

ORDINANCE NO. O-10-2017

AN ORDINANCE TO REPEAL AND REPLACE THE VILLAGE OF BOLIVAR'S MUNICIPAL INCOME TAX ORDINANCE; ESTABLISHING AN EMERGENCY

WHEREAS, the General Assembly passed recent changes to the requirements for municipal income tax codes; and

WHEREAS, it is necessary to amend Ordinance 27-2015 to ensure that the Village's tax code is in compliance with the above-referenced requirements;

WHEREAS, 27-2015.081(A) must be deleted and the remainder of that section renumbered accordingly.

WHEREAS, 27-2015.18(A)(8) shall be revised to read:

Members of the Local Board of Tax Review shall serve without compensation.

The remainder of 27-2015.18 shall remain unchanged.

WHEREAS, 27-2015.19 shall be amended and restated in its entirety to read:

(A)(1)(a) Civil actions to recover municipal income taxes and penalties and interest on municipal income taxes shall be brought within the latter of:

- (i) Three years after the tax was due or the return was filed, whichever is later; or
- (ii) One year after the conclusion of the qualifying deferral period, if any.

(b) The time limit described in division (A)(1)(a) of this section may be extended at any time if both the Tax Administrator and the employer, agent of the employer, other payer, or taxpayer consent in writing to the extension. Any extension shall also extend for the same period of time the time limit described in division (C) of this section.

(2) As used in this section, "qualifying deferral period" means a period of time beginning and ending as follows:

(a) Beginning on the date a person who is aggrieved by an assessment files with a Local Board of Tax Review the request described in Section 27-2015.18 of this Ordinance. That date shall not be affected by any subsequent decision, finding, or holding by any administrative body or court that the Local Board of Tax Review with which the aggrieved person filed the request did not have jurisdiction to affirm, reverse, or modify the assessment or any part of that assessment.

(b) Ending the later of the sixtieth day after the date on which the final determination of the Local Board of Tax Review becomes final or, if any party appeals from the determination of the Local Board of Tax Review, the sixtieth day after the date on which the final determination of the Local Board of Tax Review is either ultimately affirmed in whole or in part or ultimately reversed and no further appeal of either that affirmation, in whole or in part, or that reversal is available or taken.

(B) Prosecutions for an offense made punishable under a resolution or ordinance imposing an income tax shall be commenced within three 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 per cent or more of income required to be reported, prosecutions may be commenced within six years after the commission of the offense.

(C) A claim for a refund of municipal income taxes shall be brought within the time limitation provided in Section 27-2015.096 of this Ordinance.

(D) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment until the date of the refund of the overpayment, except that if any overpayment is refunded within ninety days after the final filing date of the annual return or ninety days after the completed return is filed, whichever is later, no interest shall be allowed on the refund. For the purpose of computing the payment of interest on amounts overpaid, no amount of tax for any taxable year shall be considered to have been paid before the date on which the return on which the tax is reported is due, without regard to any extension of time for filing that return. Interest shall be paid at the interest rate described in division (A)(5) of section 718.27 of the Revised Code.

(E) Within sixty days after the final determination of any federal or state tax liability affecting the taxpayer's municipal tax liability, that taxpayer shall make and file an amended municipal return showing income subject to the municipal income tax based upon such final determination of federal or state tax liability, and pay any additional municipal income tax shown due thereon or make a claim for refund of any overpayment, unless the tax or overpayment is less than ten dollars.

(F)

(1) Notwithstanding the fact that an appeal is pending, the petitioner may pay all or a portion of the assessment that is the subject of the appeal. The acceptance of a payment by the Municipality does not prejudice any claim for refund upon final determination of the appeal.

(2) If upon final determination of the appeal an error in the assessment is corrected by the Tax Administrator, upon an appeal so filed or pursuant to a final determination of the Local Board of Tax Review created under Section 27-2015.18 of this Ordinance, of the Ohio board of tax appeals, or any court to which the decision of the Ohio board of tax appeals has been appealed, so that the amount due from the party assessed under the corrected assessment is less than the amount paid, there shall be issued to the appellant or to the appellant's assigns or legal representative a refund in the amount of the overpayment as provided by Section 27-2015.096 of this Ordinance, with interest on that amount as provided by division (D) of this section.

(G) No civil action to recover municipal income tax or related penalties or interest shall be brought during either of the following time periods:

(1) The period during which a taxpayer has a right to appeal the imposition of that tax or interest or those penalties;

(2) The period during which an appeal related to the imposition of that tax or interest or those penalties is pending.

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

Section 1. Section 27-2015.081(A) is hereby deleted and the remainder of that section numbered as outlined above.

Section 2. 27-2015.18(A)(8) is hereby revised to read:

Members of the Local Board of Tax Review shall serve without compensation.

Section 3. 27-2015.19 shall be amended and restated in its entirety as stated above.

Section 4. These changes shall be effective as of January 1, 2017.

Section 5. This Ordinance is hereby declared to be an emergency measure and its passage is immediately necessary in order to preserve, protect, and maintain health, safety and welfare of the citizens of the Village of Bolivar, Ohio, and to comply with the state's mandates for municipal income taxes, and therefore the same shall be in full force and effect immediately.

READ: February 6, 2017

PASSED: February 6, 2017

REBECCA HUBBLE, MAYOR

ATTEST:

MARIA APP, FISCAL OFFICER