxpayers, as defined in this chapter subject to the taxes imposed in Section 181.02, and every taxpayer who anticipates any income or net profits not subject to total withholdings as provided in the next preceding paragraph, shall file with the Village Income Tax Clerk a declaration of his estimated tax as follows: On or before April 30 of each calendar year, taxpayer shall file a declaration of his estimated tax for the taxable period beginning January 1, and ending December 31 of the calendar year. Taxpayers filing joint returns shall file joint declarations of estimated taxes.

(c) Taxpayers that are not individuals, who are permitted pursuant to the provisions of Section 181.03 to file a return and pay their tax upon a fiscal year basis, shall file their declaration on or before the fifteenth day of the fourth month following the beginning of each such fiscal year. Those taxpayers on a fiscal year basis shall make payments as follows:

22½% by the 15th day of the fourth month of the taxpayer's taxable year;
45% by the 15th day of the sixth month;
67½% by the 15th day of the ninth month; and
90% by the 15th day of the 12th month.

(d) The estimated tax for calendar year taxpayers may be paid in full with the filing of the declaration or in installments as follows:

(1) For calendar year taxpayers that are individuals:

22½% by April **15TH** ~~30~~;
45% by July **15TH** ~~31~~;
67½% by October **15TH** ~~31~~; and
~~90% by January 31~~
(90%) OF THE TAX LIABILITY FOR THE TAXABLE YEAR, ON OR BEFORE THE FIFTEENTH (15TH) DAY OF THE FIRST MONTH OF THE FOLLOWING TAXABLE YEAR.

Any amounts deducted and withheld for taxes from the compensation of an individual shall be considered as estimated taxes paid in equal amounts on each of the payment dates.

(2) For calendar year taxpayers that are not individuals:

22½% **ON OR BEFORE THE FIFTEENTH (15TH) DAY OF THE FOURTH MONTH AFTER THE BEGINNING OF THE TAXABLE YEAR** ~~by the taxpayer's Federal return filing date~~;
45% **ON OR BEFORE THE FIFTEENTH (15TH) DAY OF THE SIXTH MONTH AFTER THE BEGINNING OF THE TAXABLE YEAR** ~~by June 15~~;
67½% **ON OR BEFORE THE FIFTEENTH (15TH) DAY OF THE NINTH MONTH AFTER THE BEGINNING OF THE TAXABLE YEAR** ~~by September 15~~;
90% **ON OR BEFORE THE FIFTEENTH (15TH) DAY OF THE TWELFTH MONTH OF THE TAXABLE YEAR** ~~by December 15~~.

(e) The declarations so required shall be filed upon a form furnished by or obtainable from the Clerk-Treasurer. Any taxpayer who has filed an estimate for Federal Income Tax purposes may, in making the declaration required hereunder, simply state therein that the figures therein contained are the same figures used by the taxpayer in making the declaration of his estimate for the Federal Income Tax. However, in addition to such statement, any such taxpayer may, in such declaration, modify and adjust such declared income so as to exclude therefrom income which is not subject to tax under this chapter.

(f) Any estimate filed hereunder may be amended by the filing of an amended estimate at the time prescribed for the payment of any installment of tax paid in accordance with subsection (g) hereof.

(g) If any such taxpayer shall, on or before any of the installment payment dates specified herein, file an amended declaration showing an increase or decrease of the estimated tax, the installments then and thereafter due shall be increased or diminished (as the case may be) in such manner that the balance of the estimated tax shall be fully paid on or before the last date of payment for the taxable year.

(h) An underpayment of any portion of tax liability shall be deemed due to reasonable cause and no penalty shall be added to the taxes for the taxable year if any of the following apply:

(1) The amount of estimated taxes that were paid equals at least ninety per cent of the tax liability for the current taxable year, determined by annualizing the income received during the year up to the end of the month immediately
preceding the month in which the payment is due.

(2) The amount of estimated taxes that were paid equals at least one hundred per cent of the tax liability shown on the return of the taxpayer for the preceding taxable year, provided that the immediately preceding taxable year reflected a period of twelve months and the taxpayer filed a return with the Village for that year.

(3) The taxpayer is an individual who resides in the municipal corporation but was not domiciled there on the first day of January of the calendar year that includes the first day of the taxable year.

(i) The Income Tax Clerk may waive the requirement for filing a declaration of estimated taxes for any class of taxpayers after finding that the waiver is reasonable and proper in view of administrative costs and other factors.

Section 5. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, or safety, and for the welfare of the citizens of the Village, and for the further reason that it is necessary to that this measure become effective immediately to become effective prior to the next calendar year, and that, provided it receives the majority vote of two-thirds or more of those elected to Council, this Ordinance shall therefore take effect and be in force immediately from and after its passage and approval by the Mayor, and otherwise it shall take effect at the earliest period allowed by law.

PASSED: November 27, 2017

MAYOR

ATTEST:

Fiscal Officer