**City of Newton Falls Municipal Income Tax Ordinance**

Levying a tax to provide funds for the purposes of general municipal operations, maintenance of equipment, extension, enlargement and improvement of municipal services and facilities and capital improvements, on all income, salaries, **QUALIFYING** wages, commissions and other compensations earned or received by residents of this municipality; on all income, salaries, **QUALIFYING** wages, commissions and other compensation earned or received by non-residents of this municipality; for work done or services performed or rendered in this municipality; on the net profits earned on all businesses, professions or other activities conducted by residents of this municipality; on the net profits earned on all businesses, professions or other activities conducted in this municipality by non-residents; and on the net profits earned by all corporations doing business in this municipality as the result of work done or services performed or rendered in this municipality; requiring the filing of returns and furnishing of information by employers and all those subject to said tax; imposing on employers the duty of collecting the tax at the source and paying same to this municipality; providing for the administration, collection and enforcement of said tax; declaring violation thereof to be a misdemeanor and imposing penalties therefore.

**Section 1. 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 this municipality there shall be, and is hereby, levied a tax on income, salaries, **QUALIFYING** wages, commissions and other compensation, and on net profits as hereinafter provided in Ordinance 2003-11, passed April 7, 2003, and as subsequently amended or replaced. This Ordinance replaces Ordinance 2433, passed March 23, 1966, and all amendments, supplements, and replacements thereto.

**Section 2. Definitions**

As used in this ordinance, 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.

**ADJUSTED FEDERAL TAXABLE INCOME - A "C" CORPORATION'S FEDERAL TAXABLE INCOME BEFORE NET OPERATING LOSSES AND SPECIAL DEDUCTIONS AS DETERMINED UNDER THE INTERNAL REVENUE CODE, BUT INCLUDING SUBSEQUENT ADJUSTMENTS FROM REQUIRED ADDITIONS AND DEDUCTIONS. PASS-THROUGH ENTITIES MUST COMPUTE "ADJUSTED FEDERAL TAXABLE INCOME" AS IF THE PASS-THROUGH ENTITY WAS A "C" CORPORATION. THIS DEFINITION DOES NOT APPLY TO ANY TAXPAYER REQUIRED TO FILE A RETURN UNDER OHIO REVISED CODE (ORC) SECTION 5745.03 OR TO THE NET PROFIT FROM A SOLE PROPRIETORSHIP. THIS DEFINITION IS**

**EFFECTIVE FOR TAX YEARS BEGINNING ON OR AFTER JANUARY 1, 2004.**

ASSOCIATION - A partnership, limited partnership, limited liability company (including a single-owner LLC), or any other form of unincorporated enterprise, owned by **ONE** or more persons, but not including Chapter S Corporations.

BOARD OF REVIEW - The Board created by and constituted as provided in Section 15 of this ordinance.

BUSINESS - An enterprise, cooperative activity, profession or undertaking of any nature conducted for profit whether by an individual, partnership, association, corporation or any other entity, including but not limited to the renting or leasing of property, real, personal or mixed. The ordinary administration of a decedent's estate by the executor or administrator, and the mere custody, supervision and management of trust property under passive trust, whether intervivos or testamentary, unaccompanied by the actual operation of a business as herein defined shall not be construed as the operation of a business.

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 or dependency, including Chapter S Corporations as defined in the federal tax code, 26 U.S.C. 1361.

DOMICILE - The permanent legal residence of a taxpayer. A taxpayer may have more than one residence but not more than one domicile.

EMPLOYEE - One who works for income, wages, salary, or commission or other type of compensation in the service and under the control of an 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 employs one or more persons on a salary, wage, commission or other compensation or other income basis.

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

GENERIC FORMS – All income tax returns, and**/OR** estimated payment forms, **AND/OR SEPARATE REQUESTS FOR REFUNDS,** and reports or other documents related thereto and required under this Ordinance. The City shall accept generic forms if the generic forms, once completed and filed, contain all the information required to be submitted with the City of Newton Falls' prescribed returns, reports or documents and if the taxpayer or return preparer filing the generic form otherwise complies with this municipality's rules or ordinances governing the filing of returns, reports or documents.

GROSS RECEIPTS - The total revenue derived from sales, work done, or service rendered, before any deductions, exceptions, or credits are claimed.

INCOME - Shall include all monies derived from any source whatsoever, including but not limited to:

(A) All salaries, wages, commissions, other compensation and other income from whatever source received by residents of Newton Falls.

(B) All salaries, wages, commissions, other compensation and other income from whatsoever source received by nonresidents for work done or services performed or rendered or activities conducted in Newton Falls.

(C) The portion attributable to the city of the net profits of all unincorporated businesses, associations, professions, corporations, or other entities, from sales made, work done, services performed or rendered, and business or other activities conducted in Newton Falls.

MUNICIPALITY - The City or Village of Newton Falls.

NET PROFIT - **FOR TAX YEARS PRIOR TO 2004,** Aa net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary, reasonable and necessary expenses either paid or accrued in accordance with the accounting system (i.e., either cash or accrual) used by the taxpayer for Federal income tax purposes, without deduction of taxed imposed by this ordinance, federal, state, and other taxes based on income exclusive of the amount of Ohio franchise tax computed on the net worth basis; and in the case of an association, without deduction of salaries paid to partners, and other owners; and otherwise adjusted to the requirements of this ordinance.

Net profits shall include any amount or value received, realized, or recognized in a sale or other disposition of tangible personal property or real property used in business, in excess of book value. **(FOR 2004 AND LATER YEARS SEE "ADJUSTED FEDERAL TAXABLE INCOME")**.

NON-RESIDENT - An individual domiciled outside this municipality.

NON-RESIDENT UNINCORPORATED BUSINESS ENTITY - An unincorporated business entity not having an office or place of business within this municipality.

OTHER COMPENSATION - This includes but is not limited to tips, gratuities, fees, bonuses, sub payments, incentive payments, prizes and awards.

PERSON - Every natural person, partnership, fiduciary, association, or corporation. Whether used in any clause prescribing and imposing a penalty, the term "person" as applied to any unincorporated entity, shall mean the partners or members thereof, and as applied to corporations, 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 regular employees regularly in attendance.

**QUALIFYING WAGE - WAGES AS DEFINED IN SECTION 3121(A) OF THE INTERNAL REVENUE CODE, WITHOUT REGARD TO ANY WAGE LIMITATIONS, BUT INCLUDING SUBSEQUENT ADJUSTMENTS FROM REQUIRED ADDITIONS AND DEDUCTIONS. "QUALIFYING WAGE" REPRESENTS EMPLOYEES' INCOME FROM WHICH MUNICIPAL TAX SHALL BE DEDUCTED BY THE EMPLOYER, AND ANY WAGES NOT CONSIDERED A PART OF "QUALIFYING WAGE" SHALL NOT BE TAXED BY THE MUNICIPALITY. THIS DEFINITION IS EFFECTIVE JANUARY 1, 2004.**

RESIDENT- An individual domiciled in this municipality.

RESIDENT UNINCORPORATED BUSINESS ENTITY- An unincorporated business entity having an office or place of business within this municipality.

TAX ADMINISTRATOR - The individual designated by the ordinance, whether appointed or elected, to administer and enforce the provisions of the ordinance.

TAXABLE INCOME - Income minus the deductions and credits allowed by this ordinance. (See "Income" definition.)

TAXABLE YEAR - The calendar year, or the fiscal year under the basis of 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.

TAXPAYER -A person, professional, broker, contractor, subcontractor, independent contractor and others whether an individual, partnership, limited partnership, association, or any corporation or other entity, required hereunder to file a return or pay a tax.

The singular shall include the plural, and the masculine shall include the feminine and the neuter.

**Section 3. IMPOSITION OF TAX**

A. Subject to the provisions of Section 17 of this ordinance, an annual tax for the purposes specified in Section 1 hereof shall be imposed on and after January 1, 1975, at the rate of 1% per annum upon the following:

1. On all income, **QUALIFYING** wages, commissions, and other compensation, earned or received during the effective period of the ordinance by residents of the City of Newton Falls. The tax shall not be levied upon expenses reported on Federal Form 2106, subject to audit and approval by the Department of Taxation.
2. On all income, **QUALIFYING** wages, commissions, and other compensation, earned or received during the effective period of the ordinance by non-residents for work done or services performed or rendered in the City of Newton Falls. The tax shall not be levied upon expenses reported on Federal Form 2106, subject to audit and approval by the Department of Taxation, excluding compensation described in Division (F) (8) of Section 718.01 of the Revised Code of Ohio.
3. On earnings, payments, bonuses, commissions and/or fees received by professionals, brokers and others who are independent contractors and not employees.

4a. On the portion attributable to this municipality of the net profits earned or received during the effective period of this ordinance of all resident unincorporated businesses, professions, or other entities, derived from sales made, work done, services performed or rendered and business or other activities conducted in or for this Municipality.

4b. On the portion of the distributive share of the net profits earned or received during the effective period of this ordinance of a resident partner or owner of a resident unincorporated business entity not attributable to this municipality and not levied against such unincorporated business entity by this municipality.

5. On the portion attributable to this municipality of the net profits earned or received during the effective period of this ordinance of all non-resident unincorporated businesses, professions or other entities, derived from sales made, work done or services performed or rendered and business or other activities conducted in or for this municipality, whether or not such unincorporated business entity has an office or place of business in this municipality.
6. On the portion attributable to this municipality, of the net profits earned or received during the effective period of this ordinance of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in or for this municipality, whether or not such corporations have an office or place of business in this municipality.
7. Other taxable income includes, but is not limited to, winnings over $5,000.00 earned or derived from gaming, wagering, lotteries (including the Ohio State Lottery) or games of chance.

B. The portion of the net profits attributable to this municipality of a taxpayer conducting a business, profession or other activity both within and without the boundaries of this municipality shall be determined as provided in Section **718.01 AND** 718.02 of the Revised Code of Ohio and in accordance with the Rules and Regulations adopted by the Tax Administrator pursuant to this ordinance.

C. In the computation of any tax due under this ordinance, a business loss of a previous tax year shall not be allowed or carried forward to reduce the tax due in any subsequent tax year.

D. In determining income subject to taxation, losses from the operation of a business or profession cannot be used to reduce wages from employment or other employment compensation.

E. Consolidated Returns:

1. Any affiliated group which files a consolidated return for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code may file a consolidated return with Newton Falls. However, once the affiliated group has elected to file a consolidated return or a separate return with Newton Falls, the affiliated group may not change their method of filing in any subsequent tax year without written approval from Newton Falls.
2. In the case of a corporation that carries on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates, or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within this municipality constituting a portion only of its total business, the Tax Administrator or other duly authorized employee shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to this municipality. If the Tax Administrator or other duly authorized employee finds net profits are not properly allocated to this municipality by reason of transactions with stockholders or with other corporations related to stock ownership, interlocking directorates, or transactions with such division, branch, factory, office, laboratory or activity or by some other method, he shall make such allocation as he deems appropriate to produce a fair and proper allocation of net profits to this municipality.

F. Exemptions from tax:

1. Military pay or allowances of members of the Armed Forces of the United States and of members of their reserve components, including the National Guard.
2. Alimony payments, child support, poor relief, pensions, social security, unemployment compensation (but not including Supplemental Unemployment Benefits) and disability benefits received from private

industry, local, state, or federal governments or from charitable, religious or educational organizations.

3. Dues, contributions and similar payments received by charitable, religious, educational, or literary organizations or labor unions, trade associations, lodges, and similar organizations.
4. Receipts by bona fide charitable, religious and educational organizations and associations, when those receipts are from casual entertainment, amusements, sports events, and health and welfare activities conducted by bona fide charitable organizations and associations.
5. Income from any association, organization, corporation, club or trust, which is exempt from federal taxes on income by reason of its charitable, religious, educational, literary, scientific, etc., purpose.
6. Gains from involuntary conversions, cancellation of indebtedness, interest on federal obligations and income of a decedent's estate during the period of administration (except such income from operation of a business).
7. Earnings and income of all persons under eighteen (18) years of age, whether residents or non-residents.
8. Rental income grossing one hundred ($100) or less per month.
9. Proceeds of insurance, annuities, workman's compensation insurance, social security benefits, pensions, compensation for damages for personal injuries and like reimbursement, not including damages for loss of profits.
10. Compensatory compensation for damage to property by way of insurance or otherwise.
11. Interest and dividends from intangible property.
12. On or after January 1, 2001, compensation paid to an individual for personal services performed in this Municipality,

    a. if the individual does not reside in this Municipality,

    b. and if they perform such personal services in this Municipality on twelve (12) or fewer days in the calendar year. For the purpose of the twelve (12) day calculation, any portion of a day worked in Newton Falls shall be counted as one day worked in the City,

    c. and if this individual is an employee of another person and the principal place of business is located in another municipality that imposes a tax applying to compensation paid to the individual for services performed on those days, and the individual pays tax on this compensation to the municipal corporation in which the employer's principal place of business is located and that no portion of that tax is refunded to the individual.

    d. This Section does not apply to professional entertainers or professional athletes or to promoters of professional entertainers or sports events and their employees, as reasonable defined by the Municipal Corporation.

13. Parsonage allowance, to the extent of the rental allowance or rental value of a house provided as a part of an ordained minister's compensation.
14. Expenses reported in accordance with federal guidelines for Federal Form 2106, subject to audit and approval by the City of Newton Falls income tax office.
15. Compensation paid under section 3501.28 or 3501.36 of the Revised Code to a person serving as a precinct election official, to the extent that such compensation does not exceed one thousand dollars annually.
16. Income earned while volunteering or working in the service of the United States Peace Corp.

## Section 4. EFFECTIVE PERIOD

Said tax shall be levied, collected and paid with respect to the income, salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professions or other activities earned **OR RECEIVED IN ACCORDANCE WITH ORDINANCE 2433, PASSED MARCH 23, 1966, AND ALL SUBSEQUENT NEWTON FALLS INCOME TAX ORDINANCES AND AMENDMENTS.**

## Section 5. CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY

****NOTE: CHANGES WERE MADE TO THIS SECTION FOR TAX YEARS 2012, 2013, 2014, AND 2015. SEE ADDITIONAL SUPPORT AT THE END OF THIS DOCUMENT FOR FURTHER DETAILS.**

A. Every individual taxpayer who resides in the City of Newton Falls but receives net profits, income, salaries, **QUALIFYING** wages, commissions or other personal service compensation for work done, or services performed or rendered outside of said City of Newton Falls, if it be made to appear that he has paid an income tax on such net profits, salary, **QUALIFYING** wages, commission or other compensation to another municipality or political subdivision, shall be allowed a credit on the tax imposed by this ordinance, of the amount so paid by him or in his behalf to such other municipality or political subdivision. The credit shall not exceed the tax assessed by this ordinance on such net profit, income, salary, **QUALIFYING** wages, commission, or compensation earned in such other municipality or political subdivision where such tax is paid.

B. Notwithstanding the provisions contained in Section 12 hereof, or any other provisions inconsistent herewith, a claim for a refund or credit under this Section shall be made in such a manner as the Tax Administrator may by regulation provide.

C. If a taxpayer receives a refund of all and/or a portion of the taxes paid to another municipality and the taxpayer claimed credit for said taxes on their City tax return, the taxpayer is required to file an amended City tax return and pay the balance due the City.

## Section 6. RETURN AND PAYMENT OF TAX

A. Each taxpayer, except as herein provided, shall whether or not a tax be due thereon, make and file a return or, if exempt, an Individual Questionnaire and proof of exemption, on or before April 15 of the year following the effective date of this Ordinance, and on or before April 15 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four (4) months from the end of such fiscal year or period.

B. The return shall be filed with the Tax Administrator on a form or forms furnished by or obtained upon request from the Tax Administrator, or on a generic form as defined, setting forth:

1. The aggregate amounts of income, salaries, **QUALIFYING** wages, commissions and other compensation earned or received, including but not limited to earnings, payments, bonuses, and fees received by a person, professional, broker, contractor, subcontractor, independent contractor and gross income from business, profession or other activity, less. **EXPENSES ALLOWABLE IN THE CALCULATION OF ADJUSTED FEDERAL TAXABLE INCOME FOR TAX YEARS 2004 AND LATER.**

2. The amounts of the tax imposed by this ordinance on such earnings and profits. No deduction shall be allowed from income reported on the taxpayer's W-2 income for losses incurred in the operation of rental property or **ANY BUSINESS ENTITY**.

3. Copies of all W-2 forms, 1099 Miscellaneous Income Forms, Page One and Two of Form 1120,1120S (including (K-1), 2106, 1065, Schedule C (including cost of goods manufactured and/or sold), Schedule E and any other Federal Schedules if applicable, **OR AS MAY BE REQUIRED BY THE TAX ADMINISTRATOR**.

C. The Tax Administrator shall extend the time for filing of the annual city return upon the filing of a copy of the taxpayer's request for a federal extension. **FOR TAX YEARS PRIOR TO 2004 n**o extension may exceed six (6) months or one (1) month beyond the extension requested of or granted by the Internal Revenue Service for filing of the federal income tax return, and will not be approved for a period of less than the federal extension request. **FOR TAXABLE YEAR 2004 THE EXTENDED DUE DATE 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. FOR**

**TAXABLE YEARS SUBSEQUENT TO 2004 THE EXTENDED DUE DATE SHALL BE THE LAST DAY OF THE MONTH TO WHICH THE DUE DATE OF THE FEDERAL INCOME TAX RETURN HAS BEEN EXTENDED.** The request for extension shall be filed not later than the last day for filing the municipal income tax return as prescribed by ordinance or rule of the City of Newton Falls income tax. The City 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. The City of Newton Falls may deny a taxpayer's request for extension only if the taxpayer fails to timely file the request, fails to file a copy of the request for the federal extension, owes this municipality any delinquent income tax or penalty, interest, assessment, or other charge for the late payment or non-payment of income tax, or has failed to file any required income tax return, report, or other related document for a prior tax period. The granting of an extension for filing this Municipality's income tax return does not extend the last date for paying the tax without penalty unless this Municipality grants an extension of that date.

D 1. The taxpayer making a return shall, at the time of filing thereof, pay to the Tax Administrator the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of Section 7 of this ordinance, or where any portion of said tax shall have been paid by the taxpayer pursuant to the provisions of Section 8 of this ordinance, or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with Section 5 hereof, shall be deducted from the amount shown to be due and payable at the time of filing said return.

2. A taxpayer who has overpaid the amount of tax to which this municipality is entitled to under the provisions of this ordinance may have such overpayment applied against any subsequent liability hereunder or, at 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. Retirees having no taxable income for municipal income tax purposes shall be exempt from these filing requirements and any subsequent penalties upon the filing of a registration form with the Tax Administrator in the manner prescribed.

F 1. AMENDED RETURNS: 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/or limitations contained in Sections 12 and 5. Such amended returns shall be on a form obtainable on request from the Tax Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

2. Within three (3) months from the final determination of any federal tax liability affecting the taxpayer's tax liability to this municipality, such taxpayer shall make and file an amended return showing income subject to the income tax of this municipality based upon such final determination of federal tax liability, and pay any additional tax shown due thereon or make claim for refund of overpayment.

G. Any business, profession, association or corporation reporting a net loss is subject to the filing requirements of this ordinance.

## Section 7. COLLECTION AT SOURCE

A . Except as provided in Section A 2 below, each employer within or doing business within the Municipality shall deduct at the time of payment of such **INCOME,** salary, **QUALIFYING** wage, commission or other compensation, the tax of one percent (1%) per annum of the income, salaries, **QUALIFYING** wages, commissions or other compensation due by said employer to said employee and shall, on or before the last day of the each month make a return and pay to the Tax Administrator the amount of taxes so deducted during the preceding month. However, the Tax Administrator may, in accordance with the Rules and Regulations adopted by the Board of Review, approve the filing of returns and payment 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 Tax Administrator the tax withheld during the preceding calendar quarter. Said returns shall be on a form or forms prescribed by or acceptable to the Tax Administrator and shall be subject to the Rules and Regulations prescribed therefore by the Tax Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in fact been withheld.

**B**. The officer and/or employee having control or supervision of or charged with the responsibility of filing the report and making payments, is personally liable for failure to file the report or pay the tax due as required by this ordinance. The dissolution of a corporation does not discharge an officer's or employee's liability for a prior failure of the corporation to file returns or pay taxes due.

**C**. Such employer in collecting said tax shall be deemed to hold same, until payment is made by such employer to this municipality, as a Trustee for the benefit of this municipality and any such tax collected by such employer from his employees, shall, until the same is paid to this municipality, be deemed a trust fund in the hands of such employer.

~~E~~**D**. On January 31st of each year a completed reconciliation form must be filed along with copies of all W-2 forms including name, address, Social Security number, gross compensation, and the City of Newton Falls tax withheld or a list or printout including the same information as required on the W-2 form. If for any reason the 1% tax was not withheld from all compensation, it must be explained in writing as to why 1% was not withheld from each individual.

~~F~~**E**. On January 31st of each year all individuals, businesses, employers, brokers or other who engage persons, either on a fee or commission basis or as independent contractors and not employees (those who are not subject to withholding) must provide the City Income Tax Department with copies of all 1099 Miscellaneous Income Forms and/or a list of names, addresses, Social Security numbers and a total amount of earnings, payments, bonuses, commissions and/or fees paid to each person.

~~G~~**F**. The Tax Administrator for good cause shall require immediate returns and payments to be submitted to his/her office.

~~H~~**G**. All employers that provide any contractual service within the Municipality, and who employ subcontractors in conjunction with that service, shall provide the Municipality the names and addresses of the subcontractors. The subcontractors shall be responsible for all income tax withholding requirements under this ordinance.

~~I~~**H**. Apartment owners and landlords shall furnish the Tax Administrator with a list of tenants residing within the owner's building or buildings. Said list shall include the name or names of apartment residents, and the respective addresses thereof. Said list shall be provided to the Tax Administrator by January 31st of each year. Any changes to the list shall be submitted to the Tax Administrator on July 31st of each year.

## Section 8. DECLARATIONS

A. Every person who anticipates any taxable income which is not subject to Section 7 hereof, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 3 hereof, shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon, if any; provided, however, if a person's income is wholly from wages from which the tax will be withheld and remitted to this municipality in accordance with Section 7 hereof, such person need not file a declaration.

B 1. Such declaration shall be filed on or before April 15 of each year during the life of this ordinance, except that no penalties or interest shall be assessed,

for not filing a declaration, on any resident taxpayer who was not domiciled in the City of Newton Falls on the first day of January in the year in which they became subject to estimated payments, nor shall penalties or interest be assessed on estimated payments if the taxpayer has remitted an amount equal to one hundred percent of the previous year's tax liability, provided that the previous year reflected a twelve-month period.

2. Those taxpayers reporting on a fiscal year basis shall file a declaration within four (4) months after the beginning of each fiscal year or period.

C 1. Such declaration shall be filed upon a form furnished by, or obtainable from, the Tax Administrator, provided, however, credit shall be taken for this municipality's income tax to be withheld from any portion of such income. In accordance with the provisions of Section 5 hereof, credit may be taken for tax to be paid to or to be withheld and remitted to another taxing municipality.

2. The original declaration (or any subsequent amendment thereof) may be increased or decreased on or before any subsequent quarterly payment date and provided for herein.

D 1. Effective January 1, 2003, Such declaration of estimated tax to be paid the City of Newton Falls by taxpayers who are individuals shall be accompanied by a payment of at least one-fourth (1/4) of 90% of the estimated annual tax and at least a similar amount shall be paid on or before July 31st and October 31st of the taxable year, and January 31st of following year. Provided, however, that in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

2. Effective January 1, 2003, such declaration of estimated tax to be paid to the City of Newton Falls by corporations and associations shall be accompanied by a payment of at least one-fourth of 90% of the estimated annual tax and at least a similar amount shall be paid on or before June 15, September 15 and December 15. In the case of a fiscal year taxpayer the second, third, and fourth quarterly estimated payments shall be due on the fifteenth day of the sixth, ninth, and twelfth months of the taxable year, respectively.

E. On or before April 15 of the year following that for which such declarations or amended declaration was filed, an annual return shall be filed and any balance which may be due this municipality shall be paid therewith in accordance with the provisions of Section 6 hereof.

## Section 9. DUTIES OF THE TAX ADMINISTRATOR

A 1. It shall be the duty of the Tax Administrator to receive the tax imposed by this ordinance in the manner prescribed herein from the taxpayers; to keep an accurate record hereof; and to report all monies so received.

2. It shall be the duty of the Tax Administrator to enforce payment of all taxes owing this municipality, to keep accurate records for a minimum of six (6) years showing the amount due from each taxpayer required to file a declaration and/or to make any return, including taxes withheld, and to show the dates and amounts of payments thereof.

B 1. Said Tax Administrator 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 relating to any matter or thing pertaining to the collection of taxes and the administration and enforcement of the provisions of this ordinance, including provisions for the re-examining and correction of returns. **TAXPAYERS ARE HEREBY REQUIRED TO COMPLY WITH SAID RULES AND REGULATIONS.**

2. The Tax Administrator is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proved to the Tax Administrator that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under ordinance.

3. Failure to make any deferred payment when due, shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Section 12 and 13 of the ordinance shall apply.

C. 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 Administrator may determine the amount of the tax appearing to be due this municipality from the taxpayer and shall send to such taxpayer a written statement showing the amount of the tax so determined, together with interest and penalties thereon, if any. Such assessment shall be collected in accordance with the Rules and Regulations.

D. Subject to the consent of the Board of Review or pursuant to regulation approved by said Board, the Tax Administrator shall have the power to compromise any interest or penalty, or both, imposed by Section 11 of this ordinance.

E. A Department of Taxation is hereby created within the office of the Director of Finance of the City of Newton Falls. Such Department of Taxation shall have such deputies, clerks and other employees as may be from time to time determined by the Council of the City of Newton Falls, and shall receive such salary as may be determined by City Council. The Department of Taxation

shall be charged with the administration and operation of this ordinance, under the direction of the Director of Finance. The Tax Administrator shall prescribe the form and method of accounts and reports for said Department, as well as the forms for taxpayers' returns and declarations, and shall be charged with the internal examination and audit of all such accounts, and shall exhibit accurate records showing the amount received from each taxpayer, and the date of said receipt.

**Section 10. INVESTIGATIVE POWERS OF THE TAX ADMINISTRATOR; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.**

A. The Tax Administrator or other duly authorized employee, or any authorized employee, is hereby authorized to examine the books, papers, records, and federal income tax returns of any employer or of any taxpayer or person subject to, or whom the Tax Administrator or other duly authorized employee believes is subject to the provisions of this ordinance, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under this ordinance. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish within ten (10) calendar days following a written request by the Tax Administrator or other duly authorized employee, or his/her duly authorized agent or employee, the means, facilities, and opportunity for making such examinations and investigations as are hereby authorized.

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

C. 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 by any officer, agent or employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this section or with an order or subpoena of the Tax Administrator authorized hereby shall be deemed a violation of this ordinance, punishable as provided in Section 13 hereof.

D. Any information gained as a result of any returns, investigations, verifications or hearings before the Tax Administrator or other duly authorized employee, required by the ordinance or authorized by these Rules and Regulations shall be confidential and no disclosure thereof shall be made except

for official tax purposes or as ordered by a court of competent jurisdiction. Any person divulging such information shall be guilty of a misdemeanor punishable by a maximum fine of Five Hundred ($500.00) or imprisonment for not more than six (6) months, or both. Each disclosure shall constitute a separate offense. In addition, any employee of this 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.

E. 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 withholding taxes are paid.

## SECTION 11. INTEREST AND PENALTIES

A. All taxes imposed and all monies withheld or required to be withheld by employers under the provisions of this ordinance and remaining unpaid after they become due shall bear interest at the rate of one and one-half percent (1 ½%) per month.

B. In addition to interest as provided in Paragraph A hereof, penalties based on the unpaid tax are hereby imposed as follows:

1. (a) For failure to pay taxes due, other than taxes withheld; one and one-half percent (1 ½%) per month, or $20.00, whichever is greater.

(b) On subsequent offense within five (5) years, for failure to pay taxes due, other than taxes withheld; one and one-half percent (1 ½%) per month, or $40.00, whichever is greater.

2. For failure to remit taxes withheld from employee's five percent (5%) per month, or $25.00, whichever is greater.

C. 1. The minimum penalty for failure to file a complete and timely tax return as specified in Section 6 of this ordinance shall be $25.00 whether or not a tax is due.

2. A penalty of $50.00 shall be assessed for any subsequent violation within five (5) years from the date of the first offense.

D. 1. Failure to file an estimate by April 15 will result in a $5.00 penalty for all tax years prior to 2003.

2. Failure to file an estimate by April 15 of any subsequent year for a period of five (5) years thereafter will result in a $10 penalty for all tax years prior to 2003.

E. EXCEPTIONS – A penalty shall not be assessed on an additional tax assessment made by the Tax Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Tax Administrator; and provided further, that in the absence of fraud, neither penalty or 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.

F. Upon recommendation of the Tax Administrator, the Board of Review may abate penalty and/or interest, or upon an appeal from the refusal of the Tax Administrator to recommend abatement of penalty and/or interest, the Board may nevertheless abate penalty and/or interest.

## SECTION 12. COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

A. All taxes imposed by this ordinance shall be collectible, together with any interest and penalties thereon, by a civil action of law. Except in the case of fraud, omission of twenty-five percent (25%) or more of income subject to this tax, or failure to file a return, an additional assessment shall not be made after three years from the time the return was due or filed, whichever is later. In the case of fraud, omission of 25% or more of income subject to this tax, or failure to file a return, all additional assessments shall be made and all prosecutions to recover Municipal income taxes and penalties and interest thereon shall be brought within six (6) years after the tax was due or the return was filed, whichever is later. In those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the Federal statute of limitation, the period within which an additional assessment may be made by the Tax Administrator shall be one year from the time of the final determination of the Federal tax liability.

B. Those officers or employees having control or supervision of, or charged with, the responsibility of filing the return and making payments for a corporation or association shall be personally liable for failure to file the return or pay the taxes and penalties and interest due as required. The dissolution, bankruptcy, or reorganization of any employer does not discharge the officers' or employees' liability for a prior failure of such business to file a return or pay the taxes due.

C. Taxes erroneously paid shall not be refunded unless a claim for a refund is made. Claims for refund of municipal income taxes must be brought within three (3) years after the tax was due or the return was filed, whichever is later. **HOWEVER, THE FOLLOWING SHALL APPLY REGARDING REFUNDS OF TAX WITHHELD FROM NON-QUALIFIED DEFERRED COMPENSATION PLANS (NDCP):**

**1. A TAXPAYER MAY BE ELIGIBLE FOR A REFUND IF THE TAXPAYER HAS SUFFERED A LOSS FROM A NDCP. THE LOSS WILL BE CONSIDERED SUSTAINED ONLY IN THE TAXABLE YEAR IN WHICH THE TAXPAYER RECEIVES THE FINAL DISTRIBUTION OF MONEY AND**

**PROPERTY PURSUANT TO THE NDCP. FULL LOSS IS SUSTAINED IF NO DISTRIBUTION OF MONEY AND PROPERTY WILL BE MADE BY THE NDCP.**

**2. A TAXPAYER WHO RECEIVES INCOME AS A RESULT OF PAYMENTS FROM A NDCP, AND THAT INCOME IS LESS THAN THE AMOUNT OF INCOME DEFERRED TO THE NDCP AND UPON WHICH MUNICIPAL TAX WAS WITHHELD, THEN A REFUND WILL BE ISSUED ON THE AMOUNT REPRESENTING THE DIFFERENCE BETWEEN THE DEFERRED INCOME THAT WAS TAXED AND THE INCOME RECEIVED FROM THE NDCP. IF DIFFERENT TAX RATES APPLIED TO THE TAX YEARS IN WHICH DEFERRALS, A WEIGHTED AVERAGE OF THE DIFFERENT TAX RATES WILL BE USED TO COMPUTE THE REFUND AMOUNT.**

**3. REFUNDS SHALL BE ALLOWED ONLY IF THE LOSS IS ATTRIBUTABLE TO THE BANKRUPTCY OF THE EMPLOYER WHO HAD ESTABLISHED THE NDCP, OR THE EMPLOYEE'S FAILURE OR INABILITY TO SATISFY ALL OF THE EMPLOYER'S TERMS AND CONDITIONS NECESSARY TO RECEIVE THE NONQUALIFIED COMPENSATION.**

**D. INCOME TAX THAT HAS BEEN DEPOSITED WITH THE CITY OF NEWTON FALLS, BUT SHOULD HAVE BEEN DEPOSITED WITH ANOTHER MUNICIPALITY, IS ALLOWABLE BY THE CITY OF NEWTON FALLS AS A REFUND BUT IS SUBJECT TO THE THREE-YEAR LIMITATION ON REFUNDS. INCOME TAX THAT SHOULD HAVE BEEN DEPOSITED WITH THE CITY OF NEWTON FALLS, BUT WAS DEPOSITED WITH ANOTHER MUNICIPALITY, SHALL BE SUBJECT TO RECOVERY BY THE CITY OF NEWTON FALLS. THE CITY OF NEWTON FALLS WILL ALLOW A NON-REFUNDABLE CREDIT FOR ANY AMOUNT OWED THE CITY OF NEWTON FALLS THAT IS IN EXCESS OF THE AMOUNT TO BE REFUNDED BY THE OTHER MUNICIPALITY, AS LONG AS THE TAX RATE OF THE OTHER MUNICIPALITY IS THE SAME OR HIGHER THAN THE CITY OF NEWTON FALLS'S TAX RATE. IF THE CITY OF NEWTON FALLS'S TAX RATE IS HIGHER, THE TAX REPRESENTING THE NET DIFFERENCE OF THE RATES IS ALSO SUBJECT TO COLLECTION BY THE CITY OF NEWTON FALLS.**

~~D~~**E**. Amounts of less than One Dollar ($1.00) shall not be collected or refunded.

## SECTION 13. VIOLATIONS – PENALTIES

A. Any person, firm or corporation who shall:

1. Fail, neglect or refuse to make any return, questionnaire, or declaration required by this ordinance; or
2. Make any incomplete, false or fraudulent return or declaration; or
3. Willfully fail, neglect or refuse to pay the tax, penalties or interest imposed by this ordinance; or

4. Willfully fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Tax Administrator; or
5. Refuse to permit the Tax Administrator to examine his books, records, papers or Federal Income Tax returns relating to the income or net profits of a taxpayer; or
6. Fail to appear before the Tax Administrator or other duly authorized employee and to produce his books, records, papers or Federal Income Tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator; or
7. Refuse to disclose to the Tax Administrator or other duly authorized employee any information with respect to the income or net profits of a taxpayer; or
8. Fail to comply with the provisions of this ordinance or any order or subpoena of the Tax Administrator authorized hereby; or
9. Give to an employer false information as to his true name, correct Social Security number and residence address, or fail to promptly notify an employer of any change in residence and date thereof; or
10. Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and this municipality's income tax withheld, or to knowingly give the Tax Administrator or other duly authorized employee false information; or
11. Do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this ordinance;

Shall be guilty of a misdemeanor and shall be fined not more than Five Hundred Dollars ($500) or imprisoned not more than six (6) months or both for each offense.

B. Prosecutions for an offense made punishable under this Section or any other provision of this ordinance shall be commenced within three (3) years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five percent (25%) or more of income required to be reported, prosecutions may be commenced within six (6) years after the commission of the offense.

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

## SECTION 14. CHECK CHARGES

A charge of $25.00 shall be added to any tax due when any check in payment of taxes, penalties and/or interest is returned unpaid by the bank or respective

financial institution. Such charge shall offset the cost of additional bookkeeping and processing and shall be levied regardless of any charge which may also be levied against the taxpayer by his/her bank or respective financial institution. Notice by the Tax Administrator or other duly authorized employee or his/her duly authorized employee to the taxpayer that a check has been returned unpaid is not required nor is notice of the above charge required. The tender of payment of tax, penalties, fees, charges or interest shall not be considered as received so long as such charge remains unpaid.

## SECTION 15. BOARD OF REVIEW

A. A Board of Review, consisting of the City Manager, the Finance Director, and a member of City Council is hereby created. The members of the Board shall serve without pay. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep records of its transactions. Any hearing by the Board will be conducted privately and the provisions of Section 10 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.

B. All Rules and Regulations or changes thereto, which are adopted by the Tax Administrator under the authority conferred by this chapter, must be approved by the Board of Review before the same become effective.

C 1. At the time a decision is issued regarding an income tax obligation that is subject to an appeal, as provided in this Section or in the ordinance or regulation, the Tax Administrator shall notify the taxpayer of his right to appeal the decision and of the manner in which the taxpayer may appeal the decision.

2. Any person who is aggrieved by a decision by the Tax Administrator and who has filed the required returns or other documents pertaining to the municipal income tax obligation at issue in the decision may appeal the decision to the Board of Review by filing a request with the Board. The request shall be in writing, shall state why the decision should be deemed incorrect or unlawful, and shall be filed within thirty days after the Tax Administrator issues the decision complained of. The Board shall schedule a hearing within forty-five (45) days after receiving the request, unless the taxpayer waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the Board and may be represented by an attorney at law, certified public accountant, or other representative.

D. The Board may affirm, reverse, or modify the Tax Administrator's decision or any part of that decision. The Board shall issue a decision on the appeal within ninety (90) days after the Board's final hearing on the appeal, and send notice of its decision by ordinary mail to the petitioner within fifteen days after issuing the decision.

E. Any person dissatisfied with any ruling or decision of the Board of Review may appeal there from to a court of competent jurisdiction within thirty (30) days from the announcement of such ruling or decision. **FOR MATTERS RELATING TO TAX YEARS BEGINNING ON OR AFTER JANUARY 1, 2004, ANY RULING OR DECISION OF THE BOARD OF APPEAL MAY BE APPEALED TO A COURT OF COMPETENT JURISDICTION OR TO THE STATE BOARD OF TAX APPEALS.**

## SECTION 16. ALLOCATION OF FUNDS

The funds collected under the provisions of this ordinance shall be deposited in the Income Tax Fund and said funds shall be disbursed for the period of January 1, 1994 and thereafter in the following order, to-wit:

1. Such part thereof shall be necessary to defray all costs of collecting the taxes and cost of administering and enforcing the provisions thereof.
2. Not more than fifty-five percent (55%) of net available income tax received annually shall be used to defray operating expenses of the City.
3. At least twenty-five percent (25%) of net available income tax receipts received annually shall be set aside and used for capital improvement for the City, including but not limited to, development and construction of storm sewers and street improvements; for public buildings and for equipment necessary for the police, fire, street, traffic and safety departments.
4. At least ten percent (10%) of net available income tax received annually shall be set aside and used for parks and recreation.
5. At least ten percent (10%) of net available income tax received annually shall be set aside and used for the Street Department.

## SECTION 17. SAVING CLAUSE

If any sentence, clause, section or part of this ordinance, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, 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, sentences, clauses, sections or parts of this ordinance. It is hereby declared to be the intention of the Council of the Municipality that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof had not been included herein.

## SECTION 18. COLLECTION OF TAX AFTER TERMINATION OR ORDINANCE

A. This ordinance shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions or proceedings for collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this ordinance are concerned, it shall continue effective until all of said taxes levied hereunder are fully paid and any and all suits and prosecutions for the collection of said taxes or for the punishment of violations of this ordinance shall have been fully terminated, subject to the limitations contained in Sections 5, 12, and 13 hereof.

B. Annual returns due for all or any part of the last effective year of this ordinance shall be due on the date provided in Sections 6 and 7 of this ordinance as though the same were continuing.

# ORDINANCE 2012-06

## AN ORDINANCE REPEALING CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY IN THE CITY TAX CODE.

WHEREAS, Council for the City of Newton Falls establishes the Tax Code for the purpose of levying and collecting income tax pursuant to Section 718 of the Ohio Revised Code, and

WHEREAS, Page 8, Section 5, of the Tax Code provides for a tax credit for municipal taxes paid to another State of Ohio municipality authorized to collect income taxes, and

WHEREAS, Council desires to repeal said tax forgiveness at the earliest possible time and will be repealed for Tax Year beginning 1 January 2012.

COUNCIL FOR THE CITY OF NEWTON FALLS, STATE OF OHIO, HEREBY ORDAINS:

SECTION I: The City Tax Code, Page 8, Section 5, titled "Credit for Tax Paid to Another Municipality" is hereby repealed.

SECTION II: This Credit is removed for Tax Year 2012 and thereafter until further action by City Council

SECTION III: Any Ordinances or parts of Ordinances in conflict with the context of this Ordinance are hereby repealed.

PASSED IN COUNCIL THIS 21st DAY OF FEBRUARY 2012.

_____
Mayor, Lyle Waddell

ATTEST: _____
City Clerk/Clerk of Council

# ORDINANCE 2012-29

## AN ORDINANCE REINSTATING CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY IN THE CITY TAX CODE.

WHEREAS, Council for the City of Newton Falls establishes the Tax Code for the purpose of levying and collecting income tax pursuant to Section 718 of the Ohio Revised Code, and

WHEREAS, In 2011, Page 8, Section 5, of the Tax Code provided for a tax credit for municipal taxes paid to another State of Ohio municipality authorized to collect income taxes, and

WHEREAS, Council desires to reinstate said tax forgiveness for the tax year 2013 and each tax year thereafter.

COUNCIL FOR THE CITY OF NEWTON FALLS, STATE OF OHIO, HEREBY ORDAINS:

SECTION I: The City Tax Code, Page 8, Section 5, titled "Credit for Tax Paid to Another Municipality" is hereby reinstated.

SECTION II: Any Ordinances or parts of Ordinances in conflict with the context of this Ordinance are hereby repealed.

PASSED IN COUNCIL THIS 17TH DAY OF DECEMBER 2012.

_____
Mayor, Lyle Waddell

ATTEST: _____
City Clerk/Clerk of Council

# ORDINANCE 2014-11

## AN ORDINANCE REPEALING CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY IN THE CITY TAX CODE.

WHEREAS, Council for the City of Newton Falls establishes the Tax Code for the purpose of levying and collecting income tax pursuant to Section 718 of the Ohio Revised Code, and

WHEREAS, Page 8, Section 5, of the Tax Code provides for a tax credit for municipal taxes paid to another State of Ohio municipality authorized to collect income taxes, and

WHEREAS, Council desires to repeal said tax forgiveness at the earliest possible time and will be repealed for Tax Year beginning 1 January 2014.

COUNCIL FOR THE CITY OF NEWTON FALLS, STATE OF OHIO, HEREBY ORDAINS:

SECTION I: The City Tax Code, Page 8, Section 5, titled "Credit for Tax Paid to Another Municipality" is hereby repealed.

SECTION II: This Credit is removed for Tax Year 2014 and thereafter until further action by City Council

SECTION III: Any Ordinances or parts of Ordinances in conflict with the context of this Ordinance are hereby repealed.

PASSED IN COUNCIL THIS _____ DAY OF JUNE 2014.

_____
Mayor, Lyle Waddell

ATTEST: _____
City Clerk/Clerk of Council