

ORDINANCE NO. 2-78

CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMAN Don Lake on the 6th day of  
February, 1978.

AN ORDINANCE AMENDING CHAPTER 191 OF THE CENTERVILLE MUNICIPAL CODE TO PROVIDE FOR A ONE QUARTER OF ONE PERCENT TAX ON INCOME IN ADDITION TO THE ONE PERCENT TAX ON INCOME CURRENTLY BEING LEVIED AND COLLECTED AND LIMITING THE CREDIT GIVEN FOR TAX PAID TO ANOTHER MUNICIPALITY.

THE MUNICIPALITY OF CENTERVILLE HEREBY ORDAINS:

Section 1. Section 191.03 of the Centerville Municipal Code is hereby amended as follows:

(a) Subject to the provisions of Section 191.18, an annual tax for the purposes specified in Section 191.01 shall be imposed for the period beginning September 1, 1970, at the rate of one percent per annum and for the period beginning May 1, 1978, at the rate of one quarter of one percent in addition to the aforesaid one percent upon the following:

- (1) On all salaries, wages, commissions and other compensation received during the effective period of this chapter by residents of the City.
- (2) On all salaries, wages, commissions and other compensations received during the effective period of this chapter by nonresidents for work done or services performed or rendered in the City.
- (3) A. On the portion attributable to the City of the net profits earned and accrued or received during the effective period of this chapter of all resident associations, unincorporated businesses, professions or other entities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the City.  
B. On the portion of the distributive share of the net profits earned and accrued or received during the effective period of this chapter of a resident partner or owner of a resident unincorporated business entity not attributable to the City chapter upon which the tax was not paid by the entity.
- (4) A. On the portion attributable to the City of the net profits earned and accrued or received during the effective period of this chapter of all nonresident associations, unincorporated businesses, professions or other entities, derived from sales made, work done or services performed or rendered and business or other activities conducted in the City, whether or not such association or other unincorporated business entity has an office or place of business in the City.  
B. On the portion of the distributive share of the net profits earned and accrued or received during the effective period of this chapter of a resident partner or owner of a nonresident association or other incorporated business entity not attributable to the City on which the tax was not paid by the entity.

- (5) On the portion attributable to the City of the net profits earned and accrued or received during the effective period of this chapter of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in the City whether or not such corporations have a place of business in the City.
- (b) The portion of the entire net profits of a taxpayer to be allocated as having been derived from within the City in the absence of actual records thereof, shall be determined as follows:
- (1) Multiply the entire net profits by a business allocation percentage to be the average ratio of:
- A. The average net book value of the real and tangible personal property owned or used by the taxpayer in the business or profession in the City during the taxable period to the average net book value 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, 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 or accrued during the taxable period to persons employed in the business or profession for services performed in the City to wages, salaries and other compensation paid or accrued during the same period to persons employed in the business or profession, wherever their services are performed.
- C. Gross receipts of the business or profession from sales made and services performed during the taxable period in the City to gross receipts of the business or profession during the same period from sales and services, wherever made or performed. In the event that the foregoing allocation formula does not produce an equitable result, another basis may, under uniform regulations, be substituted so as to produce such result.
- (2) As used in subparagraph (b) (1) C. hereof, "sales made in the City" means:
- A. All sales of tangible personal property which is delivered within the City regardless of where title passes if shipped or delivered from a stock of goods within the City;
- B. All sales of tangible personal property which is delivered within the City regardless of where title passes even though transported from a point outside the City if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City and the sales result from such solicitation or promotion;
- C. All sales of tangible personal property which is shipped from a place within the City to purchasers outside the City regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.
- (c) For the purpose of this section, the taxable base shall be determined in accordance with the Federal tax interpretations, when applicable, and with the accounting method used by the taxpayer for Federal income taxes adjusted to the requirements of this chapter.

Section 2. Section 191.08 of the Centerville Municipal Code is hereby amended as follows:

- (a)(1) Each employer shall at the time of the payment of any salary wage, commission or other compensation, deduct the tax of one percent beginning September 1, 1970, and deduct the additional tax of one quarter of one percent beginning May 1, 1978 of the gross salaries, wages, commissions or other compensation due by the employer to his employees who are subject to the provisions of this chapter. In making such deduction at the time of payment, the employer shall compute the tax to the nearest full cent so that mills of five or more shall be increased to the next full cent and mills less than five shall be dropped. No person shall be entitled to a refund merely because such rounding off of the tax results in an apparent overpayment based on his total earnings. Each employer shall, on or before the last day of each month, make a return and pay to the Superintendent, the tax withheld during the preceding month. However, the Superintendent shall have the authority to approve the filing of returns and payments of the tax withheld on a quarterly basis. In such case, the employer shall, on or before the last day of each month following the calendar quarters ending March 31, June 30, September 30 and December 31, make a return and pay to the Superintendent the tax withheld during the preceding calendar quarter. Such approval for quarterly filings and payments may be withdrawn by the Superintendent when it is to the best interest of the City to do so. The Superintendent shall provide by regulation, the manner in which such approval is to be granted or withdrawn.
- (2) The employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such tax has in fact been withheld.
- (b) Each employer in collecting the tax, shall be deemed to hold the same until payment is made by such employer to the City, as a trustee for the benefit of 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.
- (c) On or before January 31 of each year beginning with the year 1971, each employer shall file a withholding return on a form prescribed by and obtainable upon request from the Superintendent, 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 his employees and such other information as may be required by the rules and regulations adopted by the Superintendent.

Section 3. Section 191.17 of the Centerville Municipal Code is hereby amended as follows:

- [ (a) Where a resident of the City is subject to a municipal income in another municipality he shall not pay a total municipal income tax on the same income greater than the tax imposed at the highest rate to which he is subject.]
- [(b)] (a) Every individual taxpayer who resides in the City who receives net profits, salaries, wages, commissions or other personal service compensation for work done or services performed or rendered outside the City, if it be made to appear that he has paid a municipal income tax on the same income taxable under this chapter to another municipality, shall be allowed a credit against the tax imposed by this chapter of the amount so paid by him or in his behalf to the

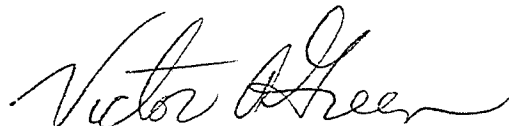
extent of the first one percent tax but not to the extent of the additional one quarter of one percent tax imposed herein to such other municipality. The credit shall not exceed the tax assessed by this chapter on such income earned in such other municipality or municipalities, where such tax is paid.

[(c)] (b) A claim for refund or credit under this section shall be made in such manner as the Superintendent may by regulation provide.

Section 4. The Clerk of Council is hereby authorized and directed to file a certified copy of this Ordinance with the Board of Elections of Montgomery County, Ohio.

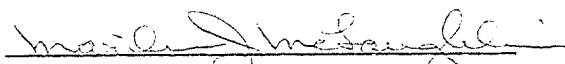
Section 5. This ordinance shall become effective on the earliest date allowed by law provided that it has been approved by the electors at an election to be held on April 11, 1978.

PASSED THIS 6th day of February, 1978.



Mayor of the City of Centerville, Ohio

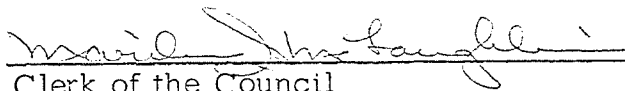
ATTEST:



Clerk of the Council  
City of Centerville, Ohio

CERTIFICATE

The undersigned, Clerk of the Council of the City of Centerville, Ohio, hereby certifies the foregoing to be a true and correct copy of Ordinance No. 2-78, passed by the Council of the City of Centerville, Ohio, on the 6th day of February, 1978.



Clerk of the Council

Approved as to form, consistency  
with existing laws, and  
charter of the City of Centerville, Ohio.

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Municipal Attorney