

## INCOME TAX ORDINANCE

### ORDINANCE NO. 2004-16

AMENDING ORDINANCE 2002-16 TO PROVIDE FUNDS FOR GENERAL OPERATIONS AND PERMANENT IMPROVEMENTS BY LEVYING A TAX ON ALL QUALIFYING WAGES, COMMISSIONS, AND OTHER COMPENSATION EARNED BY NON-RESIDENTS FOR WORK DONE OR SERVICES PERFORMED IN THE VILLAGE OF SOUTH LEBANON; ON THE NET PROFITS OF ALL UNINCORPORATED BUSINESS, PROFESSIONS, OR OTHER ENTITIES FROM SALES MADE, WORK DONE AND SERVICES PERFORMED OR BUSINESS OR OTHER ACTIVITIES CONDUCTED IN THE VILLAGE OF SOUTH LEBANON. WHETHER OR NOT SUCH UNINCORPORATED BUSINESS, PROFESSIONS, OR OTHER ENTITIES HAVE AN OFFICE OR PLACE OF BUSINESS IN THE VILLAGE OF SOUTH LEBANON; ON A RESIDENT'S SHARE OF NET PROFITS OF AN UNINCORPORATED BUSINESS, PROFESSION, OR OTHER ENTITY, WHETHER LOCATED IN OR OUTSIDE OF THE VILLAGE OF SOUTH LEBANON, NOT ATTRIBUTABLE TO SOUTH LEBANON; AND ON THE NET PROFITS OF ALL CORPORATION FROM SALES MADE, WORK DONE, AND SERVICES PERFORMED, OR BUSINESS OR OTHER ACTIVITIES CONDUCTED IN THE VILLAGE OF SOUTH LEBANON, WHETHER OR NOT SUCH CORPORATIONS HAVE AN OFFICE OR PLACE OF BUSINESS IN THE VILLAGE OF SOUTH LEBANON; REQUIRING THE FILING OF RETURNS AND THE FURNISHING OF INFORMATION BY EMPLOYERS AND ALL THOSE SUBJECT TO SAID TAX AT THE SOURCE AND PAYING THE SAME TO THE VILLAGE OF SOUTH LEBANON; PROVIDING FOR THE ADMINISTRATION, COLLECTION, AND ENFORCEMENT OF SAID TAX; CREATING A 50% INCOME TAX CREDIT PAID TO ANOTHER MUNICIPALITY; DECLARING VIOLATION THEREOF TO BE MISDEMEANORS, AND IMPOSING PENALTIES THEREFOR, AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF SOUTH LEBANON, STATE OF OHIO, TWO-THIRDS OF ALL MEMBERS ELECTED THERETO CONCURRING:

#### SECTION I PURPOSE:

To provide funds for the purposes of general municipal operations. maintenance, new equipment. extension and enlargement of municipal services and facilities, and capital improvements of the Village of South Lebanon there shall be. and is hereby levied as a tax on salaries, wages. commissions. and other compensation, and on net profits as hereinafter provided.

#### SECTION II, DEFINITIONS.

As used in this Ordinance, the following words shall have the meaning ascribed to them in this section, except as and if they clearly indicate or require a different meaning.

ASSOCIATION. A partnership, limited partnership, or and other form of unincorporated enterprise, owned by two or more persons.

#### SECTION II, SOUTH LEBANON CODE OF ORDINANCES.

BOARD OF REVIEW. The Board created by and constituted as provided for in Section XIII of this Ordinance.

BUSINESS. An enterprise, activity, profession, or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation, or any other entity.

CORPORATION. A corporation or joint stock association organized under the laws of the; United States, the State of Ohio, or any other State, territory, or foreign country of dependency.

EMPLOYEE. One who works for wages, salary, commission, or other types of compensation in the services of any employer.

EMPLOYER. An individual partnership association corporation governmental body unit or agency or any other entity whether

or not organized for profit, who or that employees one or more persons on a salary, wage, commission, or other compensation basis.

FISCAL YEAR. an accounting period of twelve (12) months ending on any day other than December 31 st.

GROSS RECEIPTS. Total income of taxpayers from whatever source derived.

MUNICIPALITY. The Village of South Lebanon.

NET PROFITS. The net gain from all operations including those pertaining to capital gains and losses of a business, profession, or enterprise after provision for all ordinary and necessary expense, except taxes imposed by this Ordinance, and Federal and other taxes, based on income, paid or accrued in accordance with the accounting system used by the taxpayer for federal income tax purposes, and in the case of an association, without deduction of salaries paid to partners or the owners.

NON—RESIDENT. A person, whether an individual, association, corporation, or other entity, domiciled outside the Village of South Lebanon.

PERSON. Every individual person, partnership, fiduciary, association, corporation, or other entity. Whenever used in any clause prescribed and imposing a penalty, the term “persons” as applied to any association shall include the partners or members thereof, and as to corporation, the officers thereof.

PLACE OF BUSINESS. Any bona-fide office (other than a mere statutory office), factory, warehouse, or other space which is occupied and used by the taxpayer in carrying on any business activity, individually or through one or more of his employees, regularly in attendance.

RESIDENT. A person, whether an individual, association, corporation, or other entity, domiciled in the Village of South Lebanon.

TAX YEAR. The calendar year, or the fiscal year upon the basis which net profits are to be computed under this Ordinance and, in the case of a return for a fractional part of a year, the period for which such return is required to be made.

TAX COMMISSIONER. The Tax Commissioner of the Village of South Lebanon or the person executing the duties of the afore-said Commissioner.

TAX PAYER. a person, whether an individual, partnership, association, corporation or other entity, required by this Ordinance to file a return or pay a tax.

VILLAGE. the Village of South Lebanon, Ohio the singular shall include the plural, and the masculine shall include the feminine and the neuter.

### SECTION III. IMPOSITION OF TAX.

#### (A) BASIS OF IMPOSITION.

Subject to provisions of Section XVI of this Ordinance, an annual tax, for the purposes specified in Section I hereof shall be, and is hereby, levied on and after January 1, 2005, at the rate of One (1) Per Annum upon the following:

1. On all QUALIFYING wages, including sick and vacation pay, commissions, and other compensation earned. during the effective period of this Ordinance. by residents.
2. On all QUALIFYING wages, including sick and vacation pay commissions. and other compensation earned, during the effective period of this Ordinance. by non—residents for work done or service performed or rendered in the Municipality
3. (a) On the portion attributable to the Municipality of the net profits earned during the effective period of this Ordinance of all residents associations, unincorporated businesses, professions, or other entities, derived from sales made, work done, or services performed or rendered, or business or other activities connected in the Municipality.  
  
(b) On a resident Partner’s or owner’s share of the net profits earned during the effective period of the Ordinance of a resident association or other unincorporated entity not attributable to the Municipality and not levied against such association or

other unincorporated entity.

4. (a) On the portion attributable to the Municipality of the net profits earned during the effective period of this Ordinance, of all non-residents associations, unincorporated businesses, professions, or other entities, derived from sales, work done, or services performed or rendered or business or other activities conducted in the Municipality, whether or not such association or other unincorporated entity has an office or place of business in the Municipality.

(b) -On a resident partner's or owner's share of the net profits earned during the effective period of this Ordinance of a non-resident association or other unincorporated entity not attributable to the Municipality, and levied against such association or other unincorporated entity.

5. On the net profits earned during the effective period of this Ordinance of all corporation derived from sales made, work done, or services performed or rendered, and business or other activities conducted in the Municipality whether or not such corporations have an office or place of business in the municipality.

(B). ALLOCATION OF NET PROFITS

BUSINESSES BOTH IN AND OUTSIDE THE MUNICIPAL BOUNDARIES. THIS SECTION DOES NOT APPLY TO TAXPAYERS THAT ARE SUBJECT TO AND REQUIRED TO FILE REPORTS UNDER CHAPTER 5745, OF THE OHIO REVISED CODE. EXCEPT AS OTHERWISE PROVIDED IN DIVISION (D) OF THIS SECTION, NET PROFIT FROM A BUSINESS OR PROFESSION CONDUCTED BOTH WITHIN AND WITHOUT THE BOUNDARIES OF A MUNICIPAL CORPORATION SHALL BE CONSIDERED AS HAVING A TAXABLE SITUATION IN SUCH MUNICIPAL CORPORATION FOR PURPOSES OF MUNICIPAL INCOME TAXATION IN THE SAME PROPORTION AS THE AVERAGE RATIO OF THE FOLLOWING:

1. Multiply the entire net profits of the business by a business percentage to be determined by:

(A) AVERAGE ORIGINAL COST OF THE REAL AND TANGIBLE PERSONAL PROPERTY OWNED OR USED BY THE TAXPAYER IN THE BUSINESS OR PROFESSION IN SUCH MUNICIPAL CORPORATION DURING THE TAXABLE PERIOD TO THE AVERAGE ORIGINAL COST OF ALL OF THE REAL AND TANGIBLE PERSONAL PROPERTY OWNED OR USED BY THE TAXPAYER IN THE BUSINESS OR PROFESSION DURING THE SAME PERIOD, WHEREVER SITUATED.

AS USED IN THE PRECEDING PARAGRAPH, REAL PROPERTY SHALL INCLUDE PROPERTY RENTED OR LEASED BY THE TAXPAYER AND THE VALUE OF SUCH PROPERTY SHALL BE DETERMINED BY MULTIPLYING THE ANNUAL RENTAL THEREON BY EIGHT;

(B) WAGES, SALARIES, AND OTHER COMPENSATION PAID DURING THE TAXABLE PERIOD TO PERSONS EMPLOYED IN THE BUSINESS OR PROFESSION FOR SERVICES PERFORMED IN SUCH MUNICIPAL CORPORATION 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 THAT IS NOT TAXABLE BY THE MUNICIPAL CORPORATION UNDER SECTION 718.011 OF THE OHIO REVISED CODE;

(C). GROSS RECEIPTS OF THE BUSINESS OR PROFESSION FROM SALES MADE AND SERVICES PERFORMED DURING THE TAXABLE PERIOD IN SUCH MUNICIPAL CORPORATION TO GROSS RECEIPTS OF THE BUSINESS OR PROFESSION DURING THE SAME PERIOD FROM SALES AND SERVICES, WHEREVER MADE OR PERFORMED.

(d) Adding together the percentages determined in accordance with subparagraphs (a), (b), and (c) above, or such of the aforesaid percentages as are applicable to the particular taxpayers and dividing the total so obtained by the number of

percentages used in deriving said total.

(1) A factor is applicable even though it may be allocable entirely in or outside the Municipality.

(2) Provided, however, that in the event a just and equitable result cannot be obtained under the formulas provided for herein, the Board of Review, upon application of the taxpayer or the Tax Commissioner, shall, under uniform regulations adopted by the Board, have the authority to substitute other factors or methods calculated to effect a fair and proper apportionment.

(C) OPERATING LOSS CARRY-FORWARD.

1. The portion of a net operating loss sustained in any taxable year, beginning with January 1, 1988 allocable to the Municipality, may be applied against the portion of the profit of succeeding tax years, allocable to the Municipality, until exhausted, but in no event for more than the five (5) taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.

2. The portion of a net operation loss sustained shall be allocated to the Municipality in the same manner as provided herein for allocating net profits to the Municipality.

3. The Tax Commissioner shall provide by rules and regulations the manner in which such net operating loss carry-forward shall be determined.

(D) CONSOLIDATED RETURNS.

1. Filing of consolidated returns may be permitted or required in accordance with Rules and Regulations prescribed by the Tax Commissioner.

2. In the case of a corporation that carries on transactions with its stockholders or with other corporations related by stock ownership, interlocking or with some other method, the Tax Commissioner shall require such information in addition to ascertain whether net profits are properly allocated to the Municipality. If the Tax Commissioner finds net profits are not properly allocated to the Municipality by reasons of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates, or some other method, he may require the filing of a consolidated return or adjust such transactions so as to produce a fair and proper allocation of net profits to the Municipality.

(E) EXCEPTION.

The Tax provided for herein shall not be levied upon the Military pay or allowances of members of the Armed Forces of the United States, or upon the net profits of any civic, charitable, religious, fraternal, or other organization specified in 718.01 of the Revised Code of Ohio to the extent that such net profits are exempted from Municipal income taxes under said Section or any person who is a full-time student at a high school, college, university, technical school or any other accredited post secondary educational institution is exempted from paying income tax. Exemption under this section shall be made in such manner as the Tax Commissioner may by regulation provide.

SECTION IV. EFFECTIVE PERIOD.

The tax imposed by this Ordinance shall be levied, collected, and paid with respect to all income and net profits, subject to the tax, earned on or after January 1, 2005.

SECTION V. RETURN AND PAYMENT OF TAX.

(A) DATES AND EXEMPTIONS.

Each person who, engaged in business, or whose QUALIFYING wages, commissions, or other compensation are subject to the tax imposed by this Ordinance shall, whether or not a tax be due thereon, make and file, on or before April <sup>th</sup> 15TH in each year, beginning with the year 2005, a return with the Tax Commissioner. A taxpayer on a fiscal year accounting basis for federal income tax purposes shall, beginning with his first fiscal year, any part of which falls within the effective period of this Ordinance, file his return ON OR BEFORE THE FIFTEENTH (15) DAY OF THE FOURTH (4) MONTH FOLLOWING THE END OF THE SUCH FISCAL YEAR OR PERIOD. The Tax Commissioner is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of tax deducted by said employer or employers from the salaries, wages, commissions, or other compensation of an employee; and paid by him or them to the Tax Commissioner shall be accepted as the return required of any employee whose sole income, subject to tax under this Ordinance, is such salary, wages, commissions, or other compensation.

(B) RETURN AND CONTENTS THEREOF

The return shall be filed with the Tax Commissioner on a form or forms furnished by or obtainable upon request from the Tax Commissioner setting forth:

1. The aggregate amounts of QUALIFYING wages, commissions, and other compensation earned, and gross income from any business, profession, or other activity, less allowable expenses incurred in the acquisition of such gross income, earned during the preceding year and subject to said tax:
2. The amount of the tax imposed by this Ordinance on such earnings and profits; and
3. Such other pertinent statements, information returns, or other information as the Tax Commissioner may require, including a statement that the figures used in the return are the figures used in the return for federal income tax, adjusted to set forth only such income as is taxable under the provisions of this Ordinance.

(C) EXTENSIONS.

The Tax Commissioner may extend the time for filing of the annual return upon the request of the taxpayer, HOWEVER, THE EXTENDED DUE DATE OF THE MUNICIPAL INCOME TAX RETURN SHALL BE THE LAST DAY OF THE MONTH FOLLOWING THE MONTH TO WHICH THE DUE DATE OF THE FEDERAL INCOME TAX RETURN HAS BEEN EXTENDED. any extension requested of or granted by the Internal Revenue Service for filing of the Federal Income Tax Return. The Tax Commissioner may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due. No penalty or interest shall be assessed in those cases in which the return is filed and the final tax is paid within the period as extended.

(D) PAYMENT WITH RETURNS.

1. The taxpayer making a return shall at the time of the filing thereof pay to the Tax Commissioner the amount of taxes shown as due thereon: provided however, that where the source, pursuant to the provisions of Section VI of this Ordinance where and portion of said tax shall have been paid by the taxpayer pursuant to the provisions of Section VII of this Ordinance, of where an income tax, creditable against the South Lebanon Tax Pursuant to Section XV hereof has been paid to another Municipality, 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 said return.
2. A taxpayer who has overpaid the amount of tax to which the Municipality is entitled under the provisions of this Ordinance may have such overpayment applied against any subsequent liability hereunder or as his election indicated on the return, such overpayment, or part thereof, shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$1.00)- shall be collected or refunded.

(E) AMENDED RETURNS.

1. Where necessary an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and limitations contained in Section XI and XV, such Amended Returns shall be on a form obtainable on request from the Tax Commissioner.
2. Within three (3) months from the final determination of any Federal tax liability affecting the Taxpayer's South Lebanon tax liability, such taxpayer shall make and file an amended South Lebanon return, showing income subject to the municipality tax based upon such final determination of federal tax liability, and pay any additional tax shown due thereon, or make claim for refund of any overpayment.

SECTION VI. COLLECTION AT SOURCE.

(A) WITHHOLDING BY EMPLOYER.

Each employer within, or doing business within, the Municipality, who employs one or more persons on a salary wage, commission, or other compensation basis shall deduct at the time of the payment of such salaries, wages commissions, or other compensation, or other compensation due by said employer to each said employees, and shall on or before the last of April, July, October, and January of the year following the effective date of this Ordinance, and each year thereafter, make a return and

pay to the Tax Commissioner the amount of taxes so deducted during the preceding Calendar quarter. Said return shall be on a form or forms prescribed by acceptable to shall be subject to the rules and regulation prescribed thereon by the Tax Commissioner.

(B) EMPLOYER CONSIDERED AS TRUSTEE.

Each employer in collecting said tax shall be deemed to hold the same. until payment is made by such employer to the Municipality, as a Trustee for the benefit of the Municipality, and any such tax collected by such employer from his employees shall. until the same is paid to the Municipality, be deemed a trust fund in the hands of such employer. (Each employee shall be liable for the payment of the tax required to be deducted and withheld. whether or not such tax. in fact. has been withheld.)

(C). CORPORATE OFFICERS PERSONAL LIABILITY.

It shall be the responsibility, jointly and severally, of the president and treasurer of each corporation required to withhold the tax from wages of its employees under this section to see that all such taxes so withheld are paid to the Municipality in accordance with the provisions of this section. In the event taxes withheld by a corporation from the salaries of its employees are not paid to the Municipality in accordance with the provisions of this section, the president and treasurer of said corporation shall each be criminally liable under the provisions of Section XII hereof.

(D) EMPLOYEES: LISTING.

On or before <sup>th</sup>FEBRUARY 28TH of each year, each employer shall file a withholding return, on a form prescribed by and obtainable from the Tax Commissioner, setting forth the names and addresses of all employees from whose compensation the tax was withheld during the preceding calendar year, and the amount of tax withheld from the listed employees and such other information as may be required by the rules and regulations adopted by the Tax Commissioner.

(E) DOMESTIC SERVANTS.

Provided, however, that no person shall be required to withhold the tax on the wages or other compensation paid domestic servants employed exclusively in or about such person's residence. However, such domestic servants shall be responsible for filing and paying their own returns and taxes.

SECTION VII. DECLARATIONS.

(A) REQUIREMENT FOR FILING.

Every person who anticipates any taxable income which is not subject to Section VI hereof, or engages in any business, profession, enterprise or activity, may file a declaration setting forth such estimated income or the estimated profit or loss from such business activity, together with the return estimated tax due thereon, if any.

(B). DATES FOR FILING.

1. Such declaration shall be filed on or before April <sup>th</sup>15th of each year during the life of this Ordinance, or within four (4) months of the date the taxpayer first becomes subject to the provisions of this period.

2. Those taxpayers reporting on a fiscal year basis shall file a declaration ON OR BEFORE THE 15<sup>TH</sup> DAY FOLLOWING THE START OF EACH FISCAL YEAR OR PERIOD.

(D). AMENDED DECLARATION.

An amended declaration must be filed on or before January 31st of any year or in the case of a taxpayer on a fiscal year accounting basis, on or before the date fixed by regulation of the Tax Commissioner, if it appears that the original declaration made for such year underestimated the taxpayers income by thirty percent (30%) or more. At such times a payment which, together with prior payments, is sufficient to pay taxpayers entire estimated liability, shall be made. If, upon the filing of the return, on or before January 31st, or the date fixed by regulation, whichever is applicable, the difference between seventy percent (70%) of said taxpayers tax liability and the amount of estimated tax he actually paid on or before January 31st, or the date fixed by regulation, whichever is applicable(E). ANNUAL RETURN REQUIRED.

On or before THE FIFTEENTH DAY of the fourth month of the calendar or fiscal year following that for which the declaration was filed, of an annual return shall be filed and any balance which may be due the Municipality shall be paid therewith in accordance with the provisions of Section V hereof.

SECTION VIII, DUTIES OF THE TAX COMMISSIONER.

(A) COLLECTION AND MAINTENANCE RESPONSIBILITY.

1. It shall be the duty of the Tax Commissioner to collect and receive the tax imposed by this Ordinance in the manner prescribed herein, and to keep an accurate record thereof, and to report all moneys so received.
2. It shall be the duty of the Tax Commissioner to enforce payment of all income taxes owing the Municipality, to keep accurate records for a minimum of SIX (6) years, showing the amount due from each taxpayer required to file a declaration or make any return including a return of taxes withheld, and to show the dates and amounts of payments thereof.

(B). ENFORCEMENT AUTHORITY.

Said Tax Commissioner is hereby charged with the enforcement of the provisions of this Ordinance, and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce rules and regulations authorized or required by this Ordinance relating to any matter or thing pertaining to the collection and payment of taxes and the administration and enforcement of the provisions of this Ordinance, including provisions for the re—examination and correction of returns

(C) DETERMINATION OF TAXES.

In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Tax Commissioner may determine the amount of tax appearing to be due the Municipality from the taxpayer and may send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties' thereon, if any.

(D). COMPROMISE AUTHORITY.

Subject to the consent of the Board of Review or pursuant to regulation approved by the Board of Review, the Tax Commissioner shall have the power to compromise any liability or establish alternative methods of payment by this Ordinance.

SECTION IX. INVESTIGATIVE POWERS OF THE TAX COMMISSIONER  
PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION

(A) EXAMINATION OF TAXPAYERS RECORDS.

The Tax Commissioner, or any of his authorized agents, is hereby authorized to examine the books, papers, records, and federal income tax returns of any employer, or taxpayer, or any person subject to, or whom the Tax Commissioner believes subject to, the provisions of this Ordinance, for the purpose of verifying the accuracy of any withholdings due under this Ordinance. Every such employer, supposed employer, taxpayer, or supposed taxpayer, is hereby directed and required to furnish, upon written request of the Tax Commissioner, or his duly authorized agent or employees, the means, facilities, and opportunity for making such examinations and investigations as are hereby authorized.

(B) APPEARANCE ORDERS TO TAXPAYERS.

The Tax Commissioner is hereby authorized to order any person, presumed to have knowledge of the facts, to appear at the office of the Tax Commissioner and to examine such person, under oath, concerning any income which was or should have been returned for taxation, or withheld, or any such action tending to affect such income, and for this purpose may compel the production books, papers, records and federal income tax returns, and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.

(C) RESULT OF REFUSAL TO SUBMIT INFORMATION.

The refusal to produce books, papers, records, and federal income tax returns or the refusal to submit to such examination by any

employer or person subject, or presumed to be subject, to the tax or by any officer, agent, employee of such of a person subject to the tax required to withhold tax, or the failure of any person to comply with the provisions of this Ordinance or with an order or subpoena of the Tax Commissioner authorized hereby shall be deemed a violation of this Ordinance punishable as provided in Section XIII hereof.

(D) RETENTION OF RECORDS BY TAXPAYER.

Every taxpayer shall retain all records necessary to compute his tax liability for a period of SIX (6) YEARS from the date his return is filed or the taxes required to be withheld are paid.

(E) CONFIDENTIAL NATURE OF INFORMATION:

Any information -gained as a result to any returns, investigations, hearings, or verifications required or authorized by this Ordinance shall be confidential, and no disclosure thereof shall be made except to municipal, county, state, or federal taxing agencies, or, except for official purposes, or except in accordance with proper order. Any person divulging such information in violation of this section shall be fined not more than five hundred dollars (500.00) and imprisoned not more than six months (6), or both, for each offense. Each disclosure shall constitute a separate offense. In addition to the above penalty, any employee of the Municipality who violates the provisions of this section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

SECTION X. INTEREST AND PENALTIES.

(A) INTEREST.

All taxes imposed and moneys withheld or required to be withheld by employees under the Provisions of this Ordinance, remaining unpaid balance after they become due shall bear interest at the rate of one half of one percent (1/2) per month.

(B). PENALTIES.

In addition to interest as provided in paragraph A hereof. penalties for failure to FILE taxes and to withhold and remit taxes Pursuant to the provisions of this Ordinance are hereby imposed as follows:

1. In the case of taxpayers failing to FILE A RETURN BY THE DUE DATE OR BY ANY GRANTED EXTENSION DATE GIVEN BY THE TAX COMMISSIONER, THE PENALTY SHALL BE twenty five dollars (\$25.00).

2. In the case of employers who fail to withhold and remit to the Tax Commissioner the taxes to be withheld from employees, the penalty shall be fifty dollars (\$50.00).

(C) EXCEPTIONS.

A penalty shall not be assessed or an additional tax assessment made by the Tax Commissioner when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Tax Commissioner; and provided further that in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, providing an amended return is filed and the additional tax is paid within three (3) months after final determination of the federal tax liability.

(D) ABATEMENT BY BOARD OF REVIEW.

Upon an appeal from the refusal of the Tax Commissioner to recommend abatement of penalty and interest, the Board of Review may abate such penalty or interest or both.

SECTION XI. COLLECTION OF UNPAID TAXES AND REFUNDS OF OVER-PAYMENTS.

(A) TIME LIMITATION ON SUITS.

All taxes imposed by this Ordinance shall be collectable, together with any interest and. penalties thereon, by suit as other debts of like amount are recoverable. No additional assessment shall be made after three (3) years from the time of payment of any tax due hereunder: provided however there shall be no period of limitation on an additional assessment in a

case of a return that omits gross income in excess of twenty—five (25%) percent of that required to be reported of in the case of filing a false or fraudulent return with intent to evade the tax, or in the case of a failure to file a return. In those cases in which the Commissioner of Internal Revenue and the taxpayer have extended waiver of the federal statute of limitations the period within which an additional assessment may be made by the Tax Commissioner, shall be extended one (1) year from the time of the final determination of the federal tax liability.

(B) TIME LIMITATION ON REFUNDS.

Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the due date on which such payment was made or the return was due, or within three (3) months after final determination -of the federal tax liability, whichever is later.

SECTION XII. VIOLATIONS - PENALTIES

(A) ENUMERATION OF AND PENALTIES.

Any person who shall:

1. Fail, neglect, or refuse to make any return or declaration required by this Ordinance: or
2. Make an incomplete, false, or fraudulent return or:
3. Fail, neglect, or refuse or interest imposed by this Ordinance: or
- (4) Fail, neglect, or refuse to withhold the tax from his employees and remit such withholding tax to the Tax Commissioner: or
- (5) Refuse to permit the Tax Commissioner or duly authorized agent or employees - to examine his or his employer's books, records, papers, and federal income tax returns: or
- (6) Fail to appear before the Tax Commissioner and to produce his or his employer's books, records. papers, or any federal income tax returns upon or subpoena of the Tax Commissioner: or
- (7) Refuse to disclose to the Tax Commissioner any information with respect to such persons or such persons employer's income or net profits : or
- (8) Fail, neglect, or refuse to make any payment on the estimated tax for any year as required by Section VIII ; or
- (9) Fail to comply with the provisions of this Ordinance or any order or subpoena of the Tax Commissioner ; or
- (10) Fail, as president or treasurer of a corporation, to cause the tax withheld from the wages of the employees of such corporation pursuant to this Ordinance to be paid to the Municipality in accordance with the provisions of. Section VI hereof; or
- (11) Attempt to do anything whatever to avoid the payment of The whole or any part of the tax, penalties or interest be guilty of a misdemeanor and shall be fined not more than five hundred dollars(\$500.00) or imprisoned not more than six months(6) or both for each offense.

(B) TIME LIMITATIONS ON PROSECUTIONS.

All criminal prosecutions under this section must be commenced within three years (3), and all civil actions within five years (5), following the date on which the final return for a taxable year was due, or five years from (%) the time of any other offense complained of.

(C) FAILURE TO OBTAIN FORMS NOT A DEFENSE.

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

(D) RESPONSIBILITY OF CORPORATION EMPLOYEES.

The term "person" as used in this section, shall in addition to the meaning prescribed in Section II of this ordinance, include in the case of an association or corporation not having any partner, member, or officer within the Municipality, any employee or agent of such association or corporation who can be found within the corporate limits of the Municipality.

### SECTION XIII. BOARD OF REVIEW.

#### (A) COMPOSITION.

A Board of Review consisting of three (3) persons, appointed by the Mayor, with the consent of Council, is hereby created. Board members shall receive such compensation as Council may determine.

#### (B) PROCEDURE.

A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. All hearings by the Board shall be conducted privately unless the taxpayers request a public hearing, and the provisions of Section IX 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 on appeal.

#### (C) APPEALS.

Any person dissatisfied with any ruling or decision of the Tax Commissioner which is made under the authority conferred by this Ordinance may appeal there from the Board of Review within thirty days (30) from the announcement of such ruling or decision by the Tax Commissioner and the Board shall, on hearing, have jurisdiction to affirm, reverse, or modify any such ruling or decision, or any part thereof.

### SECTIONS XIV. ALLOCATION OF FUNDS.

The funds collected under the provisions of this Ordinance shall be deposited in the General fund and shall be appropriated and disbursed in the order established from time to time, by separate Resolution of the Village Council.

### SECTION XV. CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

- (A) EVERY INDIVIDUAL TAXPAYER WHO RESIDES IN THE MUNICIPALITY AND WHO RECEIVES QUALIFYING WAGES, COMMISSIONS, OR OTHER COMPENSATION OR NET PROFITS FROM SALES MADE, WORK DONE, OR SERVICES PERFORMED OR RENDERED OUTSIDE OF THE MUNICIPALITY, IF IT BE MADE TO APPEAR THAT HE HAS PAID A MUNICIPAL INCOME TAX ON SUCH INCOME, ALLOWED A CREDIT FOR SUCH TAX PAID, AGAINST THE TAX IMPOSED BY THIS ORDINANCE IN AN AMOUNT NOT TO EXCEED FIFTY PERCENT (50%) OF THE TAX DUE UNDER THIS ORDINANCE.

#### CREDITS AND LIMITATION THEREOF.

- (B) NOT-WITHSTANDING THE PROVISIONS CONTAINED IN SECTION XI HEREOF, OR ANY OTHER PROVISIONS INCONSISTENT HERewith, A CLAIM FOR REFUND OR CREDIT UNDER THIS SECTION SHALL BE MADE IN SUCH MANNER AS THE TAX COMMISSIONER MAY BY REGULATION PROVIDE. NO SUCH CLAIM FOR REFUND OR CREDITS SHALL BE ALLOWED UNLESS MADE ON OR BEFORE THE DATE OF THE FILING THE TAXPAYERS RETURN UNLESS SUCH TAXPAYERS EMPLOYERS FILE WITH THE TAX COMMISSIONER A LIST SHOWING THE TAX WITHHELD FROM SUCH TAXPAYER'S QUALIFYING WAGES OR COMMISSIONS FOR OTHER MUNICIPALITIES.

### SECTION XVI. SAVING CLAUSE

This ordinance shall not apply to any person, firm, or corporation, or to any property as to whom or which it is beyond the power of Council to impose the tax herein provided for. Any sentence, clause, or section, or part of this Ordinance or any tax against or exception granted any individual or any of the several groups of persons, or forms of income specified herein if found to be unconstitutional or illegal, or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section, or part of this Ordinance and shall not affect or impair any of the remaining provisions, sentence, clauses, sections, or any other part of this Ordinance. It is hereby declared to be the intention of Council of the Municipality that this Ordinance would have

been adopted had such unconstitutional, illegal, or invalid sentences, or part thereof, not been included therein.

**SECTION XVII. REPEAL OF ORDINANCE 2002-16**

Ordinance 2002-16 of the Village of South Lebanon is hereby repealed, a copy of which is attached hereto and incorporated herein by reference.

**SECTION XVII. EMERGENCY CLAUSE**

Whereas, it is necessary to update the tax ordinance to comply with new state tax laws for income tax of the municipality and time being of the essence, this Ordinance is therefore necessary for the health, safety, and welfare of the Village of South Lebanon, and is deemed to be an emergency.

PASSED:        October 21, 2004

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James D. Smith, MAYOR

Attest

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Sharon Louallen Fiscal Officer