

ORDINANCE NO. 24-02-02

AN ORDINANCE TO AMEND ORDINANCE NO. 15-11-01 OF THE VILLAGE OF SHERWOOD, OHIO REGARDING THE MUNICIPAL INCOME TAX AND DECLARING AN EMERGENCY

WHEREAS, on November 16, 2015, Council for the Village of Sherwood, Ohio, adopted Ordinance No. 15-11-01 to amend Ordinance No. 04-04-01 of the Village of Sherwood, Ohio regarding the municipal income tax; and

WHEREAS, on January 18, 2016, Council for the Village of Sherwood, Ohio, adopted Ordinance No. 16-01-01 to amend Section 21(A) of Ordinance No. 15-11-01 of the Village of Sherwood, Ohio regarding the Board of Tax Review; and

WHEREAS, on April 18, 2016, Council for the Village of Sherwood, Ohio, adopted Ordinance No. 16-04-01 to amend Section 6 of Ordinance No. 15-11-01 of the Village of Sherwood, Ohio regarding the municipal income tax to include a tax credit as similarly provided in the original municipal income tax ordinance from 2004; and

WHEREAS, on March 9, 2017, Council for the Village of Sherwood, Ohio, adopted Ordinance No. 17-03-01 to amend Subsection (D) of Section 6 of Ordinance No. 15-11-01 of the Village of Sherwood, Ohio regarding the municipal income tax credit; and

WHEREAS, on February 19, 2018, Council for the Village of Sherwood, Ohio, adopted Ordinance No. 18-02-05 to amend Section 2, Section 4, Section 5, Section 7, Section 18 of Ordinance No. 15-11-01 of the Village of Sherwood, Ohio; and

WHEREAS, Ohio law mandates that any municipal income or withholding tax is "levied in accordance with the provisions and limitations specified in Chapter 718"; and

WHEREAS, upon a detailed review of Ohio law and the Ordinances of the Village of Sherwood, Ohio, this Ordinance is found and determined by this Council to enact the amendments required in accord with the provisions and limitations specified in Chapter 718 of the Revised Code.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF SHERWOOD, OHIO, THAT:

SECTION A: Ordinance No. 15-11-01 adopted on November 16, 2015, shall be amended so that all additions to language that are required are shown below in underline and all language that should be removed below is shown in ~~strike through~~, and shall be effective January 1, 2024, for tax years ending on or after January 1, 2023.

SECTION 2 DEFINITIONS

(A) Any term used in this ordinance that is not otherwise defined in this ordinance has the same meaning as when used in a comparable context in laws of the United States relating to federal income taxation or in Title LVII of the ORC, unless a different meaning is clearly required. If a term used in this ordinance that is not otherwise defined in this ordinance is used in a comparable context in both the laws of the United States relating to federal income tax and in Title LVII of the ORC and the use is not consistent, then the use of the term in the laws of

the United States relating to federal income tax shall control over the use of the term in Title LVII of the ORC.

(B) The singular shall include the plural and the masculine shall include the feminine and the gender-neutral.

(C) As used in this ordinance:

SUBSECTION 1-24 OMITTED & UNCHANGED

(24)(a) **“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 (C)(24)(a) of this section, the net operating loss carried forward shall be calculated and deducted in the same manner as provided in division (C)(24)(c) of this section

(b) “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 (C)(24)(c) of this section

(c)(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 division (C)(24)(c) of this section 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 division (C)(24)(c) of this section

(b) For taxable years beginning in 2023 or thereafter, a person may deduct, for purposes of an income tax levied by the Village of Sherwood the full amount allowed by (C)(24)(c) of this section without regard to the limitation of division (C)(24)(c)(iii)(a) of this section.

(iv) Any pre-2017 net operating loss carryforward deduction that is available may be utilized before a taxpayer may deduct any amount pursuant to (C)(24)(c) of this section.

(v) Nothing in division (C)(24)(c)(iii)(a) of this section 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 division (C)(24)(c)(iii)(a) of this section. To the extent that an amount of net operating loss that was not fully utilized in one or more taxable years by operation of division (C)(1)(h)(iii)(a) of this section 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 division (C)(24)(c)(iii)(a)

of this section shall apply to the amount carried forward

(d) For the purposes of this ordinance, and notwithstanding division (C)(24)(b) 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.

(e) 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 Sherwood, may elect to be treated as a C corporation for the Village of Sherwood, 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 Sherwood. The Village of Sherwood will treat the publicly traded partnership as a C corporation if the election is so made.

REMAINDER OF SECTION IS OMITTED & UNCHANGED

SECTION 5 ANNUAL RETURN; FILING.

SUBSECTIONS A-F OMITTED & UNCHANGED

(G)(1)(a) Except as otherwise provided in this ordinance, each individual income tax return required to be filed under this section shall be completed and filed as required by the Tax Administrator on or before the date prescribed for the filing of state individual income tax returns under division (G) of Section 5747.08 of the ORC. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the Village of Sherwood. No remittance is required if the net amount due is ten dollars or less.

(b) Except as otherwise provided in this ordinance, each annual net profit return required to be filed under this section by a taxpayer that is not an individual shall be completed and filed as required by the Tax Administrator 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 Administrator or on generic forms, together with remittance made payable to the Village of Sherwood. No remittance is required if the net amount due is ten dollars or less.

(2) 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 the Village of Sherwood's income tax return. The extended due date of the Village of Sherwood's income tax return for a taxpayer that is an individual shall be the 15th 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.~~ The extended due date of the Village of Sherwood's income tax return for a taxpayer that is not an individual shall be the fifteenth day of the eleventh month after the last day of the taxable year to which the return relates.

(a) A copy of the federal extension request shall be included with the filing of the Village of Sherwood's income tax return.

(b) 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 Sherwood income tax return. If the request is received by the Tax Administrator on or before the date the Village of Sherwood income tax return is due, the Tax Administrator shall grant the taxpayer's requested extension.

(c) An extension of time to file under division (G)(2) of this section is not an extension of time to pay any tax due unless the tax administrator grants an extension of that date.

(3) 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 ORC, a taxpayer shall automatically receive an extension for the filing of the Village of Sherwood's income tax return. The extended due date of the Village of Sherwood's income tax return shall be the same as the extended due date of the state income tax return.

(4) If the Tax Administrator considers it necessary in order to ensure the payment of the tax imposed by the Village of Sherwood, the Tax Administrator may require taxpayers to file returns and make payments otherwise than as provided in this division, including taxpayers not otherwise required to file annual returns.

(5) To the extent that any provision in this division (G) of this section conflicts with any provision in divisions (N), (O), (P), or (Q) of this section, the provisions in divisions (N), (O), (P), or (Q) prevail.

REMAINDER OF SECTION IS OMITTED & UNCHANGED.

SECTION 18 INTEREST AND PENALTIES.

SUBSECTIONS A & B OMITTED & UNCHANGED

(C) Should any taxpayer, employer, agent of the employer, or other payer for any reason fail, in whole or in part, to make timely and full payment or remittance of income tax, estimated income tax, or withholding tax or to file timely with the Village of Sherwood any return required to be filed, the following penalties and interest shall apply:

(1) Interest shall be imposed at the rate described in division (A) of this section, per annum, on all unpaid income tax, unpaid estimated income tax, and unpaid

withholding tax.

(2)(a) With respect to unpaid income tax and unpaid estimated income tax, the Village of Sherwood may impose a penalty equal to fifteen percent (15%) of the amount not timely paid.

(b) With respect to any unpaid withholding tax, the Village of Sherwood may impose a penalty not exceeding fifty percent (50%) of the amount not timely paid.

(3) With respect to returns other than estimated income tax returns, the Village of Sherwood may impose a penalty ~~of not exceeding \$25 for each failure to timely file each return, regardless of the liability shown thereon for each month, or any fraction thereof, during which the return remains unfiled regardless of the liability shown thereon. The penalty shall not exceed \$150 for each failure. the~~ penalty assessed on a taxpayer's first failure to timely file a return shall be abated or refunded after the taxpayer files that return.

REMAINDER OF SECTION IS OMITTED & UNCHANGED

SECTION B : Council declares this to be an emergency measure necessary for the preservation of the public peace, prosperity, health, safety and welfare, such emergency arising out of the continuing necessity to obtain essential and adequate funding for village services and to create a legal mechanism for administration of the income tax laws and the collection of the tax without undue delay; wherefore this ordinance shall take effect and be in force from and after its passage and approval by the Mayor.

Date Passed: _____


MAYOR

Attested:

FISCAL OFFICER

