

**ORDINANCE NO. O-2015-13**

**AN ORDINANCE TO ENACT CHAPTER 182 OF THE CODIFIED ORDINANCES OF THE VILLAGE OF WINDHAM REGARDING MUNICIPAL INCOME TAX**

**WHEREAS**, the Home Rule Amendment of the Ohio Constitution, Article XVII, Section 3, provides that “Municipalities shall have authority to exercise all powers of local self-government,” and the municipal taxing power is one of such powers of local self-government delegated by the people of the State to the people of municipalities; and

**WHEREAS**, Article XIII, Section 6 of the Ohio Constitution provides that the General Assembly may restrict a municipalities power of taxation to the extent necessary to prevent abuse of such power, and Article XVIII, Section 13 of the Ohio Constitution states that “laws may be passed to limit the powers of municipalities to levy taxes and incur debts for local purposes;” and

**WHEREAS**, the General Assembly has determined that it is necessary and appropriate to comprehensively review and amend Chapter 718 of the Ohio Revised Code, setting forth statutory requirements for municipal income tax codes in Ohio; and

**WHEREAS**, more specifically, the General Assembly enacted H. B. 5 in December 2014, and mandated that municipal income tax codes be amended by January 1, 2016 such that any income or withholding tax is “levied in accordance with the provisions and limitations specified in [Chapter 718];” and

**WHEREAS**, upon a detailed review of H. B. 5 and the Codified Ordinances of the Village of Windham, this Ordinance is found and determined by this Council to enact the amendments required prior to the January 1, 2016 deadline to be in accord with the provisions and limitations specified in Chapter 718 of the Revised Code; and

**WHEREAS**, Council also finds and determines that the constitutionality of certain provisions of the state-mandated code may have been put in question by recent decisions of the Ohio Supreme Court regarding, among other things, taxation of professional athletes, but these provisions must be included if the municipal income tax code is to be “levied in accordance with the provisions and limitations specified in [Chapter 718]” and thus reluctantly are adopted by this Council but are disclaimed to the extent they are unlawful or unconstitutional;

**NOW THEREFORE BE IT ORDAINED** by the Council of the Village Of Windham, Portage County, Ohio with two-thirds of the members thereto concurring that:

**Section 1.** That Chapter 182 of the Codified Ordinances be amended to read as set forth in the document entitled “Chapter 182, Income Tax” attached hereto as Exhibit A and incorporated herein by reference.

**Section 2.** That this Ordinance shall take effect and be in force from and after January 1, 2016.

**Section 3.** That the existing Tax Code of the Village of Windham as currently enacted as Chapter 181 of the Windham Codified Ordinances shall remain in full force and effect, but shall not be applicable to the collection of Village Income Tax after December 31, 2015.

**Section 4.** It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of the Council and any committees that resulted in such formal action were in meetings open to the public and in compliance with all legal requirements including §121.22 of the Revised Code of the State of Ohio.

Passed in Council      First Reading October 29, 2015  
                                    Second Reading November 19, 2015  
                                    Third Reading November 24, 2015  
Vote of Council:      Ayes: 5  
                                    Nays: 0

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Mayor Robert Donham

ATTEST:

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Fiscal Officer Cheree M. Taylor

Approved As to Form:

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Village Solicitor Thomas Reitz