

ORDINANCE NO. 2020 - 12

AN ORDINANCE AMENDING VARIOUS PROVISIONS OF THE INCOME TAX CODE TO INCORPORATE REVISIONS ALREADY ADOPTED IN THE OHIO REVISED CODE

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 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 Section 181.01 of the Codified Ordinances of the Village of New London, be, and hereby it is, amended, by revising the language in subsections (n) and (r) and by enacting new subsections (t) and (u), 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:

(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;~~ **FOR THE TAXABLE YEAR THE AMOUNT IS EMPLOYEE COMPENSATION THAT IS EARNED OUTSIDE OF THE UNITED STATES AND THAT EITHER IS INCLUDED IN THE TAXPAYER'S GROSS INCOME FOR FEDERAL INCOME TAX PURPOSES OR WOULD HAVE BEEN INCLUDED IN THE TAXPAYER'S**

GROSS INCOME FOR SUCH PURPOSES IF THE TAXPAYER DID NOT ELECT TO EXCLUDE THE INCOME UNDER SECTION 911 OF THE INTERNAL REVENUE CODE;

(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, **MARCH 23, 2015.**

(r) "Tax Administrator" means the individual charged with **DIRECT RESPONSIBILITY FOR ADMINISTRATION OF THE INCOME TAX LEVIED BY THE VILLAGE OF NEW LONDON IN ACCORDANCE WITH THIS CHAPTER; AND ALSO INCLUDES THE INCOME TAX CLERK** ~~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.

(T) **"PENSION" MEANS A RETIREMENT BENEFIT PLAN, REGARDLESS OF WHETHER THE PLAN SATISFIES THE QUALIFICATIONS DESCRIBED UNDER SECTION 401(A) OF THE INTERNAL REVENUE CODE, INCLUDING AMOUNTS THAT ARE TAXABLE UNDER THE "FEDERAL INSURANCE CONTRIBUTIONS ACT," CHAPTER 21 OF THE INTERNAL REVENUE CODE, EXCLUDING EMPLOYEE CONTRIBUTIONS AND ELECTIVE DEFERRALS, AND REGARDLESS OF WHETHER SUCH AMOUNTS ARE PAID IN THE SAME TAXABLE YEAR IN WHICH THE AMOUNTS ARE INCLUDED IN THE EMPLOYEE'S WAGES, AS DEFINED BY SECTION 3121(A) OF THE INTERNAL REVENUE CODE.**

(U) **"RETIREMENT BENEFIT PLAN" MEANS AN ARRANGEMENT WHEREBY AN ENTITY PROVIDES BENEFITS TO INDIVIDUALS EITHER ON OR AFTER THEIR TERMINATION OF SERVICE BECAUSE OF RETIREMENT OR DISABILITY. "RETIREMENT BENEFIT PLAN" DOES NOT INCLUDE WAGE CONTINUATION PAYMENTS, SEVERANCE PAYMENTS, OR PAYMENTS MADE FOR ACCRUED PERSONAL OR VACATION TIME.**

Section 2. That Section 181.012 of the Codified Ordinances of the Village of New London, be, and hereby it is, amended, by adding a new subsection (H), which shall read as follows:

181.012 WORKSITE LOCATIONS/WITHHOLDING.

(H) **DURING THE PERIOD OF THE EMERGENCY DECLARED BY THE OHIO GOVERNOR'S EXECUTIVE ORDER 2020-01D, ISSUED ON MARCH 9, 2020, AND FOR THIRTY DAYS AFTER THE CONCLUSION OF THAT PERIOD, ANY DAY ON WHICH AN EMPLOYEE PERFORMS PERSONAL SERVICES AT A LOCATION, INCLUDING THE EMPLOYEE'S HOME, TO WHICH THE EMPLOYEE IS REQUIRED TO REPORT FOR EMPLOYMENT DUTIES BECAUSE OF THE DECLARATION SHALL BE DEEMED TO BE A DAY PERFORMING PERSONAL SERVICES AT THE EMPLOYEE'S PRINCIPAL PLACE OF WORK.**

Section 3. That Section 181.02 of the Codified Ordinances of the Village of New London, be, and hereby it is, amended, by revising the language in subsection (i), which shall read as follows:

181.02 IMPOSITION OF TAX.

To provide funds for the purpose of general Municipal operations, maintenance of equipment, new equipment, extension, enlargement and improvement of Municipal services and facilities and capital improvements of the Village of New London, there be, and hereby is levied a tax upon the earnings at the rate of one percent (1%) upon the categories of income set forth below; and that, in addition, from and after January 1, 2011, and through the period ending December 31, 2022 only, there is hereby levied an

additional tax upon income of an additional fifty hundredths of one percent (.50%) per annum, upon the categories of income set forth below:
(Ord. 2018-18. Passed 7-23-18.)

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

(A) The average original cost of the real property and tangible personal property owned or used by the taxpayer in the business or profession in the Village of New London during the taxable period to the average original cost of all the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated. As used in the preceding paragraph, tangible personal or 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 Village of New London to wages, salaries, and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed, excluding compensation from which taxes are not required to be withheld under section 718.011 of the Revised Code;

(C) Total Gross receipts of the business or profession from sales and rentals made and services performed during the taxable period in the Village of New London to total gross receipts of the business or profession during the same period from sales, and services, wherever made or performed.

(2) (A) If the apportionment factors described in division (i)(1) of this section do not fairly represent the extent of a taxpayer's business activity in a municipal corporation, the taxpayer may request, or the tax administrator of the municipal corporation may require, that the taxpayer use, with respect to all or any portion of the income of the taxpayer, an alternative apportionment method involving one or more of the following:

- (i) Separate accounting;
- (ii) The exclusion of one or more of the factors;
- (iii) The inclusion of one or more additional factors that would provide for a more fair apportionment of the income of the taxpayer to the municipal corporation;
- (iv) A modification of one or more of the factors.

(B) A taxpayer request to use an alternative apportionment method shall be in writing and shall accompany a tax return, timely filed appeal of an assessment, or timely filed amended tax return. The taxpayer may use the requested alternative method unless the tax administrator denies the request in an Assessment.

(C) A tax administrator may require a taxpayer to use an alternative apportionment method only by issuing an assessment.

(D) Nothing herein nullifies or otherwise affects any alternative apportionment arrangement approved by a tax administrator or otherwise agreed upon by both the tax administrator and taxpayer before January 1, 2016.

(3) As used in division (i)(1) of this section, "wages, salaries, and other compensation" includes only wages, salaries, or other compensation paid to an employee for services performed at any of the following locations:

(A) A location that is owned, controlled, or used by, rented to, or under the possession of one of the following:

- (i) The employer;
- (ii) A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient; or a vendor, customer, client, or patient of a person the same.

(B) Any location at which a trial, appeal, hearing, investigation, inquiry, review, court-martial, or similar administrative, judicial, or legislative matter or proceeding is being conducted, provided that the compensation is paid for services performed for, or on behalf of, the employer or that the employee's presence at the location directly or indirectly benefits the employer;

(C) Any other location, if the tax administrator determines that the employer directed the employee to perform the services at the other location in lieu of a location described above solely in order to avoid or reduce the employer's municipal income tax liability. If a tax administrator makes such a determination, the

employer may dispute the determination by establishing, by a preponderance of the evidence, that the tax administrator's determination was unreasonable.

(4) For the purposes of division (i)(1), receipts from sales and rentals made and services performed shall be situated to a municipal corporation as follows:

(A) Gross receipts from the sale of tangible personal property shall be situated to the municipal corporation **ONLY IF, REGARDLESS OF WHERE TITLE PASSES, THE PROPERTY MEETS EITHER OF THE FOLLOWING CRITERIA:** ~~in which the sale originated. For the purposes of this division, a sale of property originates in a municipal corporation if, regardless of where title passes, the property meets any of the following criteria:~~

(i) The property is shipped to or delivered within the municipal corporation from a stock of goods located within the municipal corporation.

(ii) The property is delivered within the municipal corporation from a location outside the municipal corporation, provided the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such municipal corporation and the sales result from such solicitation or promotion.

~~(iii) The property is shipped from a place within the municipal corporation to purchasers outside the municipal corporation, provided that the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.~~

(B) Gross receipts from the sale of services shall be situated to the municipal corporation to the extent that such services are performed in the municipal corporation.

(C) To the extent included in income, gross receipts from the sale of real property located in the municipal corporation shall be situated to the municipal corporation.

(5) To the extent included in income, gross receipts from rents and royalties from real property located in the municipal corporation shall be situated to the municipal corporation.

(6) Gross receipts from rents and royalties from tangible personal property shall be situated to the municipal corporation based upon the extent to which the tangible personal property is used in the municipal corporation.

(7) The net profit received by an individual taxpayer from the rental of real estate owned directly by the individual or by a disregarded entity owned by the individual shall be subject to tax only by the municipal corporation in which the property generating the net profit is located and the municipal corporation in which the individual taxpayer that receives the net profit resides.

(8) Taxpayers may elect to use separate accounting for the purpose of calculating net profit situated under this division to the municipal corporation in which the property is located.

(9) Commissions received by a real estate agent or broker relating to the sale, purchase, or lease of real estate shall be situated to the municipal corporation in which the real estate is located. Net profit reported by the real estate agent or broker shall be allocated to a municipal corporation based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease of real estate located in the municipal corporation to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year. Notwithstanding the foregoing, an individual who is a resident of the Village shall report the individual's net profit from all real estate activity on the individual's annual tax return for the Village.

(10) If, in computing a taxpayer's adjusted federal taxable income, the taxpayer deducted any amount with respect to a stock option granted to an employee, and if the employee is not required to include in the employee's income any such amount or a portion thereof because it is exempted from taxation under divisions (C)(12) and (R)(1)(d) of section 718.01 of the Revised Code by a municipal corporation to which the taxpayer has apportioned a portion of its net profit, the taxpayer shall add the amount that is exempt from taxation to the taxpayer's net profit that was apportioned to that municipal corporation. In no case shall a taxpayer be required to add to its net profit that was apportioned to that municipal corporation any amount other than the amount upon which the employee would be required to pay tax were the amount related to the stock option not exempted from taxation. This division applies solely for the purpose of making an adjustment to the amount of a taxpayer's net profit that was apportioned to a municipal corporation under this section.

(11) When calculating the ratios described herein, the owner of a disregarded entity shall include in the owner's ratios the property, payroll, and gross receipts of such disregarded entity.

Section 4. That Section 181.05 of the Codified Ordinances of the Village of New London, be, and hereby it is, amended, by enacting a new subsection (h), which shall read as follows:

181.05 ADMINISTRATION.

(H) WHENEVER A VILLAGE EMPLOYEE HAS, OR WILL HAVE, ACCESS TO OR THE USE OF FEDERAL TAX INFORMATION, THE TAX ADMINISTRATOR SHALL REQUEST THAT THE SUPERINTENDENT OF THE BUREAU OF CRIMINAL IDENTIFICATION AND INVESTIGATION CONDUCT A CRIMINAL RECORDS CHECK BASED ON THE INDIVIDUAL'S FINGERPRINTS IN ACCORDANCE WITH SECTION 109.572 OF THE REVISED CODE. THE TAX ADMINISTRATOR SHALL REQUEST THAT CRIMINAL RECORD INFORMATION FROM THE FEDERAL BUREAU OF INVESTIGATION BE OBTAINED AS PART OF THE CRIMINAL RECORDS CHECK.

Section 5. That Section 181.10 of the Codified Ordinances of the Village of New London, be, and hereby it is, amended, by revising the language in subsection (a), which shall read as follows:

181.10 ASSESSMENTS; APPEAL; BOARD OF TAX REVIEW.

(a) For purposes of this section, "Assessment" means a written finding by the Income Tax Clerk that a person has underpaid municipal income tax, or owes penalty and interest, or any combination of tax, penalty, or interest, to the municipal corporation that commences the person's time limitation for making an appeal to the board of tax review and has "ASSESSMENT" written in all capital letters at the top of such finding. "Assessment" does not include an informal notice denying a request for refund, a billing statement notifying a taxpayer of current or past-due balances owed to the Village, a request for additional information, a notification to the taxpayer of mathematical errors, or other written correspondence to a person or taxpayer that does NOT meet the foregoing criteria.

Section 6. That Section 181.15 of the Codified Ordinances of the Village of New London, be, and hereby it is, amended, by revising the language in subsection (m), which shall read as follows:

181.15 ANNUAL RETURN AND PAYMENT OF TAX.

(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 OR IN ANY OTHER MANNER PRESCRIBED BY THE TAX COMMISSIONER, AS IF FILED WITH THE VILLAGE.

Section 7. That Section 181.17 of the Codified Ordinances of the Village of New London, be, and hereby it is, amended to read as follows:

181.17 EXEMPTIONS FROM FILING ANNUAL TAX RETURNS.

(A) If any of the exemptions shown below apply, such person need not complete the balance of the form, except for the Declaration and signature at the bottom thereof. Income Tax Form shall have the following exemptions language thereon:

1. Retired. No income subject to the Village of New London Income Tax for the entire year of 20___. I received only Social Security, Pension, Interest, or Dividend Income. I do not own rental property in my name or as a partner or Sub-S Corporation shareholder.
Date retired: _____. Former Employer _____.
2. Unemployed. No earned income for the entire year 20_____.
3. Homemaker.
4. Disabled.
5. Welfare.
6. A.D.C.
7. A member of the Armed Forces of the United States for the entire year 20___. And on active duty military status. (This does not include civilians employed by the Military or National Guard.)
8. Non-resident. I never lived in New London, Ohio and I do not work in or receive income from New London, Ohio.
9. I have moved from New London, Ohio before this tax year and have no income subject to New London, Ohio Village Income Tax.
Date moved: . _____

(B) INCOME DERIVED FROM DISASTER WORK, AS DEFINED IN REVISED CODE SECTION 5703.94, CONDUCTED IN OHIO BY AN OUT-OF-STATE BUSINESS, AND INCLUDING THE INCOME DERIVED BY AN INDIVIDUAL EMPLOYEE FOR SUCH WORK, SHALL BE EXEMPT AND SHALL NOT BE THE BASIS FOR REQUIRING THE FILING OF ANY RETURN.

Section 8. That Section 181.18 of the Codified Ordinances of the Village of New London, be, and hereby it is, amended, by revising the language in subsection (c), which shall read as follows:

181.18 COLLECTION AT SOURCE; WITHHOLDING BY EMPLOYER.

(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 ~~last~~ ~~fifteenth~~ day of the month following the end of each calendar quarter, i.e., April 30 ~~15th~~, July 31 ~~15th~~, October 31 ~~15th~~ and January 31 ~~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 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 the tax administrator not later than fifteen days after the last day of each month.

Section 9. That this Ordinance shall take effect at the earliest period allowed by law.

PASSED: June 8, 2020

John Thomas
MAYOR

ATTEST:
Nancy Howell
FISCAL OFFICER