

**ORDINANCE NO. 2023-18**

**AN ORDINANCE TO AMEND “EXHIBIT A” TO ORDINANCE NO. 2015-27,  
“EXHIBIT A” BEING THE VILLAGE OF ANTWERP INCOME TAX ORDINANCE,  
AND DECLARING THE SAME AN EMERGENCY**

**WHEREAS**, the Council of the Village of Antwerp adopted Ordinance No. 2006-26 on September 11, 2006, imposing a municipal income tax in the Village of Antwerp, Ohio;

**WHEREAS**, the Council of the Village of Antwerp adopted Ordinance No. 2015-27 on November 16, 2015, amending Ordinance No. 2006-26 and any amendments thereto, in order to enact the amendments required by House Bill 5, setting forth the Village of Antwerp Income Tax Ordinance as Exhibit A to Ordinance No. 2015-27 effective January 1, 2016;

**WHEREAS**, the Council of the Village of Antwerp passed Ordinance No. 2017-27 on December 18, 2017, amending Exhibit A to Ordinance No. 2015-27, specifically amending sections 2, 4, 5, 7, and 18 of Exhibit A, in order to enact certain amendments required by House Bill 49;

**WHEREAS**, the Council of the Village of Antwerp passed Ordinance No. 2018-06 on March 19, 2018, amending Exhibit A to Ordinance No. 2015-27, specifically amending Sections 3(F)(4)(a) and 5(S) and to add a new section, Section 27; and

**WHEREAS**, in order to comply with the provisions of Ohio House Bill 33 signed into law on July 3, 2023, the Council of the Village of Antwerp finds it necessary to enact certain additional amendments to Exhibit A to Ordinance No. 2015-27, specifically amendments to Sections 3(F)(1), 3(F)(4), 5(A), 5(G)(2), 5(G)(5), 18(C)(3)(a), and to add new Divisions, specifically Division (G) to Section 3, Division (G)(6) to Section 5, and Division (3)(b) to Section 18(C), said additional amendments to be effective as of January 1, 2024.

**NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF ANTWERP, COUNTY OF PAULDING, STATE OF OHIO, THAT:**

**Section 1.** That Ordinance No. 2015-27, specifically Section 3(F)(1) to Exhibit A attached to Ordinance No. 2015-27, be amended to read as follows effective January 1, 2024:

(1) Except as otherwise provided in divisions (F)(2) and (G) of this section, net profit from a business or profession conducted both within and without the boundaries of the Village shall be considered as having a taxable situs in the Village for purposes of municipal income taxation in the same proportion as the average ratio of the following:

**Section 2.** That Ordinance No. 2015-27, specifically Section 3(F)(4) to Exhibit A attached to Ordinance No. 2015-27, be amended to read as follows effective January 1, 2024:

(4) For the purposes of division (F)(1)(c) of this section, and except as provided in division (G) of this section, receipts from sales and rentals made and services performed shall be situated to a municipal corporation as follows:

**Section 3.** That Ordinance No. 2015-27, specifically a new Division, Division (G) to Section 3, to Exhibit A attached to Ordinance No. 2015-27, be added to read as follows effective January 1, 2024:

(G)(1) As used in this division:

(a) "Qualifying remote employee or owner" means an individual who is an employee of a taxpayer or who is a partner or member holding an ownership interest in a taxpayer that is treated as a partnership for federal income tax purposes, provided that the individual meets both of the following criteria:

(i) The taxpayer has assigned the individual to a qualifying reporting location.

(ii) The individual is permitted or required to perform services for the taxpayer at a qualifying remote work location.

(b) "Qualifying remote work location" means a permanent or temporary location at which an employee or owner chooses or is required to perform services for the taxpayer, other than a reporting location of the taxpayer or any other location owned or controlled by a customer or client of the taxpayer. "Qualifying remote work location" may include the residence of an employee or owner and may be located outside of a municipal corporation that imposes an income tax in accordance with this chapter. An employee or owner may have more than one qualifying remote work location during a taxable year.

(c) "Reporting location" means either of the following:

(i) A permanent or temporary place of doing business, such as an office, warehouse, storefront, construction site, or similar location, that is owned or controlled directly or indirectly by the taxpayer;

(ii) Any location in this state owned or controlled by a customer or client of the taxpayer, provided that the taxpayer is required to withhold taxes under Section 4 of this Ordinance, on qualifying wages paid to an employee for the performance of personal services at that location.

(d) "Qualifying reporting location" means one of the following:

(i) The reporting location in this state at which an employee or owner performs services for the taxpayer on a regular or periodic basis during the taxable year;

(ii) If no reporting location exists in this state for an employee or owner under division (G)(1)(d)(i) of this section, the reporting location in this state at which the employee's or owner's supervisor regularly or periodically reports during the taxable year;

(iii) If no reporting location exists in this state for an employee or owner under division (G)(1)(d)(i) or (ii) of this section, the location that the taxpayer otherwise assigns as the employee's or owner's qualifying reporting location, provided the assignment is made in good faith and is recorded and maintained in the taxpayer's business records. A taxpayer may change the qualifying reporting location designated for an employee or owner under this division at any time.

(2) For tax years ending on or after December 31, 2023, a taxpayer may elect to apply the provisions of this division to the apportionment of its net profit from a business or profession. For taxpayers that make this election, the provisions of division (F) of this section apply to such apportionment except as otherwise provided in this division.

A taxpayer shall make the election allowed under this division in writing on or with the taxpayer's net profit return or, if applicable, a timely filed amended net profit return or a timely filed appeal of an assessment. The election applies to the taxable year for which that return or appeal is filed and for all subsequent taxable years, until the taxpayer revokes the election.

The taxpayer shall make the initial election with the tax administrator of each municipal corporation with which, after applying the apportionment provisions authorized in this division, the taxpayer is required to file a net profit tax return for that taxable year. A taxpayer shall not be required to notify the tax administrator of a municipal corporation in which a qualifying remote employee's or owner's qualifying remote work location is located, unless the taxpayer is otherwise required to file a net profit return with that municipal corporation due to business operations that are unrelated to the employee's or owner's activity at the qualifying remote work location.

After the taxpayer makes the initial election, the election applies to every municipal corporation in which the taxpayer conducts business. The taxpayer shall not be required to file a net profit return with a municipal corporation solely because a qualifying remote employee's or owner's qualifying remote work location is located in such municipal corporation.

Nothing in this division prohibits a taxpayer from making a new election under this division after properly revoking a prior election.

(3) For the purpose of calculating the ratios described in division (F)(1) of this section, all of the following apply to a taxpayer that has made the election described in division (G)(2):

(a) For the purpose of division (F)(1)(a) of this section, the average original cost of any tangible personal property used by a qualifying remote employee or owner at that individual's qualifying remote work location shall be situated to that individual's qualifying reporting location.

(b) For the purpose of division (F)(1)(b) of this section, any wages, salaries, and other compensation paid during the taxable period to a qualifying remote employee or owner for services performed at that individual's qualifying remote work location shall be situated to that individual's qualifying reporting location.

(c) For the purpose of division (F)(1)(c) of this section, and notwithstanding division (F)(4) of this section, any gross receipts of the business or profession from services performed during the taxable period by a qualifying remote employee or owner for services performed at that individual's qualifying remote work location shall be situated to that individual's qualifying reporting location.

(4) Nothing in this division prevents a taxpayer from requesting, or a tax administrator from requiring, that the taxpayer use, with respect to all or a portion of the income of the taxpayer, an alternative apportionment method as described in division (F)(2) of this section. However, a tax administrator shall not require an alternative apportionment method in such a manner that it would require a taxpayer to file a net profit return with a municipal corporation solely because a qualifying remote employee's or owner's qualifying remote work location is located in that municipal corporation.

(5) Except as otherwise provided in this division, nothing in this division is intended to affect the withholding of taxes on qualifying wages pursuant to Section 4 of this Ordinance.

**Section 4.** That Ordinance No. 2015-27, specifically Section 5(A) to Exhibit A attached to Ordinance No. 2015-27, be amended to read as follows effective January 1, 2024:

(A) An annual Village income tax return shall be completed and filed by every taxpayer for each taxable year for which the taxpayer is subject to the tax, whether or not a tax is due thereon.

**Section 5.** That Ordinance No. 2015-27, specifically Section 5(G)(2) to Exhibit A attached to Ordinance No. 2015-27, be amended to read as follows effective January 1, 2024:

(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's income tax return. The extended due date of the Village's income tax return shall be the 15<sup>th</sup> day of the tenth month after the last day of the taxable year to which the return relates. For tax years ending on or after January 1, 2023, the extended due date of the Village's income tax return for a taxpayer that is not an individual shall be the 15<sup>th</sup> day of the eleventh 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.

**Section 6.** That Ordinance No. 2015-27, specifically Section 5(G)(5) to Exhibit A attached to Ordinance No. 2015-27, be amended to read as follows effective January 1, 2024:

(5) If a taxpayer receives an extension for the filing of a municipal income tax return under division (G)(2), (3), or (4) of this section, the tax administrator shall not make any inquiry or send any notice to the taxpayer with regard to the return on or before the date the taxpayer files the return or on or before the extended due date to file the return, whichever occurs first.

If a tax administrator violates division (G)(5) of this section, the municipal corporation shall reimburse the taxpayer for any reasonable costs incurred to respond to such inquiry or notice, up to \$150.

Division (G)(5) of this section does not apply to an extension received under division (G)(2) of this section if the tax administrator has actual knowledge that the taxpayer failed to file for a federal extension as required to receive the extension under division (G)(2) of this section or failed to file for an extension under division (G)(2)(b) of this section.

**Section 7.** That Ordinance No. 2015-27, specifically a new Division, Division (G)(6) to Section 5, to Exhibit A attached to Ordinance No. 2015-27, be added to read as follows effective January 1, 2024:

(6) 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.

**Section 8.** That Ordinance No. 2015-27, specifically Section 18(C)(3)(a) to Exhibit A attached to Ordinance No. 2015-27, be amended to read as follows effective January 1, 2024:

(3)(a) For tax years ending on or before December 31, 2022, with respect to returns other than estimated income tax returns, [Municipality/City/Village] may impose a penalty of \$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.

**Section 9.** That Ordinance No. 2015-27, specifically a new Division, Division (3)(b) to Section 18(C), to Exhibit A attached to Ordinance No. 2015-27, be added to read as follows effective January 1, 2024:

(b) For tax years ending on or after January 1, 2023, with respect to returns other than estimated income tax returns, the Village may impose a penalty not exceeding \$25 for each failure to timely file each return, regardless of the liability shown thereon, except that the Village shall abate or refund the penalty assessed on a taxpayer's first failure to timely file a return after the taxpayer files that return.

**Section 10.** This amendment shall be effective January 1, 2024. A copy of Exhibit A, as amended pursuant to this Ordinance, is attached hereto and is incorporated herein as if fully rewritten.

**Section 11.** It is hereby found and determined that all formal actions of the Council concerning or relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of the Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements.

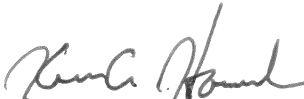
**Section 12.** This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety, and welfare of the Village and for the further reason that the Village must comply with the provisions of Ohio House Bill 33 to allow all amendments to the Village's Income Tax Ordinance in a timely manner.

**Section 13.** This Ordinance shall take effect and be in full force from and after January 1, 2024.

Date: 11/8/2023

  
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Bryan Smith, President Pro Tempore

Attest:

  
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Kevin Hornish, Fiscal Officer