

**CELINA CITY INCOME ORDINANCE**

ORDINANCE NO. 32-66-O AS AMENDED

BY 46-75-O, 16-81-O, 10-84-O,

40-94-O, 31-96-O, 11-01-O, 49-02-O, and 2-05-O

Levying a tax to provide funds for the purposes of general municipal operation, including wages and salaries of employees, purchase of new equipment, maintenance of equipment, extension, enlargement and improvement of municipal services and facilities and capital improvements on all QUALIFYING wages, salaries, commissions and other compensation earned by residents of the City of Celina; on all QUALIFYING wages, salaries, commissions and other compensation earned by nonresidents of the City of Celina for work done or services performed or rendered in the City of Celina; on the net profits earned on all business professions or other activities, including rentals, conducted by residents of the City of Celina; on the net profits earned on all businesses, professions or other activities, including rentals, conducted in the City of Celina by nonresidents, and on the net profits earned by all corporations doing business in the City of Celina as the result of work done, services performed or rendered, or rentals made in the City of Celina; 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 the same to the City of Celina; providing for the administration, collection and enforcement of said tax; and declaring violation thereof to be a misdemeanor and imposing penalties therefor.

BE IT ORDAINED by the Council of the City of Celina, Ohio, that:

**SECTION 1.**

PURPOSE-To provide funds for the purposes of general municipal operations, including wages and salaries of employees, purchase of new equipment, maintenance, extension and enlargement of municipal services and facilities and capital improvements of the City of Celina, Ohio, there shall be, and is hereby, levied a tax on QUALIFYING salaries, wages, commissions and other compensation, and on net profits as hereinafter provided.

**SECTION 2**

DEFINITIONS - As used in the ordinance, the following terms shall have the meaning ascribed to them in this Section, UNLESS the context clearly indicates or requires a different meaning.

“ADJUSTED FEDERAL TAXABLE INCOME” MEANS 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 SECTION 5745.03 OR TO THE NET PROFIT FROM A SOLE PROPRIETORSHIP.

“Association” means a partnership, limited partnership, S Corporation, or any other form of unincorporated enterprise, owned by two or more persons.

“Board Of Review” means the Board created by and constituted as provided in Section 13 of this Ordinance.

“Business” means an enterprise, activity, profession, or undertaking of any nature conducted for profit or ordinarily 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.

"City" means the City of Celina, MERCER COUNTY, Ohio.

"Corporation" means 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.

"DOMICILE" MEANS A PRINCIPAL RESIDENCE THAT THE TAXPAYER INTENDS TO USE FOR AN INDEFINITE TIME AND TO WHICH WHENEVER HE IS ABSENT HE INTENDS TO RETURN. A TAXPAYER HAS ONLY ONE DOMICILE EVEN THOUGH HE MAY HAVE MORE THAN ONE RESIDENCE.

"EMPLOYEE" MEANS ONE WHO WORKS FOR WAGES, SALARY, COMMISSION OR OTHER TYPES OF COMPENSATION IN THE SERVICES OF AN EMPLOYER.

"Employer" means an individual, partnership, association, corporation, governmental body, unit or agency, or other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission, or other compensation basis.

"Fiscal Year" means an accounting period of twelve (12) months or less ending on any day other than December 31st.

"FORM 2106" MEANS INTERNAL REVENUE SERVICE FORM 2106 FILED BY A TAXPAYER PURSUANT TO THE INTERNAL REVENUE CODE.

"GENERIC FORM" MEANS AN ELECTRONIC OR PAPER FORM DESIGNED FOR REPORTING ESTIMATED CITY INCOME TAXES AND ANNUAL CITY INCOME TAX LIABILITY OR FOR FILING A REFUND CLAIM THAT IS NOT PRESCRIBED BY A PARTICULAR CITY FOR THE REPORTING OF THAT CITY'S TAX ON INCOME. ANY CITY THAT REQUIRES TAXPAYERS TO FILE INCOME TAX RETURNS, REPORTS, OR OTHER DOCUMENTS SHALL ACCEPT FOR FILING A GENERIC FORM OF SUCH A RETURN, REPORT, OR DOCUMENT IF THE GENERIC FORM, ONCE COMPLETED AND FILED, CONTAINS ALL OF THE INFORMATION REQUIRED TO BE SUBMITTED WITH THE CITY'S PRESCRIBED RETURNS, REPORTS, OR DOCUMENTS.

"Gross Receipts," means the total income OF TAXPAYERS from any source whatsoever.

"INCOME FROM A PASS-THROUGH ENTITY" MEANS PARTNERSHIP INCOME OF PARTNERS, MEMBERSHIP INTERESTS OF MEMBERS OF A LIMITED LIABILITY COMPANY, DISTRIBUTIVE SHARES OF SHAREHOLDERS OF AN S CORPORATION, OR OTHER DISTRIBUTIVE OR PROPORTIONATE OWNERSHIP SHARES OF INCOME FROM OTHER PASS-THROUGH ENTITIES.

"INTANGIBLE INCOME" MEANS INCOME OF ANY OF THE FOLLOWING TYPES: INCOME YIELD, INTEREST, CAPITAL GAINS, DIVIDENDS, OR OTHER INCOME ARISING FROM THE OWNERSHIP, SALE, EXCHANGE, OR OTHER DISPOSITION OF INTANGIBLE PROPERTY INCLUDING, BUT NOT LIMITED TO, INVESTMENTS, DEPOSITS, MONEY, OR CREDITS AS THOSE TERMS ARE DEFINED IN CHAPTER 5701 OF THE OHIO REVISED CODE, AND PATENTS, COPYRIGHTS, TRADEMARKS, TRADE NAMES, INVESTMENTS IN REAL ESTATE INVESTMENT TRUSTS, INVESTMENTS IN REGULATED INVESTMENT COMPANIES, AND APPRECIATION ON DEFERRED COMPENSATION. "INTANGIBLE INCOME" DOES NOT INCLUDE PRIZES, AWARDS, OR OTHER INCOME ASSOCIATED WITH ANY LOTTERY WINNINGS OR OTHER SIMILAR GAMES OF CHANCE.

"INTERNAL REVENUE CODE" MEANS THE INTERNAL REVENUE CODE OF 1986, 100 STAT. 2085, 26 U.S.C. 1, AS AMENDED.

"INTERNET" MEANS THE INTERNATIONAL COMPUTER NETWORK OF BOTH FEDERAL AND NONFEDERAL INTEROPERABLE PACKET SWITCHED DATA NETWORKS, INCLUDING THE GRAPHICAL SUB NETWORK KNOWN AS THE WORLD WIDE WEB.

"LIMITED LIABILITY COMPANY" MEANS A LIMITED LIABILITY COMPANY FORMED UNDER CHAPTER 1705 OF THE OHIO REVISED CODE OR UNDER THE LAWS OF ANOTHER STATE.

“NET PROFIT” FOR A TAXPAYER OTHER THAN AN INDIVIDUAL MEANS ADJUSTED FEDERAL TAXABLE INCOME AND “NET PROFIT” FOR A TAXPAYER WHO IS AN INDIVIDUAL MEANS THE INDIVIDUAL’S PROFIT, OTHER THAN AMOUNTS DESCRIBED IN DIVISION (C) OF SECTION 3, REQUIRED TO BE REPORTED ON SCHEDULE C, SCHEDULE E, OR SCHEDULE F.

“NONQUALIFIED DEFERRED COMPENSATION PLAN” MEANS A COMPENSATION PLAN DESCRIBED IN SECTION 3121(v)(2)(C) OF THE INTERNAL REVENUE CODE.

“Nonresident” means an individual domiciled outside the City.

“NONRESIDENT INCORPORATED BUSINESS ENTITY” MEANS AN INCORPORATED BUSINESS ENTITY NOT HAVING AN OFFICE OR PLACE OF BUSINESS WITHIN THE CITY.

“Nonresident unincorporated business entity” means an unincorporated business entity not having an office or place of business within the City.

“Ordinance” means Ordinance No. 32-66-0 enacted by the Council of this City and any amendments and supplements thereto effective January 1, 1967, November 25, 1975, July 1, 1981, April 9, 1984, November 25, 1996, January 22, 2001, December 9, 2002, AND FEBRUARY 14, 2005. (Note: hereinafter this will be referred to as "effective period of the ordinance".)

“Other entity” means a person or unincorporated body not previously named or defined and includes inter alia fiduciaries.

“OTHER PAYER” MEANS ANY PERSON, OTHER THAN AN INDIVIDUAL’S EMPLOYER OR THE EMPLOYER’S AGENT THAT PAYS AN INDIVIDUAL ANY AMOUNT INCLUDED IN THE FEDERAL GROSS INCOME OF THE INDIVIDUAL.

“OWNER” means a partner of a partnership, a shareholder of an S corporation, a member of a limited liability company, or other person with an ownership in a pass-through entity.

“OWNER’S PROPORTIONATE SHARE”, WITH RESPECT TO EACH OWNER OF A PASS-THROUGH ENTITY, MEANS THE RATIO OF (A) THE OWNER’S INCOME FROM THE PASS-THROUGH ENTITY THAT IS SUBJECT TO TAXATION BY THE CITY, TO (B) THE TOTAL INCOME FROM THAT ENTITY OF ALL OWNERS WHOSE INCOME FROM THE ENTITY IS SUBJECT TO TAXATION BY THE CITY.

“Pass-through entity” means a partnership, S corporation, a limited liability company or any other class of entity the income or profits from which are given pass-through treatment under Internal Revenue Code.

“PERSON” INCLUDES INDIVIDUALS, FIRMS, COMPANIES, BUSINESS TRUSTS, ESTATES, TRUSTS, PARTNERSHIPS, LIMITED LIABILITY COMPANIES, ASSOCIATIONS, CORPORATIONS, GOVERNMENTAL ENTITIES, AND ANY OTHER ENTITY.

“Place of business” means 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.

“PRINCIPAL PLACE OF BUSINESS” MEANS, IN THE CASE OF AN EMPLOYER HAVING HEADQUARTERS’ ACTIVITIES AT A PLACE OF BUSINESS WITHIN A TAXING CITY, THE PLACE OF BUSINESS AT WHICH THE HEADQUARTERS IS SITUATED. IN THE CASE OF ANY EMPLOYER NOT HAVING ITS HEADQUARTERS’ ACTIVITIES AT A PLACE OF BUSINESS WITHIN A TAXING CITY, THE TERM MEANS THE LARGEST PLACE OF BUSINESS LOCATED IN A TAXING CITY.

“QUALIFIED PLAN” MEANS A RETIREMENT PLAN SATISFYING THE REQUIREMENTS UNDER SECTION 401 OF THE INTERNAL REVENUE CODE AS AMENDED.

“QUALIFYING WAGES” MEANS WAGES, AS DEFINED IN SECTION 3121(A) OF THE INTERNAL REVENUE CODE, WITHOUT REGARD TO ANY WAGE LIMITATIONS, ADJUSTED IN ACCORDANCE WITH SECTION 718.03(A) OF THE OHIO REVISED CODE.

“Resident” means an individual domiciled in the City.

“RESIDENT INCORPORATED BUSINESS ENTITY” MEANS AN INCORPORATED BUSINESS ENTITY WHOSE OFFICE, PLACE OF OPERATIONS OR BUSINESS SITUS IS WITHIN THE CITY.

“Resident unincorporated business entity” means an unincorporated business entity having an office or place of business within the City.

"RETURN PREPARER" MEANS ANY PERSON OTHER THAN A TAXPAYER THAT IS AUTHORIZED BY A TAXPAYER TO COMPLETE OR FILE AN INCOME TAX RETURN, REPORT, OR OTHER DOCUMENT FOR OR ON BEHALF OF THE TAXPAYER.

"SCHEDULE C" MEANS INTERNAL REVENUE SERVICE SCHEDULE C FILED BY A TAXPAYER PURSUANT TO THE INTERNAL REVENUE CODE.

"SCHEDULE E" MEANS INTERNAL REVENUE SERVICE SCHEDULE E FILED BY A TAXPAYER PURSUANT TO THE INTERNAL REVENUE CODE.

"SCHEDULE F" MEANS INTERNAL REVENUE SERVICE SCHEDULE F FILED BY A TAXPAYER PURSUANT TO THE INTERNAL REVENUE CODE.

"S CORPORATION" MEANS A CORPORATION THAT HAS MADE AN ELECTION UNDER SUBCHAPTER S OF CHAPTER 1 OF SUBTITLE A OF THE INTERNAL REVENUE CODE FOR ITS TAXABLE YEAR.

"TAX ADMINISTRATOR" MEANS THE PERSON APPOINTED TO ADMINISTER THE CITY'S INCOME TAX ORDINANCE AND TO DIRECT THE OPERATION OF THE CITY INCOME TAX DEPARTMENT OR THE PERSON EXECUTING THE DUTIES OF THE TAX ADMINISTRATOR.

"TAXABLE INCOME" MEANS QUALIFYING WAGES PAID BY AN EMPLOYER OR EMPLOYERS, COMPENSATION FOR PERSONAL SERVICES, OTHER INCOME DEFINED BY STATUTE AS TAXABLE, AND/OR ADJUSTED FEDERAL TAXABLE INCOME FROM THE OPERATION OF A BUSINESS, PROFESSION, OR OTHER ENTERPRISE OR ACTIVITY ADJUSTED IN ACCORDANCE WITH THE PROVISIONS OF THIS ORDINANCE.

"TAXABLE YEAR" MEANS THE CORRESPONDING TAX-REPORTING PERIOD AS PRESCRIBED FOR THE TAXPAYER UNDER THE INTERNAL REVENUE CODE.

"TAXING CITY" MEANS A CITY LEVYING A TAX ON INCOME EARNED BY NONRESIDENTS WORKING WITHIN SUCH CITY OR ON INCOME EARNED BY ITS RESIDENTS.

"TAXPAYER" MEANS A PERSON SUBJECT TO A TAX ON INCOME LEVIED BY A CITY. "TAXPAYER" DOES NOT INCLUDE ANY PERSON THAT IS A DISREGARDED ENTITY OR A QUALIFYING SUBCHAPTER S SUBSIDIARY FOR FEDERAL INCOME TAX PURPOSES, BUT "TAXPAYER" INCLUDES ANY OTHER PERSON WHO OWNS THE DISREGARDED ENTITY OR QUALIFYING SUBCHAPTER S SUBSIDIARY.

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 16 of this Ordinance, an annual tax for the purposes specified in Section 1 hereof shall be imposed on and after July 1, 1981, at the rate of one percent per annum upon the following:

1. ON ALL QUALIFYING WAGES, INCLUDING SICK, VACATION, SEVERANCE AND ANY PAY AS PART OF AN EMPLOYEE BUYOUT OR WAGE CONTINUATION PLAN, TIPS, COMMISSIONS, GRATUITIES OTHER COMPENSATION, AND OTHER TAXABLE INCOME EARNED OR RECEIVED BY RESIDENTS OF THE CITY.

2. ON ALL QUALIFYING WAGES, INCLUDING SICK, VACATION, SEVERANCE AND ANY PAY AS PART OF AN EMPLOYEE BUYOUT OR WAGE CONTINUATION PLAN, TIPS, GRATUITIES COMMISSIONS, OTHER COMPENSATION, AND OTHER TAXABLE INCOME EARNED, RECEIVED OR ACCRUED OR ANY WAY SET APART UNTO NONRESIDENTS FOR WORK DONE, OR SERVICES PERFORMED OR RENDERED, IN THE CITY.

3. (a) On the portion attributable to the City of the net profits, earned during the effective period of this Ordinance, of all resident unincorporated businesses, unincorporated pass-through entities, professions or other ACTIVITIES, derived from sales made, work done, services performed or rendered and business or other activities conducted in the City.

(b) On the portion of the distributive share of the net profits, earned during the effective period of this Ordinance, of a resident partner or owners of a resident unincorporated business entity or unincorporated pass-through entity not attributable to the City and not levied against such unincorporated business entity or unincorporated pass-through entity.

4. (a) On the portion attributable to the City of the net profits, earned during the effective period of this Ordinance, of all nonresident unincorporated businesses, unincorporated pass-through entities, professions or other ACTIVITIES, derived from sales made, work done or services performed or rendered and business or other activities conducted in the City, whether or not such unincorporated business entity has an office or place of business in the City.

(b) On the portion of the distributive share of the net profits, earned during the effective period of this Ordinance, of a resident partner or owner of a nonresident unincorporated business entity or unincorporated pass-through entity not attributable to the City and not levied against such unincorporated business entity or unincorporated pass-through entity.

5. On the portion attributable to the City of the net profits, earned 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 the City, whether or not such corporations have an office or place of business in the City.

6. ON ALL INCOME RECEIVED AS GAMBLING WINNINGS AS REPORTED ON IRS FORM W-2G, FORM 5754, OR ANY OTHER FORM REQUIRED BY THE INTERNAL REVENUE SERVICE THAT REPORTS WINNINGS FROM GAMBLING, PRIZES AND LOTTERY WINNINGS. (DISTRIBUTIONS RECEIVED AFTER 1/1/2005)

B. The portion of the net profits attributable to the City of a taxpayer conducting a business, profession or other activity both within and without the boundaries of the City shall be determined as provided in Section 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. Any compensation exempt by Section 3, Part F of this Ordinance shall be excluded from the business APPORTIONMENT formula calculation.

### C. NET Operating Loss Carry Forward

1. The portion of the net operating loss sustained in any taxable year subsequent to 1/1/1967, APPORTIONED to the City may be applied against the portion of the profit of succeeding TAX year(s) APPORTIONED to the City, until exhausted, but in no event for more than five (5) taxable years IMMEDIATELY FOLLOWING THE YEAR IN WHICH THE LOSS OCCURRED. No portion of a net operating loss shall be carried back against net profits of any prior year.
2. The portion of a net operating loss sustained shall be APPORTIONED to the City in the same manner as provided herein for APPORTIONING net profits to the City.
3. The TAX Administrator shall provide by Rules and Regulations the manner in which such net operating loss carry forward shall be determined.
4. THE NET OPERATING LOSS OF A TAXPAYER THAT LOSES ITS LEGAL IDENTITY, BY ANY MEANS SUCH AS MERGER OR CONSOLIDATION, SHALL NOT BE ALLOWED AS A CARRY FORWARD LOSS DEDUCTION TO THE SURVIVING OR NEW TAXPAYER.
5. THE NET OPERATING LOSS SUSTAINED BY A BUSINESS OR PROFESSION IS NOT DEDUCTIBLE FROM EMPLOYEE W-2 EARNINGS, BUT MAY BE CARRIED FORWARD AS PROVIDED IN SECTION 3 (C) (1). HOWEVER, IF A TAXPAYER IS ENGAGED IN TWO OR MORE TAXABLE BUSINESS ACTIVITIES TO BE INCLUDED IN THE SAME RETURN, THE NET LOSS OF ONE UNINCORPORATED BUSINESS ACTIVITY (EXCEPT ANY PORTION OF A LOSS REPORTABLE FOR CITY INCOME TAX PURPOSES TO ANOTHER MUNICIPALITY) MAY BE USED TO OFFSET THE PROFITS OF ANOTHER MUNICIPALITY FOR PURPOSES OF ARRIVING AT OVERALL NET PROFITS.

### D. Consolidated Returns.

1. A consolidated return may be filed by a group of corporations who are affiliated through stock ownership, if that affiliated group filed for the same tax period a consolidated return for Federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code. A consolidated return must include all companies that are so affiliated. (Effective with tax years beginning on or after 1/1/2003)
2. ONCE A CONSOLIDATED RETURN HAS BEEN FILED FOR ANY TAXABLE YEAR, CONSOLIDATED RETURNS SHALL CONTINUE TO BE FILED IN SUBSEQUENT YEARS UNLESS THE APPLICABLE REQUIREMENTS OF THE RULES AND REGULATIONS FOR DISCONTINUING THE FILING OF CONSOLIDATED RETURNS HAVE BEEN MET.
3. In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates, or some other fashion, or in case any person operates a division, branch, factory, office, laboratory or activity within the City constituting a portion only of its total business, the TAX Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are properly APPORTIONED to the City. If the TAX Administrator finds net profits are not properly APPORTIONED to the City by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates, or some other fashion, or transactions with such division, branch, factory, office, laboratory or activity or by some other method, he shall make such APPORTIONMENT as he deems appropriate to produce a fair and proper APPORTIONMENT of net profits to the City.

E. EXCEPTION - The tax provided for herein shall not be levied upon the INCOME of any civic, charitable, religious, fraternal or other TYPE OF NONPROFIT ASSOCIATION OR organization specified in Section 718.01 of the OHIO REVISED CODE to the extent that such INCOME is derived from TAX-EXEMPT REAL ESTATE, TAX-EXEMPT TANGIBLE PROPERTY, OR TAX-EXEMPT ACTIVITIES.

E. OTHER EXCEPTIONS (2001):

On or after 1/1/2001, the City shall not tax the compensation PAID TO A NONRESIDENT individual FOR PERSONAL SERVICES PERFORMED BY AN INDIVIDUAL IN THE CITY ON TWELVE OR FEWER DAYS IN A CALENDAR YEAR UNLESS ONE of the following applies:

1. If an individual who is an employee OF ANOTHER PERSON; the principal place of business of the individual's employer is located IN ANOTHER MUNICIPAL CORPORATION IN THIS STATE THAT IMPOSES A TAX APPLYING TO COMPENSATION PAID TO THE INDIVIDUAL FOR SERVICES PERFORMED ON THOSE DAYS; AND THE INDIVIDUAL IS NOT LIABLE TO THAT OTHER MUNICIPALITY FOR TAX ON COMPENSATION PAID FOR SUCH SERVICES.

2. The individual is NOT a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such a promoter, all as may be reasonably defined by the City.

G. ADDITIONAL EXCEPTIONS FROM TAXATION (2003 AND 2004)

1. Parsonage allowance received pursuant to Section 107 of the Internal Revenue Code. (Effective with tax years beginning on or after 1/1/2003)

2. Compensation paid under Ohio Revised Code, Section 3501.28 or 3501.26 to a person serving as a precinct election official, to the extent that such compensation does not exceed one thousand dollars (\$1,000.00) annually. Such compensation in excess of one thousand (\$1,000) dollars may be subjected to taxation. The payer of such compensation is not required to withhold City tax from that compensation. (Effective with tax years beginning on or after 1/1/2000)

3. Compensation paid to an employee of a transit authority, regional transit authority, or a regional commission created BY the Ohio Revised Code for operating a transit bus or other motor vehicle for the authority or commission in or through the municipality, unless the bus is operated on a regularly scheduled route, the operator is a resident or domiciled in the municipality, or the headquarters of the authority or commission is located within the municipality. (Effective with tax years beginning on or after 1/1/2000)

4. The military pay or allowances of members of the armed forces of the United States and of members of their reserve components, including the Ohio National Guard. (Effective with tax years beginning on or after 1/1/2000)

5. The income of a public utility when that public utility is subject to the tax levied under Section 5727.24 or 5727.30 of the Ohio Revised Code, except starting 1/1/ 2002, the income of an electric company, a combined company, AND BEGINNING 1/1/2004, THAT OF A TELEPHONE COMPANY, as defined in Section 5727.01 of the Ohio Revised Code, shall be taxed by a City subject to Chapter 5745 of the Ohio Revised Code.

6. THE APPRECIATION ON DEFERRED COMPENSATION DISTRIBUTIONS.

7. COMPENSATION DEFERRED PRIOR TO 2004, THAT WAS NOT TAXED UPON DEFERRAL UNDER THE OLD LAW, MAY NOT BE TAXED UPON PAYMENT OR DISTRIBUTION, IF THE COMPENSATION DOES NOT SHOW UP IN THE ADJUSTED MEDICARE WAGES BASE SET FORTH ABOVE AT THE TIME OF PAYMENT OR DISTRIBUTION.

8. FOR TAXABLE YEARS AFTER 2003, NONQUALIFIED DEFERRED COMPENSATION MUST BE TAXED AT THE TIME OF DEFERRAL AND CANNOT BE TAXED UPON PAYMENT OR DISTRIBUTION.

9. A QUALIFYING LOSS CREDIT, AS PROVIDED BY 718.02.1 OF THE OHIO REVISED CODE, ALLOWS FOR A REFUNDABLE CREDIT FOR TAX PAID WITH RESPECT TO A NONQUALIFIED DEFERRED

COMPENSATION PLAN IF TAXPAYER NEVER ACTUALLY RECEIVES THE DEFERRED COMPENSATION AT ISSUE DUE TO:

- A. THE INSOLVENCY OR BANKRUPTCY OF THE EMPLOYER OR THE EMPLOYEE'S FAILURE OR INABILITY TO SATISFY ALL OF THE EMPLOYER'S TERMS AND CONDITIONS NECESSARY TO RECEIVE THE NONQUALIFIED DEFERRED COMPENSATION.
- B. SUCH CREDIT IS PRO-RATED.

SECTION 4

EFFECTIVE PERIOD

Said tax shall be levied, collected and paid with respect to the QUALIFYING wages, salaries, bonus payments, commissions, net profits from the lease or rental of real estate or tangible personal property, and other compensation, and with respect to the net profits of businesses, professions or other activities earned on and after 1/1/ 1967.

SECTION 5

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 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 BY FIFTEENTH (15<sup>TH</sup>) DAY OF THE FOURTH MONTH following the end of such fiscal year or period. The TAX Administrator is hereby authorized to provide, by regulation, that the return of an employer or employers, showing the amount of City tax deducted by said employer or employers from the QUALIFYING wages, bonuses, payments, commissions or other compensation of a nonresident employee, and paid by him or them to the TAX Administrator, shall be accepted as the return required of any nonresident employee whose sole income, subject to tax under this Ordinance, is such QUALIFYING wages, salaries, bonus payments, commissions, or other compensation. No taxpayer shall be required to file a return if they have not attained the age of 16 years at the end of the year. The TAX Administrator is hereby authorized to provide, by regulation, relief from the annual filing requirement to certain retired individuals who no longer are expected to have income taxable to the City of Celina. Provisions of this Section are effective with tax years beginning on or after 1/1/1996.

B. The return shall be filed with the TAX Administrator on a form or forms furnished by or obtainable upon request from THE TAX Administrator setting forth:

1. The amounts of QUALIFYING wages, salaries, bonus payments, commissions and other compensation earned and gross income from business, profession, or other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to said tax;
2. The amount of the tax imposed by this Ordinance on such earnings and profits; and
3. Such other pertinent statements, information returns, or other information as the Tax Administrator may require.
4. The tax returns shall be subject to limitations as provided in Section 3 (A).
5. The City shall accept for filing a generic form of a required return, report, or document if the generic form, once completed and filed, contains all of the information required to be submitted with the City's prescribed returns, reports, or documents, and if the taxpayer or return preparer filing the generic form otherwise complies with the rules or ordinances of this City governing the filing of returns, reports, or documents.

## EXTENSION REQUESTS:

C. Effective 1/1/2001, any taxpayer that has requested an extension for filing a federal income tax return may request an extension for the filing of a City tax return. The taxpayer shall make the request by filing a copy of the taxpayer's request for a federal filing extension with the TAX Administrator.

The request for the extension shall be filed not later than the last day for filing the tax return as prescribed by THIS Ordinance.

Any taxpayer not required to file a federal tax return may request an extension for filing a City income tax return, in writing, by the due date for filing return.

A valid extension request extends the filing date to fifteen (15) days beyond the granted federal extension period.

The TAX Administrator may deny a taxpayer's request for an extension if the taxpayer:

1. Fails to timely file the request; or
2. Fails to file a copy of the federal extension request; or
3. Owes the City any delinquent income tax or any penalty, interest assessment or other charge for the late payment or nonpayment of income tax; or
4. Has failed to file any required income tax return, report, or other related document of a prior tax period.

The granting of an extension for filing a City income tax return does not extend the last date for paying the tax without penalty unless the City grants an extension of that date.

The estimated tax payments must still be made by the due dates per the provisions of this Ordinance.

D. 1. The taxpayer making a return shall, at the time of the 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 6 of this Ordinance, or where any portion of said tax shall have been paid by the taxpayer pursuant to the provisions of Section 7 of this Ordinance, or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with Section 15 hereof, shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing said return.

2. A taxpayer who has overpaid the amount of tax to which the City is entitled 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 hereof) shall be refunded, provided, however, that no additional taxes or overpayments of less than One and 1/100 Dollars (\$1.01) shall be collected, carried forward, or refunded (Effective with tax years beginning on or after 1/1/2002).

## AMENDED RETURNS:

E. 1. 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 11 and 15. 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 City tax liability, such taxpayer shall make and file an amended City return showing income subject to the City tax based upon such final determination of federal tax liability and pay any additional tax shown due thereon or make claim for refund of any overpayment.

F. The TAX Administrator shall designate, by regulation, the filing level that pass-through entities shall be required to file and pay tax due.

## SECTION 6

### COLLECTION AT SOURCE

A. In accordance with the Rules and Regulations prescribed by the TAX Administrator, each employer within or doing business within the City shall deduct at the time of the payment of such QUALIFYING wages, salaries, bonus payments, commissions or other compensation the tax of one percent (1%) of the qualifying wages, salaries, bonus payments, commissions or other compensation due from the said employer to said employee, on or before the last day of the month following the month of deduction of said tax, make a return and pay to the Tax Administrator the amount of taxes so deducted. Each employer, on or before the last day of the month following the month in which tax was deducted, shall make a return and pay to the Administrator, the amount of taxes so deducted [except if during the previous calendar year said annual withholding amount is less than twelve thousand dollars (\$12,000.00), then payment may be remitted on the last day of the month following the close of each quarter]. Once an employer has met the monthly remitting requirements, said employer shall continue to remain a monthly payer. 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 thereafter by the TAX Administrator.

Such employer shall be liable for the payment of the tax to be withheld, whether or not such taxes have in fact been withheld.

B. 1. AN EMPLOYEE IS NOT RELIEVED FROM LIABILITY FOR A TAX BY THE FAILURE OF THE EMPLOYER TO WITHHOLD THE TAX AS REQUIRED BY THE CITY OR BY THE EMPLOYER'S EXEMPTION FROM THE REQUIREMENT TO WITHHOLD THE TAX.

2. THE FAILURE OF AN EMPLOYER TO REMIT TO THE CITY THE TAX WITHHELD RELIEVES THE EMPLOYEE FROM LIABILITY FOR THAT TAX, UNLESS THE EMPLOYEE COLLUDED WITH THE EMPLOYER IN CONNECTION WITH THE FAILURE TO REMIT THE TAX WITHHELD.

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

In the event taxes withheld from the qualifying wages, salaries, commissions, and other compensation of employees are not paid to the City in accordance with the provisions on this Section, all officers, members, managers, employees, and trustees having control or supervision of, or charged with the responsibility of filing the return and making payment, are jointly and severally personally liable for the tax not returned or paid to the City, as well as any related interest and penalties, and are also liable under provisions of Section 12 hereof. The dissolution, termination, or bankruptcy of a corporation, limited liability company, or business trust does not discharge an officer's, member's, manager's, employee's, or trustee's liability for a failure of the corporation, limited liability company, or business trust to file returns or pay said taxes.

D. EACH EMPLOYER SHALL FILE A WITHHOLDING TAX RECONCILIATION SHOWING THE SUM TOTAL OF ALL COMPENSATION PAID ALL EMPLOYEES, THE PORTION OF WHICH, (IF ANY) WAS NOT SUBJECT TO WITHHOLDING ALONG WITH AN EXPLANATION FOR SAME, AND THE PORTION OF WHICH WAS SUBJECT TO WITHHOLDING, TOGETHER WITH THE AMOUNT OF SUCH WITHHOLDINGS

REMITTED. SUCH RETURN SHALL INCLUDE INFORMATION CONCERNING EACH EMPLOYEE FROM WHOM THE CITY TAX WAS WITHHELD, SHOWING THE NAME, ADDRESS, ZIP CODE AND SOCIAL SECURITY NUMBER OF EACH SUCH EMPLOYEE, THE TOTAL AMOUNT OF COMPENSATION PAID DURING THE YEAR AND THE AMOUNT OF CITY TAX WITHHELD. IF THE TOTAL TAX WITHHELD FROM ANY EMPLOYEE INCLUDED TAX WITHHELD AND REMITTED TO ANOTHER CITY, THE AMOUNT OF SAME SHALL BE SEPARATELY SHOWN ON THE RETURN OF INFORMATION TO THE CITY CONCERNING EACH EMPLOYEE. THE WITHHOLDING TAX RECONCILIATION SHALL BE FILED BY EACH EMPLOYER ON OR BEFORE FEBRUARY 28 FOLLOWING EACH CALENDAR YEAR.

E. In addition to the wage reporting requirements of this Section, any person required by the Internal Revenue Service to report on Form 1099-MISC payments to individuals not treated as employees for services performed, shall also report such payments to the City when services were performed in the City. The information may be submitted on a listing, and shall include the name, address, and social security number (or federal identification number), and the amount of the payments made. COPIES OF Federal 1099-MISC FORM(S) may be submitted in lieu of such listing. The information shall be filed annually on or before February 28 following EACH calendar year. THE LISTING IS REQUIRED EVEN IF 1099-MISC FORM(S) WERE NOT ISSUED.

## SECTION 7

### DECLARATIONS

- A. Every person who anticipates any taxable income in excess of One Hundred Dollars (\$100.00) which is not subject to Section 6 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. WHEN a person's income is wholly from qualifying wages from which the tax will be withheld and remitted to the City in accordance with Section 6 hereof, such person need not file such declaration.
- B. 1. Such declaration shall be filed on or before the FIFTEENTH (15<sup>TH</sup>) DAY OF THE FOURTH MONTH FOLLOWING THE BEGINNING OF EACH TAX year or within four (4) months of the date the taxpayer becomes subject to tax for the first time.
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. Such declaration of estimated tax to be paid the City shall be accompanied by a payment of at least twenty-two and one-half percent (22.5%) of the estimated annual tax liability, and at least a similar amount shall be paid on or before the last day of the seventh, tenth, and thirteenth month after the beginning of the tax year.
- D. 1. Such declaration shall be filed upon a form furnished by, or obtainable from, the Tax Administrator. A credit shall be taken for the City tax to be withheld from any portion of such income. In accordance with the provisions of Section 15 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 as herein provided.

The City shall accept for filing a generic form of a required return, report, or document if the generic form, once completed and filed, contains all of the information required to be submitted with the City's described returns, reports, or documents, and if the taxpayer or tax preparer filing the generic form otherwise complies with the rules or ordinances of the City governing the filing of returns, reports, or documents.

In the case where an amended estimate has been filed, any balance which may be due the City shall be paid at twenty-two and one-half percent (22.5%) of the annual amended estimate on or before the remaining payment dates.

G. On or before the FIFTEENTH (15<sup>TH</sup>) day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance due the City, shall be paid therewith, in accordance with the provisions of Section 5 hereof.

H. When the TAX Administrator deems a declaration of estimated tax to be inadequate, he shall determine a reasonable estimated tax, adjust the declaration and demand the additional payment due. The TAX Administrator SHALL demand a declaration immediately upon a taxpayer becoming subject to the tax.

## SECTION 8

### DUTIES OF THE TAX ADMINISTRATOR

A. It shall be the duty of the TAX Administrator to:

1. COLLECT AND RECEIVE THE TAX IMPOSED BY THIS ORDINANCE IN THE MANNER PRESCRIBED HEREIN FROM THE TAXPAYERS;
2. KEEP AN ACCURATE RECORD OF AND TO REPORT ALL MONIES SO RECEIVED;
3. ENFORCE PAYMENT OF ALL CITY TAXES OWED THE CITY; AND
4. KEEP ACCURATE RECORDS SHOWING THE AMOUNT DUE, THE DATES AND AMOUNTS OF PAYMENTS, INCLUDING TAXES WITHHELD, FOR A MINIMUM OF FIVE (5) YEARS

B. THE TAX ADMINISTRATOR IS HEREBY CHARGED WITH THE ADMINISTRATION AND ENFORCEMENT OF THE PROVISIONS OF THE ORDINANCE, AND IS HEREBY EMPOWERED, SUBJECT TO THE APPROVAL OF THE CITY COUNCIL, TO ADOPT, PROMULGATE AND ENFORCE RULES AND REGULATIONS RELATING TO ANYTHING PERTAINING TO THE COLLECTION OF TAXES HEREUNDER, INCLUDING PROVISIONS FOR THE RE-EXAMINATION AND CORRECTION OF RETURNS.

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 satisfaction of 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 the taxpayer files proper returns for all amounts owed by him under the ordinance.

Failure to make any installment payment when due shall cause the total unpaid amount, including penalty and interest, to become payable on demand, and the provisions of Sections 11 and 12 herein 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 tax appearing to be due the City from the taxpayer and shall send to such taxpayer a written statement showing the amount of tax so determined, together with any interest and penalties due thereon.

D. Pursuant to regulations approved by City Council, the TAX Administrator shall have the power to ABATE any interest or penalty, or both, imposed by Section 10 of this Ordinance.

## SECTION 9

### INVESTIGATIVE POWERS OF THE ADMINISTRATOR - PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION

A. The TAX Administrator, or his duly authorized agent or employee, is hereby authorized to examine the books, papers, records and federal income tax returns of any employer, taxpayer, or person subject to, or whom the TAX Administrator 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 upon written request by the TAX Administrator, or his 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 and may examine such person, under oath, concerning any income which was or should have been returned for taxation, or withheld, or any transaction tending to affect such income. For this purpose, HE may compel the production of books, papers, records and federal income tax returns and the attendance of any persons before him, 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 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 12 hereof.

D. Any information gained, as the result of any returns, investigations, hearings or verifications required or authorized by this Ordinance shall be confidential, except for official purposes OR with proper judicial order. THE TAX ADMINISTRATOR MAY FURNISH COPIES OF RETURNS FILED UNDER THIS ORDINANCE TO OTHER FEDERAL, STATE, AND MUNICIPAL TAX AUTHORITIES. Any person divulging such information in violation of this Ordinance, shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine or penalty of not less that One Hundred Dollars (\$100.00) and not more than Five Hundred Dollars (\$500.00), or shall be imprisoned for not more than six (6) months, or both. No part of the fine imposed shall be suspended. Each disclosure shall constitute a separate offense.

In addition to the above penalty, any employee of the City 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 five (5) years from the date his return is filed, or the withholding taxes are paid.

## SECTION 10

### 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 percent (1%) per month or fraction thereof.

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

1. For failure to pay taxes when due, other than taxes withheld: three percent (3%) per month, or ten dollars (\$10.00), whichever is greater.
  2. For failure to remit taxes withheld, OR REQUIRED TO BE WITHHELD from employees: three percent (3%) per month, or ten dollars (\$10.00), whichever is greater.
  3. An underpayment penalty shall be imposed, if the estimated tax payments and withholding equal less than ninety percent (90%) of the final tax liability, except when payment due on the final return is less than one hundred dollars (\$100.00).
  4. When the estimated declaration payments and withholding equal or exceeds the previous tax year's liability, no penalty shall be due.
  5. A minimum charge of ten dollars (\$10.00) shall be imposed for failure to file any return that the City requires to be filed by provisions of THIS Ordinance.
  6. A taxpayer that currently resides in the City, but was not domiciled in the City on the first day of January of the current calendar year, is not subject to any penalty and interest charges for the late payment or non-payment of estimated tax liability. (Section 718.08 (e) of the Ohio Revised Code).
- C. 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. In the absence of fraud, neither penalty nor 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.
- D. Upon recommendation of the TAX Administrator, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the Tax Administrator to recommend abatement of penalty and interest, the Board may abate penalty or interest, or both.

## SECTION 11

### COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS

- A. All taxes imposed by this Ordinance shall be collectable, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable. Except in the case of fraud, omission of a substantial portion of income subject to this Tax, or failure to file a return, an additional assessment shall not be made after three (3) years from the time the return was due or filed, whichever is later. In those cases in which the Commissioner of THE Internal Revenue SERVICE 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 (1) year from the time of the final determination of the federal tax liability.
- B. Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date which such payment was made or the return was due, or within three (3) months after final determination of the Federal tax liability, whichever is later.
- C. Amounts of less than One and 1/100 DOLLARS (\$1.01) shall not be collected, carried forward, or refunded.

## SECTION 12

### VIOLATIONS - PENALTIES (Amended By Ordinance 10-84-O, 32-04-O)

A. Any person who shall:

1. Fail, neglect or refuse to make any return or declaration; or
2. KNOWINGLY make any incomplete, false or fraudulent return; or
3. Willfully fail, neglect, or refuse to pay the tax, penalties or interest imposed; or
4. 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, or any duly authorized agent or employee, to examine his books, records, papers and Federal income tax returns relating to the income or net profits of a taxpayer; or
6. Fail to appear before the Tax Administrator or 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 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. WILLFULLY give to HIS employer(S), false information as to his true name, social security number and residence address, or PROMPTLY fail to notify an employer of any change in residence address and the date therefore; or
10. Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and ANY City tax withheld, or knowingly give the Tax Administrator false information; or
11. Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this Ordinance:

VIOLATIONS FOR WHICH NO PENALTY IS OTHERWISE PROVIDED, shall be CONSIDERED a misdemeanor and shall CARRY A FINE OF not less than One Hundred Dollars (\$100.00), NOR more than Five Hundred Dollars (\$500.00) or imprisoned not more than six (6) months or both, for each offense. No part of the fine imposed shall be suspended.

B. All prosecutions under this Section must be commenced within three (3) years from the time of the offense. In the case of failure to file a return, or filing a false or fraudulent return, prosecution must be commenced WITHIN ten (10) years from the date the return was due or the date the false or fraudulent return was filed.

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

## SECTION 13

### BOARD OF REVIEW

A. The Board of Review, consisting of a chairman and two other individuals, each to be appointed by the Mayor of the City, is hereby created. Such appointments shall be confirmed by City Council. No elected officer or employee of the City may qualify for such appointment. A majority of the members of the Board shall constitute a quorum.

B. The original appointments to the Board of Review shall be for terms of one (1), two (2) and three (3) years respectively, and thereafter all appointments shall be for terms of three (3) years. Vacancies on said Board shall be filled by appointment by the Mayor, subject to confirmation by Council, and shall be for the unexpired term of the Board member replaced. All original terms shall begin on January 2, 1967, and end on January 1st of the appropriate year, and thereafter all terms shall begin on January 2nd and end on January 1st. All appointments and confirmations thereof shall state the dates of beginning and ending of the term for which the appointment is made, calculated in accordance with this Section. Members of the Board shall receive no compensation, but shall be allowed such amounts for actual expenses, including but not limited to mileage, as Council may provide.

C. The Board of Review created in this Section shall adopt rules governing its procedures and shall keep a record of its transactions. Such records are not public records available for inspection under Section 149.43 of the Ohio Revised Code. Hearings requested by the taxpayer before a Board of Review, created pursuant to this Section, are not meetings of a public body subject to Section 121.22 of the Ohio Revised Code.

D. The Board shall hear and pass on appeals from any ruling or decision of the TAX Administrator, and at the request of the taxpayer or Tax Administrator, is empowered to substitute alternate methods of APPORTIONMENT OF NET INCOME AND LOSSES.

E. All rules and regulations and amendments or changes thereto, which are adopted by the TAX Administrator under the authority conferred by this Ordinance, must be approved by City Council before the same become effective.

#### APPEALS:

F. Whenever the TAX Administrator issues a decision regarding an income tax obligation that is subject to appeal, as provided in this Section, or in an ordinance or regulation of the City, the Tax Administrator shall notify the taxpayer IN WRITING of the taxpayer's right to appeal the decision and the manner in which the taxpayer may appeal the decision.

Any person who is aggrieved by a decision by the TAX Administrator and has filed the required returns or other documents pertaining to the City 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 with particularity why the decision should be deemed incorrect or unlawful, and shall be filed within thirty (30) days after the TAX Administrator has issued the decision.

The imposition of penalty and interest as prescribed in the City Tax Ordinance is not a sole basis for an appeal.

The Board of Review shall schedule a hearing within forty-five (45) days after receiving a 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, provided a letter of authorization is presented.

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 ALL OF THE PARTIES TO THE APPEAL within fifteen (15) days after issuing the decision. THE TAXPAYER OR THE TAX ADMINISTRATOR MAY APPEAL THE BOARD'S DECISION AS PROVIDED IN SECTION 5717.011 OF THE OHIO REVISED CODE.

## SECTION 14

### ALLOCATION OF RECEIPTS

The funds collected under the provisions of this Ordinance shall be deposited on receipt in the General Fund, Income Tax Account, and shall be disbursed by City Council as follows:

A. For the costs and expenses of collecting the taxes levied by this Ordinance, and the costs of administering and enforcing the provisions hereof, such part of said fund as may be necessary.

B. The balance remaining in the Income Tax Account shall be applied, apportioned and transferred by City Council by and in its annual budget in such proportions as Council may from time to time determine for the following purposes:

1. Wages, salaries, and other lawful compensation or taxes payable to, on behalf of, or by reason of the employment of all elected and appointed officials of the City and all employees of the City.

2. Payments on behalf of the City and/or its employees or elected or appointed officials into the Public Employees Retirement System.

3. Operating expenses, including expenses for materials, supplies, equipment, transportation, insurance, rentals, maintenance, services and incidentals, of and for the following departments, functions, offices, programs or activities:

- a. Police Department
- b. Fire Department
- c. Street Department
- d. Sewer Department
- e. Engineering Department
- f. Municipal Court
- g. Civil Service Commission
- h. Civil Defense
- i. Planning & Zoning
- j. City Council
- k. Clerk of Council
- l. Mayor
- m. Auditor
- n. Treasurer
- o. LAW DIRECTOR
- p. Director of Service and Safety
- q. General Administration
- r. Recreation Program
- s. Codification of Ordinances
- t. Legal Advertising
- u. Recordation of Instruments
- v. Garbage and Refuse Disposal
- w. Building and Real Estate Maintenance
- x. Parks

Y. COMMUNITY DEVELOPMENT  
z. Investments

4. All lawful costs, expenses and other payments attributable to the following:

- a. Repair, maintenance, construction and replacement of streets, sidewalks, storm and sanitary sewers.
- b. Capital improvements lawfully authorized by Council.
- c. Principal and interest on obligations of the City, whether incurred before or after the effective date hereof.
- d. Payment of settlement of debts.
- e. Professional fees and charges.
- f. Fiscal agent fees.
- g. Real estate taxes.
- h. Acquisition, repair and replacement of traffic control devices.

5. Such other purposes as may from time to time be authorized by Council.

SECTION 15

CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY

A. RESIDENT INDIVIDUALS OF THE CITY WHO ARE REQUIRED TO PAY AND DO PAY TAX TO ANOTHER MUNICIPALITY ON QUALIFYING WAGES, SALARIES, INCLUDING SICK, VACATION, SEVERANCE AND ANY PAY AS PART OF AN EMPLOYEE BUYOUT OR WAGE CONTINUATION PLAN, TIPS, COMMISSIONS, GRATUITIES, BONUSES AND INCENTIVE PAYMENTS AND OTHER COMPENSATION FOR WORK DONE OR SERVICES PERFORMED OUTSIDE THE CITY, MAY CLAIM A CREDIT, WITH LIMITATION, OF THE AMOUNT OF THE TAX PAID BY THEM OR ON THEIR BEHALF TO SUCH OTHER MUNICIPALITY TO EXTENT OF THE TAX IMPOSED BY THE ORDINANCE ON SUCH INCOME. SUCH CREDIT SHALL BE LIMITED TO A MAXIMUM OF ONE PERCENT (1%) OF THE INCOME UPON WHICH THE INCOME TAX IS PAID TO SUCH OTHER MUNICIPALITY.

B. RESIDENT INDIVIDUALS OF THE CITY WHO ARE REQUIRED TO PAY AND DO PAY TAX TO ANOTHER MUNICIPALITY ON NET PROFITS FROM BUSINESS, PROFESSIONS, OR OTHER ACTIVITIES CONDUCTED OUTSIDE THE CITY, MAY CLAIM A CREDIT, WITH LIMITATION, OF THE AMOUNT OF THE TAX PAID BY THEM OR ON THEIR BEHALF TO SUCH OTHER MUNICIPALITY TO EXTENT OF THE TAX IMPOSED BY THE ORDINANCE ON SUCH INCOME. SUCH CREDIT SHALL BE LIMITED TO A MAXIMUM OF ONE PERCENT (1%) OF THE INCOME UPON WHICH THE INCOME TAX IS PAID TO SUCH OTHER MUNICIPALITY.

C. A resident taxpayer with income from a pass-through entity shall be granted a credit where a resident of THE CITY, is subject to income tax in another municipality, for taxes paid to another municipality by a pass-through that does not do business in the City. The amount of the credit shall equal the lesser of the following amounts:

1. The amount, if any, of tax paid by the pass-through entity to another municipal corporation in this State, apportioned according to the ownership interest of the taxpayer in proportion to the ownership interest of all owners of the entity.
2. The amount, LIMITED TO ONE PERCENT (1%) OF THE INCOME, that would be imposed on the pass-through entity by the City in which the taxpayer is domiciled, if pass-through entity conducted business in the City, apportioned according to the ownership interest of the taxpayer in proportion to the ownership interest of all owners of the entity.

D. A RETURN MUST BE FILED FOR THE PURPOSE OF CLAIMING SUCH CREDIT OR ALLOWANCE, TOGETHER WITH EVIDENCE OF THE PAYMENT OF SIMILAR TAX TO THE MUNICIPALITY IN WHICH SUCH RESIDENT HAS A SOURCE OF INCOME, AS THE TAX ADMINISTRATOR MAY REQUIRE.

E. A "SECOND MUNICIPALITY CREDIT" PROVIDES A NON-REFUNDABLE CREDIT AGAINST TAX IMPOSED ON INCOME OR WAGES IF TAX WAS PREVIOUSLY PAID OR WITHHELD TO ANOTHER MUNICIPALITY ON THE SAME INCOME OR WAGES AND THE TIME PERIOD FOR OBTAINING A REFUND FROM THE FIRST MUNICIPALITY HAS EXPIRED. IF THE TAX RATE IN THE CITY IS LESS THAN THE TAX RATE IN THE FIRST MUNICIPALITY, THEN THE CREDIT AMOUNT IS CALCULATED WITH REFERENCE TO THE CREDIT LIMITATIONS OF THIS CITY.

## SECTION 16

### 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 other parts of this Ordinance. It is hereby declared to be the intention of the Council of the City of Celina that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section or part thereof not been included herein. PROVISIONS OF THIS ORDINANCE ARE SUBJECT TO CURRENT LAWS OF THE STATE OF OHIO.

## SECTION 17

### COLLECTION OF TAX AFTER TERMINATION OF ORDINANCE

A. This Ordinance shall continue effective insofar as the levy of taxes is concerned until IT EXPIRES OR IS repealed. Insofar as the 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 in the aforesaid period 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 11 and 12 hereof.

B. Annual returns and payments due for all or any part of the last effective year of this Ordinance shall be due on the date provided in Sections 5 and 6 of this Ordinance as though the same were continuing.

## SECTION 18

### STUDENTS

The provisions of this Ordinance shall not apply to persons who have not, during the taxable year, attained their sixteenth (16th) birthday, nor shall the provisions of Section 6 hereof apply to employers of such persons with respect to such persons." (Effective with tax years beginning on or after 1/1/2002)

## SECTION 19

This Ordinance shall take effect and be in force from its passage and at the earliest period allowed by law.

EXTRA STUFF

SECTION 15

CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY (Amended by Ordinance ??-0-0)

- F. WHERE A RESIDENT OF CELINA, OHIO, IS SUBJECT TO A CITY INCOME TAX IN ANOTHER MUNICIPALITY, HE SHALL HAVE A CREDIT AGAINST THE TAX IMPOSED BY THIS ORDINANCE AS FOLLOWS:
1. PRIOR TO TAX YEAR 2005, WHERE A RESIDENT OF CELINA, OHIO, IS SUBJECT TO CITY INCOME TAX IN ANOTHER MUNICIPALITY, HE SHALL NOT PAY A TOTAL CITY INCOME TAX ON THE SAME INCOME GREATER THAN THE TAX IMPOSED AT THE HIGHER RATE;
  2. EFFECTIVE FOR THE TAX YEAR 2005, AND THEREAFTER NO CREDIT SHALL BE GIVEN AGAINST ANY TAX IMPOSED BY ANOTHER MUNICIPALITY.
  2. EFFECTIVE FOR THE TAX YEAR 2005, A CREDIT OF FIFTY (50%) PER CENT, PROVIDED THAT THE RATE OF TAX IMPOSED BY SUCH OTHER MUNICIPALITY IS ½% OR GREATER, OTHERWISE, THE AMOUNT OF THE CREDIT SHALL BE IN THE AMOUNT OF THE TAX IMPOSED BY SUCH OTHER MUNICIPALITY;
- G. EVERY INDIVIDUAL TAXPAYER WHO RESIDES IN CELINA, OHIO, WHO RECEIVES NET PROFITS, SALARIES, WAGES, BONUS PAYMENTS, COMMISSIONS OR OTHER PERSONAL SERVICE COMPENSATION FOR WORK DONE OR SERVICES PERFORMED OR RENDERED OUTSIDE OF CITY, IF IT BE MADE TO APPEAR THAT HE HAS PAID A MUNICIPALITY INCOME TAX ON THE SAME INCOME TAXABLE UNDER THIS ORDINANCE TO ANOTHER MUNICIPALITY, SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ORDINANCE OF THE AMOUNT SO PAID BY HIM OR IN HIS BEHALF TO SUCH OTHER MUNICIPALITY. THE CREDIT SHALL NOT EXCEED THE TAX

ASSESSED BY THIS ORDINANCE ON SUCH INCOME EARNED IN SUCH OTHER MUNICIPALITY OR MUNICIPALITIES WHERE SUCH TAX IS PAID.

1. PRIOR TO TAX YEAR 2005, WHERE A RESIDENT OF CELINA, OHIO, IS SUBJECT TO A CITY INCOME TAX IN ANOTHER MUNICIPALITY, HE SHALL NOT PAY A TOTAL MUNICIPALITY INCOME TAX ON THE SAME INCOME GREATER THAN THE TAX IMPOSED AT THE HIGHER RATE;

2. EFFECTIVE FOR THE TAX YEAR 2005, AND THEREAFTER NO CREDIT SHALL BE GIVEN AGAINST ANY TAX IMPOSED BY ANOTHER MUNICIPALITY.

2. EFFECTIVE FOR THE TAX YEAR 2005, A CREDIT OF FIFTY (50%) PER CENT, PROVIDED THAT THE RATE OF TAX IMPOSED BY SUCH OTHER MUNICIPALITY IS  $\frac{1}{2}\%$  OR GREATER, OTHERWISE, THE AMOUNT OF THE CREDIT SHALL BE IN THE AMOUNT OF THE TAX IMPOSED BY SUCH OTHER MUNICIPALITY;

A. Where a resident of Celina, Ohio, is subject to a city income tax in another municipality, he shall not pay a total city income tax on the same income greater than the tax imposed at the higher rate.

B. Every individual taxpayer who resides in the City, who receives net profits, salaries, wages, bonus payments, commissions or other personal service compensation for work done or services performed or rendered outside of City, and who has paid a municipality income tax on the same income taxable under this ordinance to another municipality, shall be allowed a credit against the tax imposed by this ordinance of the amount so paid by him or in his behalf to such other municipality. The credit shall not exceed the tax assessed by this ordinance on such income earned in such other municipalities where such tax is paid.

D. A claim for refund or credit under this section shall be made in such manner as the TAX Administrator may by regulation provide.