

UNIFORM RULES AND REGULATIONS
TO COMPLEMENT CELINA CITY
INCOME TAX ORDINANCE 32-66-O
AND AMENDMENTS 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

ARTICLE 1

This Section of the ordinance deals with the purposes for which the tax collected will be used.

ARTICLE II

Definitions

As used in these Rules and Regulations, the following words shall have the meaning ascribed to them in this Article, 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, ADJUSTED AS FOLLOWS:

- a. DEDUCT INTANGIBLE INCOME TO THE EXTENT INCLUDED IN FEDERAL TAXABLE INCOME. THE DEDUCTION SHALL BE ALLOWED REGARDLESS OF WHETHER THE INTANGIBLE INCOME RELATES TO ASSETS USED IN A TRADE OR BUSINESS OR ASSETS HELD FOR THE PRODUCTION OF INCOME.
- b. ADD AN AMOUNT EQUAL TO FIVE PERCENT (5%) OF INTANGIBLE INCOME DEDUCTED UNDER THIS SECTION, BUT EXCLUDING THAT PORTION OF INTANGIBLE INCOME DIRECTLY RELATED TO THE SALE, EXCHANGE, OR OTHER DISPOSITION OF PROPERTY DESCRIBED IN SECTION 1221 OF THE INTERNAL REVENUE CODE;
- c. ADD ANY LOSSES ALLOWED AS A DEDUCTION IN THE COMPUTATION OF FEDERAL TAXABLE INCOME IF THE LOSSES DIRECTLY RELATE TO THE SALE, EXCHANGE, OR OTHER DISPOSITION OF AN ASSET DESCRIBED IN SECTION 1221 OR 1231 OF THE INTERNAL REVENUE CODE;
- d. (i) EXCEPT AS PROVIDED IN (d)(ii) OF THIS DEFINITION, DEDUCT INCOME AND GAIN INCLUDED IN FEDERAL TAXABLE INCOME TO THE EXTENT THE INCOME AND GAIN DIRECTLY RELATE TO THE SALE, EXCHANGE, OR OTHER DISPOSITION OF AN ASSET DESCRIBED IN SECTION 1221 OR 1231 OF THE INTERNAL REVENUE CODE;

(ii) (d)(i) OF THIS DEFINITION DOES NOT APPLY TO THE EXTENT THE INCOME OR GAIN IS INCOME OR GAIN DESCRIBED IN SECTION 1245 OR 1250 OF THE INTERNAL REVENUE CODE;
- e. ADD TAXES ON OR MEASURED BY NET INCOME ALLOWED AS A DEDUCTION IN THE COMPUTATION OF FEDERAL TAXABLE INCOME;
- f. IN THE CASE OF A REAL ESTATE INVESTMENT TRUST AND REGULATED INVESTMENT COMPANY, ADD ALL AMOUNTS WITH RESPECT TO DIVIDENDS, DISTRIBUTIONS, OR AMOUNTS SET ASIDE FOR OR CREDITED TO THE BENEFIT OF INVESTORS AND ALLOWED AS A DEDUCTION IN THE COMPUTATION OF FEDERAL TAXABLE INCOME;
- g. IF THE TAXPAYER IS NOT A C CORPORATION AND IS NOT AN INDIVIDUAL, THE TAXPAYER SHALL COMPUTE ADJUSTED FEDERAL TAXABLE INCOME AS IF THE TAXPAYER WERE A C CORPORATION, EXCEPT:
 - (i) GUARANTEED PAYMENTS AND OTHER SIMILAR AMOUNTS PAID OR ACCRUED TO A PARTNER, FORMER PARTNER, MEMBER, OR FORMER MEMBER SHALL NOT BE ALLOWED AS A DEDUCTIBLE EXPENSE; AND
 - (ii) AMOUNTS PAID OR ACCRUED TO A QUALIFIED SELF-EMPLOYED RETIREMENT PLAN WITH RESPECT TO AN OWNER OR OWNER-EMPLOYEE OF THE TAXPAYER, AMOUNTS PAID OR ACCRUED TO OR FOR HEALTH INSURANCE FOR AN OWNER OR OWNER-EMPLOYEE, AND AMOUNTS PAID OR ACCRUED TO OR

FOR LIFE INSURANCE FOR AN OWNER OR OWNER-EMPLOYEE SHALL NOT BE ALLOWED AS A DEDUCTION.

NOTHING IN THIS DEFINITION SHALL BE CONSTRUED AS ALLOWING THE TAXPAYER TO: (A) ADD OR DEDUCT ANY AMOUNT MORE THAN ONCE; OR, (B) DEDUCT ANY AMOUNT PAID TO OR ACCRUED FOR PURPOSES OF FEDERAL SELF-EMPLOYMENT TAX.

NOTHING IN THIS DEFINITION SHALL BE CONSTRUED AS LIMITING OR REMOVING THE ABILITY OF THE CITY TO ADMINISTER, AUDIT, AND ENFORCE THE PROVISIONS OF THE CITY INCOME TAX.

“ASSOCIATION” means the partnership, cooperative, limited partnership, S CORPORATION, or any other form of incorporated enterprise owned by two or more persons.

“THE BOARD” means the Board of Review provided for in Section 13 of the ordinance.

“BUSINESS” means an enterprise, cooperative 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. 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.

“BUSINESS APPORTIONMENT” as used in these Regulations, means the portion of the net profits to be allocated to the City as having been made in the City, either under a separate accounting method, or under the three factor formula of property, payroll, and sales, provided for in Section 3 of the ordinance.

“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 SERVICE OF AN EMPLOYER AND FOR whom an employer is required to withhold TAX for either federal income or social security, or on whose account payments are made under the Ohio Worker's Compensation law, shall prima facie be an employee.

“EMPLOYER” means an individual, partnership, association, corporation, including a corporation not for profit, governmental agency, board, body, bureau, department, subdivision, or any other entity, that employs one or more persons on a salary, wage, commission or other compensation basis whether or not such employer is engaged in business. It does not include a person who employs only domestic help for such person's private residence.

“FISCAL YEAR” means an accounting period of twelve (12) months or less ending on any day other than December 31. Only fiscal years accepted by the Internal Revenue Service for federal income tax purposes may be used for CITY tax purposes.

“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 ESTIMIMATE 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 TAXRETURNS, 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 total income 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. THE “NET PROFIT” FOR A TAXPAYER, WHO IS AN INDIVIDUAL, MEANS THE INDIVIDUAL’S PROFIT, OTHER THAN AMOUNTS DESCRIBED IN ARTICLE III (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 this 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 not having an office or place of business within the CITY.

“ORDINANCE” means Ordinance No. 32-66-0 enacted by the Council of the 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 the 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.

“PRINCIPAL PLACE OF BUSINESS” MEANS, IN THE CASE OF AN EMPLOYER HAVING HEADQUARTERS’ ACTIVITIES AT A PLACE OF BUSINESS WITHIN THE 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 THE CITY, THE TERM MEANS THE EMPLOYERS’ LARGEST PLACE OF BUSINESS LOCATED IN A TAXING MUNICIPALITY.

“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 FOR TAX YEARS BEGINNING 1-1-2004:

- A. BEGIN WITH THE MEDICARE BASE (BOX 5) AND MAKE THE FOLLOWING MANDATORY ADJUSTMENTS (TO THE EXTENT NECESSARY):
1. TO THE EXTENT OTHERWISE INCLUDED IN BOX 5, *DEDUCT* AMOUNTS ATTRIBUTABLE TO SECTION 125 UNDER INTERNAL REVENUE CODE
 2. TO THE EXTENT OTHERWISE EXCLUDED FROM BOX 5, *ADD* AMOUNTS THAT ARE EXEMPT FROM MEDICARE TAXES SOLELY BECAUSE OF THE MEDICARE GRANDFATHERING PROVISION (I.E, PRE-APRIL 1, 1986 GOVERNMENTAL EMPLOYEES)
 3. TO THE EXTENT OTHERWISE EXCLUDED FROM BOX 5, *ADD* ORDINARY INCOME AMOUNTS ARISING FROM THE SALE, EXCHANGE OR OTHER DISPOSITION OF A STOCK OPTION, THE EXERCISE OF A STOCK OPTION, OR THE SALE, EXCHANGE OR OTHER DISPOSITION OF STOCK PURCHASED UNDER A STOCK OPTION.
 4. TO THE EXTENT OTHERWISE EXCLUDED FROM BOX 5, *ADD* EMPLOYEE CONTRIBUTIONS AND DEFERRALS TO SECTION 401(k), 403(b), 457 PLANS, AND OTHER SIMILAR DEFERRED COMPENSATION PROGRAMS UNDER THE INTERNAL REVENUE CODE.
 5. TO THE EXTENT OTHERWISE EXCLUDED FROM BOX 5, *ADD* SUPPLEMENTAL UNEMPLOYMENT COMPENSATION BENEFITS DESCRIBED IN SECTION 3402(o)(2) OF THE INTERNAL REVENUE 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 THIS 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.

"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 THE ORDINANCE.

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

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

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

In all definitions and these regulations, the singular shall include the plural and the masculine shall include the feminine and the neuter.

ARTICLE III Imposition of Tax

A. Bases

1. Resident Employees:

a. In the case of residents of the CITY an annual tax of 1.0% is imposed on all QUALIFYING wages, salaries, commissions, and other compensation earned OR RECEIVED during the effective period of the ordinance. For the purpose of determining the tax on the earnings of resident taxpayers taxed under Section 3 (A)(1) of the ordinance, the source of the earnings and the place or places in or at which the services were rendered, are immaterial. All such earnings wherever earned or paid are taxable.

b. The following are items which are subject to the tax imposed by Section 3 (A)(1) of the ordinance:

.1 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 earned by an individual, whether directly or through an agent and whether in cash or in property, for services rendered during the tax period as:

.01 An officer, director or employee of a corporation, including charitable and other non-profit organizations, joint stock associations, or joint stock company;

.02 An employee, as distinguished from a partner or member of a partnership, limited partnership, or any form of unincorporated enterprise owned by two or more persons;

.03 An employee, as distinguished from a proprietor of a business, trade or profession conducted by an individual owner;

.04 An officer or employee, whether elected, appointed or commissioned, of the United States Government or of a corporation created and owned or controlled by the United States Government, or any of its agencies; or of the State of Ohio or any of its political subdivisions or agencies thereof; or any foreign country or dependency, except as provided in Section 3 of the ordinance;

.05 An employee of any other entity or person, whether based upon hourly, daily, weekly, semi-monthly, monthly, annual, unit of production or piece work rates; and whether paid by an individual, partnership, association, corporation, charitable and other non-profit corporations, governmental administration, agency, authority, board, body, branch, bureau, department, division, subdivision, section or unit, or any other entity.

.2 Commissions earned by a taxpayer, whether directly or through an agent and whether in cash or in property, for services rendered during the effective period of the ordinance, regardless of how computed or by whom or wheresoever paid.

.01 If amounts received as a drawing account exceed the commissions earned and the excess is not subject to the demand of the employer for repayment, the tax is payable on the amounts received as a drawing account.

.02 Amounts received from an employer for expenses and used as such by the individual receiving them are not deemed to be compensation, if the employer deducts such expenses or advances from his gross income for the purpose of determining his net profits taxable under federal law, and the employee is not required to include such receipts as income on his federal income tax return.

.03 If commissions are included in the net earnings of the trade, business, profession, enterprise, or activity, carried on by an unincorporated entity of which the individual receiving such commission is the owner or part owner and therefore subject to the tax under paragraphs (A)(3) or (A)(4) of Section 3 of the ordinance, they shall not be taxed under Section 3, (A)(1).

.3 Fees, unless such fees are properly included as part of the net profits of a trade, business, profession, or enterprise regularly carried on by an unincorporated entity owned or partly owned by said individual and such net profits are subject to the tax under Section 3, (A)(3) of the ordinance.

.4 Other compensation, including tips, bonuses or gifts of any type, and compensation paid to domestic servants, casual employees and other types of employees.

.5 Payments made to employees by an employer as vacation wages are taxable. Payments made to an employee by an employer during periods of disability or sickness are taxable.

.6 Contributions made to IRA, Deferred Compensation, Keough, and Tax Sheltered Annuity Plans are taxable in the year the contribution is made.

.7 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 ON DISTRIBUTIONS RECEIVED AFTER 1/1/ 2005.

c. Where compensation is paid or received in property, its fair market value, at the time of receipt, shall be subject to the tax and to withholding. Board, lodging and similar items received by an employee in lieu of additional cash compensation shall be included in earnings at their fair market value.

.1 In the case of domestics and other employees whose duties require them to live at their place of employment or assignment, board and lodging shall not be considered as wages or compensation earned.

2. Nonresident Employees:

- a. In the case of individuals who are nonresidents of the CITY, there is imposed under Section 3 (A)(2) of the ordinance, a tax of 1.0% on all QUALIFYING wages, SALARIES, INCLUDING SICK, VACATION, SEVERANCE AND ANY PAY AS PART OF AN EMPLOYEE BUYOUT OR WAGE CONTINUATION PLAN, TIPS, GRATUITIES, commissions, and other compensation earned, RECEIVED, ACCRUED OR ANY WAY SET APART UNTO NONRESIDENTS OF THE CITY during the effective period of the ordinance for work done or services performed or rendered within the CITY, whether such compensation or remuneration is received or earned directly or through an agent and whether paid in cash or in property. The location of the place AT which payment is made is immaterial.
- b. The items subject to tax under Section 3(A)(2) of the ordinance are the same as those listed and defined in Article III (A). For the methods of computing the extent of such work or services performed within the CITY, in cases involving compensation for personal services partly within and partly without the CITY, SUBJECT TO Article VI (A)(6) and Article VIII (C)(3).

3. A. Imposition of Tax on Net Profits of Resident Unincorporated Businesses and other entities:

- .1 In the case of resident unincorporated businesses, unincorporated pass-through entities, professions, enterprises, undertakings or other entities conducted, operated, engaged in, prosecuted or carried on, irrespective of whether such taxpayer has an office or place of business in the CITY, there is imposed an annual tax of 1.0% on the net profits earned, accrued or received during the effective period of the ordinance attributable to the CITY, under the formula or separate accounting method provided for in Section III of the ordinance, derived from sales made, work done or services performed or rendered and business or other activities conducted within the CITY.
- .2 The tax imposed on resident associations, unincorporated entities, or unincorporated pass-through entities owned by two or more persons is upon the entities rather than the individual members or owners. The tax imposed on an unincorporated or unincorporated pass-through resident entity owned by one person is upon the individual owner. (For tax on that part of a resident owner's distributive share of net profits not taxed against the entity, see Article III (A)(3)(b).
- .3 The tax imposed by Section 3 (A)(3)(a) of the ordinance is imposed on all resident unincorporated entities or unincorporated pass-through entities having net profits attributable to the CITY under the method of APPORTIONMENT provided for in the ordinance, regardless of where the owners of such resident unincorporated business entity or unincorporated pass-through entity reside.
- .4 Resident unincorporated entities or unincorporated pass-through entities owned by two or more persons, all of whom are residents of the CITY, shall disregard the method of APPORTIONMENT provided for in the ordinance and pay the tax on their entire net profits. In such case, the tax paid by the entity shall constitute all tax due from the owners or members of the entity for their distributive share of such net profits. NOTE: An additional return shall be required from any such owner or member having taxable income other than the distributive share of the net profits from the entity.

B. Imposition of Tax on Resident's Distributive Share of Profits of Unincorporated Business Entity or Unincorporated Pass-through Entity not attributable to the CITY

- .1 A resident individual, who is sole owner of a resident unincorporated entity or unincorporated pass-through entity, shall disregard the business APPORTIONMENT formula and pay the tax on the entire net profits of the resident unincorporated business entity or unincorporated pass-through entity by the CITY.
- .2 In the case of a resident individual partner or part owner of a resident unincorporated entity or unincorporated pass-through entity, there is imposed an annual tax of 1.0% on such individual's distributive share of net profits earned, accrued or received during the effective period of the ordinance not attributable to the CITY, under the method of APPORTIONMENT provided for in Section 3 of the ordinance, and not taxed against the entity by the CITY.

4. A. Imposition of Tax on Net Profits of Non-Resident Unincorporated Businesses or Unincorporated Pass-through entities:

.1 In the case of nonresident unincorporated businesses, unincorporated pass-through entities, professions, enterprises, undertakings, or other activities conducted, operated, engaged in, prosecuted or carried on, there is imposed an annual tax of 1.0% on the net profits earned, accrued or received during the effective period of the ordinance attributable to the CITY, under the formula or separate accounting method provided for in the ordinance.

.2 The tax imposed on nonresident unincorporated entities or unincorporated pass-through entities owned by two or more persons is upon the entities rather than the individual members or owners thereof. For tax on that part of a resident owner's distributive share of net profits not taxed against the entity by the CITY. See Article III (A)(4)(b).

.3 Nonresident unincorporated entities or unincorporated pass-through entities owned by two or more persons, all of whom are residents of the CITY, may elect to disregard the method of APPORTIONMENT provided for in the ordinance and pay the tax on the entire net profits. In such case, the tax paid by the entity shall constitute all tax due from the owners or members of the entity for their distributive share of the net profits. NOTE: A return shall be required from such owner or member having taxable income other than the distributive share of the net profit from the entity by this CITY. See Article XV for Credits.

B. Imposition of Tax on Resident's Share of Profits of Nonresident Unincorporated Business Entity or Unincorporated Pass-through Entity not attributable to the CITY. See Article XV for Credits.

.1 A resident individual who is sole owner of a nonresident unincorporated business entity or unincorporated pass-through entity shall disregard the business APPORTIONMENT formula and pay the tax on the entire net profits of the unincorporated entity or unincorporated pass-through entity TO the CITY.

.2 In the case of a resident individual partner or part owner of a nonresident unincorporated entity or unincorporated pass-through entity, there is imposed an annual tax of 1.0% on such individual's distributive share of net profits earned, accrued or received during the effective period of the ordinance not attributable to the CITY under the method of APPORTIONMENT provided for in Section 3 of the ordinance and not taxed against the entity by the CITY.

5. Imposition of Tax on Net Profits of Corporations

a. In the case of corporations, whether domestic or foreign and whether or not such corporations have an office or place of business in the CITY, there is imposed an annual tax of 1.0% on the net profits earned, received or accrued during the effective period of the ordinance attributable to the CITY under the formula or separate accounting method provided for in the ordinance.

b. In determining whether a corporation is conducting a business or other activity in the CITY, the provisions of Article III (B) of these regulations shall be applicable.

c. Corporations which are required by the provisions of Section 5727.38 to 5727.41, inclusive, of the Ohio Revised Code, to pay an excise tax in any taxable year as defined by the ordinance, may exclude that part of their gross receipts upon which the excise tax is paid. In such case, expenses incurred in the production of such gross receipts shall not be deducted in computing net profits subject to the tax imposed by the ordinance.

6. Amplification:

In amplification of the definition contained in Article II of these regulations, but not in limitation thereof, the following additional information REGARDING net business profits is furnished:

a. NET PROFITS

.1 Net Profits as used in the ordinance and these Regulations means net profits derived from any business, profession or other activity or undertaking carried on for profit or normally carried on for profit.

.2 Net Profits as disclosed on any return filed pursuant to the provisions of the ordinance shall be computed by the same accounting method used in reporting net income to the Internal Revenue Service, providing such method does

not conflict with any provisions of the ordinance. Net profits, shown on returns filed pursuant to the ordinance, must be reconciled with the income reported to the Internal Revenue Service.

.3 An activity is presumed to be "conducted for a profit" if it produces a profit in any 2 or more tax years out of 5 consecutive years ending with the current year. For the breeding, training, showing or racing of horses, there must be a profit in 2 out of 7 consecutive years. This provision excludes rental of real property.

b. GROSS RECEIPTS

.1 Gross Receipts shall include, but not be limited to, income in the form of commissions, fees, rentals from REAL and tangible personal property, and other compensation for work or services performed or rendered as well as income from sales of stock in trade.

.2 From gross receipts, there shall be deducted allowable expenses to arrive at the net profit subject to tax.

c. EXPENSES

.1 All ordinary, reasonable and necessary expenses of doing business, including reasonable compensation paid employees, shall be allowed. No deduction may be claimed for salary or withdrawal of a proprietor or of the partners, members, or other owners of an unincorporated business or enterprise.

.01 If not claimed as part of the cost of goods sold or elsewhere in the return filed, there may be claimed and allowed a reasonable deduction for depreciation, depletion, obsolescence, losses resulting from theft or casualty, not compensated for by insurance or otherwise, of property used in the trade or business. The amount CLAIMED may not exceed that recognized for the purpose of the federal income tax. Losses on the sale, exchange or other disposition of depreciable property or real estate, used in the taxpayer's business, shall not be allowed as a deductible expense.

.02 Current amortization of emergency facilities under the provisions of the Internal Revenue Code, if recognized as such for federal income tax purposes, may be included as an expense deduction hereunder.

.03 Where depreciable property is voluntarily destroyed, only the cost of demolition and the undepreciated balance thereof will be allowed as an expense in the year of demolition, to the extent allowable for federal income tax purposes.

.04 Bad debts in a reasonable amount may be allowed in the year ascertained worthless and charged off, or at the discretion of the TAX Administrator. If the reserve method is used, a reasonable addition to the reserve may be claimed, but in no event shall the amount exceed the amount allowable for federal income tax purposes.

.05 Only taxes directly connected with the business may be claimed as a deduction. If, for any reason, the income from property is not subject to the tax, then taxes on and other expenses of said property are not deductible. In any event, the following taxes are not deductible from income: (1) the tax under the ordinance; (2) federal or other taxes based upon income exclusive of the amount of Ohio franchise tax computed on the net worth basis; (3) gift, estate or inheritance taxes; and (4) taxes for local benefits or improvements to property which tend to appreciate the value thereof.

.06 In general, nontaxable income and expenses incurred in connection therewith are not to be considered in determining net profits. Income from intangibles, by way of dividends, interest and the like, shall not be included if such income is subject to taxation under the intangible personal property laws of the State of Ohio or is specifically exempt from taxation under STATE law.

.07 If the taxpayer reports income that is nontaxable under the ordinance and such amounts are deducted in order to reconcile the return with the taxpayer's federal income tax return, expenses attributable to this nontaxable income shall not be allowed. In the absence of records showing the actual expenses attributable to such nontaxable income, and upon approval of the TAX Administrator, such amount shall be deemed to equal five percent of such nontaxable income.

.08 Capital gains and losses from the sale, exchange or other disposition of property shall not be taken into consideration in arriving at net profits earned. Any amount received on a sale or other disposition of tangible personal and real property used in business, in excess of book value, shall be treated as taxable income under the ordinance to the extent of depreciation allowable under the ordinance. The balance shall be treated as capital gain. The amount taxable will be taken from the federal INCOME TAX return.

7. Rental OF Real Property

- a. Rental INCOME received by the taxpayer IS to be included only if and to the extent that the rental, ownership, management, or operation of the real estate from which such INCOME IS derived, whether so rented, managed or operated by the taxpayer individually or through agents or other representatives, constitutes a business activity of the taxpayer in whole or in part.
- b. In determining the amount of gross monthly rental INCOME of any real property, periods during which, by reason of vacancy or any other cause, rental INCOME is not received shall not be taken into consideration by the taxpayer.
- c. Rental INCOME received by a taxpayer engaged in the business of buying and selling real estate shall be considered as part of business income.
- d. Real property, as the term is used in these Regulations, shall include commercial property, residential property, farm property, and any and all other types of real estate.
- e. In determining the taxable income from rentals, the deductible expenses shall be of the same nature, extent and amount as are allowed by the Internal Revenue Service for federal income tax purposes.
- f. Residents of the CITY are subject to taxation upon the net income from rentals, to the extent above specified, regardless of the location of the real property owned.
- g. Nonresidents of the CITY are subject to such taxation only if the real property is situated within the CITY.
- h. Corporations owning or managing real estate are taxed only on that portion of income derived from property located in the CITY.

8. Patents and Copyrights:

- a. Income from patents or copyrights is not to be included in net profits subject to the tax, if the income from such patents or copyrights is subject to a state intangible tax. Conversely, such a state intangible tax is not deductible in determining City tax. Such items shall be clearly disclosed on an attachment to be filed with the City tax return.

B. APPORTIONMENT of Business Profits

1. Standard Method

- a. STEP 1: Ascertain the percentage which the average ORIGINAL COST of real and tangible personal property, including leasehold improvements, owned or used in the business and situated within the CITY is of the average ORIGINAL COST of all real and tangible personal property, including leasehold improvements, owned or used in the business wherever situated, during the period covered by the return.

The percentage of taxpayer's real and tangible personal property within the CITY is determined by dividing the average ORIGINAL COST of such property within the CITY, without deduction of any encumbrances, by the average ORIGINAL COST of all such property within and without the CITY. In determining such percentage, property rented to the taxpayer as well as real and tangible personal property owned by taxpayer must be considered.

.01 The ORIGINAL COST of real and tangible personal property rented by THE taxpayer shall be determined by multiplying gross annual rents payable by eight (8).

.02 Gross rents means the actual sum of money or other consideration payable, directly or indirectly, by the taxpayer for the use or possession of property and includes:

.001 Any amount payable for the use or possession of real and tangible personal property or any part thereof, whether designated as a fixed sum of money or as a percentage of sales profits or otherwise;

.002 Any amount payable as additional rent, or PAYMENTS in lieu of rent, such as interest, taxes, insurance, repairs, or other amounts required to be paid by the terms of a lease or other arrangement.

b. STEP 2: Ascertain the percentage which the total QUALIFYING wages, salaries, commissions and other compensation

of employees within the CITY is of the total wages, salaries, commissions and other compensation of all the taxpayer's employees, within and without the CITY, during the period covered by the return. Any compensation exempted by Section 3 (F) of the tax ordinance shall be excluded from the business APPORTIONMENT formula calculation.

.1 Salaries and reasonable compensation paid owners or credited to the account of owners or partners during the period covered by the return are considered wages for the purpose of this computation.

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.2 QUALIFYING wages, salaries, and other compensation shall be computed on the cash or accrual basis in accordance with the method of accounting used in the computation of the entire net income of the taxpayer.

.3 In the case of an employee who performs services both within and without the CITY the amount treated as compensation for services performed within the City shall be deemed to be:

.01 In the case of an employee whose compensation depends directly on the volume of business secured by him, such as a salesman on a commission basis, the amount received by him for the business attributable to his efforts within the City.

.02 In the case of an employee whose compensation depends on other results achieved, the proportion of the total compensation received which the value of these services within the City bears to the value of all his services; and

.03 In the case of an employee compensated on a time basis, the proportion of the total amount received by him which his working time within the City BEARS TO his total working time.

c. STEP 3: Ascertain the percentage which the gross receipts of the taxpayer derived from sales made and services rendered in the CITY is of the total gross receipts FROM wherever derived during the period covered by the return.

.1 The following sales shall be considered the CITY's sales:

.01 All sales made through retail stores located within the City to purchasers within or without the CITY, except sales to purchasers outside the CITY that are directly attributable to regular solicitations made outside the City personally by taxpayer's employees.

.02 All sales of tangible personal property delivered to purchasers within the CITY, if shipped or delivered from an office, store, warehouse, factory, or place of storage located within the CITY.

.03 All sales of tangible personal property delivered to purchasers within the CITY, even though transported from a point outside the CITY, if the taxpayer is regularly engaged through its own employees in the solicitation.

.04 All sales of tangible personal property shipped from an office, store, warehouse, factory or place of storage within the CITY to purchasers outside the CITY if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the places of delivery.

.05 Charges for work done or services performed incident to a sale, whether or not included in the price of the property, shall be considered gross receipts from such sale.

.2 In the application of the foregoing subparagraphs a carrier shall be the agent of the seller regardless of the FOB point or other conditions of the sales. The place at which orders are accepted or contracts legally consummated

shall be immaterial. Solicitation of customers outside the City by mail or phone from an office, or place of business within the City shall not be considered a solicitation of sales outside the City .

d. STEP 4: Add the percentages determined in accordance with Steps 1, 2 and 3, or such of the aforesaid percentages as may be applicable to the particular taxpayer's business, and divide the total so obtained by the number of percentages used in ascertaining said total. The result so obtained is the business APPORTIONMENT percentage. In determining the average percentage, a factor shall not be excluded from the computation merely because said factor is found to be allocable entirely outside the CITY. A factor is excluded only when it does not exist anywhere.

e. STEP 5: The business APPORTIONMENT percentage determined in Step 4 shall be applied to the entire taxable net profits of the taxpayer, wherever derived, to determine the new profits allocable to the CITY.

2. Substitute Method:

a. In the event a just and equitable result cannot be obtained under the formula, the Board, upon application of the taxpayer or the TAX Administrator, may substitute other factors in the formula or prescribe other methods of allocating net income calculated to effect a fair and proper APPORTIONMENT.

b. Application to the Board to substitute other factors in the formula, or to use a different method to allocate net profits, must be made in writing before the end of the taxable year. THE APPLICATION shall state the specific grounds on which the substitution of factors, or use of a different method, is requested and the relief sought to be obtained. A copy thereof shall be SUBMITTED at the time of filing TO the taxpayer or TAX Administrator, as the case may be. No specific form need be followed in making an application. Once a taxpayer has filed under a substitute method, he must continue to so file until given permission to change by the Board.

3. THE APPLICATION OF BUSINESS PROFITS DOES NOT APPLY TO INDIVIDUALS WHO ARE RESIDENTS OF THE CITY AND, EXCEPT AS OTHERWISE PROVIDED IN SECTION 718.01 OF THE OHIO REVISED CODE, THE CITY MAY IMPOSE A TAX ON ALL INCOME EARNED BY RESIDENTS OF THE CITY TO THE EXTENT ALLOWED BY THE UNITED STATES CONSTITUTION.

B. Operating Loss Carry Forward

1. A portion of a net operating loss, based on income taxable under the ordinance, sustained in any taxable year, 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 for NO 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. In the event net profits are allocated both within and without the CITY, the portion of a net operating loss sustained shall be APPORTIONED to the CITY in the same manner as provided herein for allocated net profits to the CITY. The portion of a net operating loss to be carried forward shall be determined in the year the net operating loss is sustained, on the basis of the APPORTIONMENT factors applicable to that year. The same method of accounting and APPORTIONMENT must be used in the year to which an operating loss is carried FORWARD as was used in the year in which the operating loss was sustained.

3. In the case of fiscal years beginning prior to the effective date of the ordinance, the net operating loss deduction will be that portion of the operating loss that the number of months of the fiscal year after the effective date of the ordinance bears to the total number of months in such fiscal year.

4. In cases where there has been a change in accounting period where a taxpayer selects a short fiscal year, or where a new taxpayer operates in the CITY for less than his full accounting period, shall be considered as a full taxable fiscal year.

5. In any return in which a net operating loss deduction is claimed, a schedule should be attached showing:

- a. Year in which net operating loss was sustained.
 - b. Method of accounting and APPORTIONMENT used to determine THAT portion of net operating loss allocable to the CITY.
 - c. Amount of net operating loss used as a deduction in prior years.
 - d. Amount of net operating loss claimed as a deduction in the current year.
6. 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.
7. In the case of a net operating loss in the filing of consolidated returns, see Article III (D).
8. Net losses incurred in business or rental activities, or other taxable activity incurred in any taxable year after January 1, 1997, APPORTIONED to the CITY may not be used to offset QUALIFYING WAGES, salaries, commissions, or other compensation. The gains and losses in business and rental activities must be netted in the same year. Losses can only be carried forward five years after the loss. A schedule, as required in Paragraph 5 above, must be provided for carry forward losses.

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 a consolidated return for the same tax period 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 REQUIREMENTS IN THE RULES AND REGULATIONS FOR DISCONTINUING THE FILING OF CONSOLIDATED RETURNS HAVE BEEN MET.
 - a. Permission in writing is granted by the TAX Administrator to file separate returns.
 - b. A new corporation, other than a corporation created or organized by a member of the group, has become a member of the group during the taxable year.
 - c. A corporation member of the group is sold or exchanged. Liquidating a corporation or merging one of the corporations of the group into another will not qualify the group for filing separate returns.
- 3. If a corporation becomes a member of the group during the taxable year, the consolidated return must include the income for the entire taxable year of the common parent corporation and any subsidiaries which were members of the group for the entire year, plus the income of each subsidiary which becomes a member of the group during the year for the period beginning with the date it became a member of the affiliated group. For the period prior to the time any subsidiary became a member of the group, separate returns must be filed for that subsidiary. When a subsidiary ceases to be a member of the affiliated group, the consolidated return must include the income of such subsidiary for the period during which it was a member of the group. For the period after it ceases to be a member, separate returns must be filed. If a corporation has been a member of the affiliated group for less than one month of the taxable year of the group, it may be considered as not being part of the group. Similarly, a subsidiary may be considered as being a member of the affiliated group during the entire taxable year of the group, if the period during which it was not a member of the group does not exceed one month. If a subsidiary is a member of the consolidated group for only part of a taxable year, the income considered to be earned in such fractional part of the year shall be that portion of the net income for the entire year which the number of days it was a member of the group bears to the total number of days in the taxable year.
- 4. In determining the APPORTIONMENT fraction where a corporation becomes a member of the group or ceases to be a member of the group during the taxable year, the property fraction IN ARTICLE III (B)(1)(a) shall be determined on the basis of the ORIGINAL COST of the property during the period such corporation was a member of the group. The

rental portion of the fraction, however, shall be computed at 8 times the annual rent. The gross receipts and wage fractions shall be based on the actual figures.

5. All subsidiary corporations must agree in writing to the filing of the consolidated return as they will be liable for the tax, as well as will be the parent corporation.

6. The net operating loss carry FORWARD of a corporation, which filed a separate return in a prior year, may be carried FORWARD to the consolidated return, but will be limited in amount to the amount of that same corporation's net income included in the consolidation. The net operating loss carry FORWARD from a separate year shall be deducted first before application of the APPORTIONED fraction. After application of the APPORTIONED fraction, the consolidated net operating loss carry FORWARD allocated to the CITY shall be allowed.

7. In consolidating the net income, the taxable income of each corporation shall be computed in accordance with the provisions governing the taxable income of the separate corporations, except that there shall be eliminated, unrealized profits and losses in transaction between members of the affiliated group.

8. In determining expenses that are not allowable because they are APPORTIONED to nontaxable income, calculations shall be based on the consolidated net income. As an example, inter-company dividends which are eliminated in the consolidation will not be taken into consideration in determining nontaxable income.

E. Exceptions

The following shall not be considered taxable:

1. PROCEEDS FROM WELFARE BENEFITS, STATE unemployment insurance benefits, old age pensions or similar payments received from local, state or federal governments or charitable or religious organizations.
2. 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.
3. Compensation for damage to property THROUGH insurance or OTHER MEANS.
4. Interest and dividends from intangible property.
5. Military pay and allowances received as a member of the armed forces of the United States, including nonactive duty pay, reserve pay, and national guard pay.
6. Any charitable, educational, fraternal or other type of nonprofit association or organization, SPECIFIED in Section 718.01 of the Ohio Revised Code, which is exempt from payment of real estate taxes, is exempt from payment of the tax imposed by the ordinance.
7. Any association or organization falling in the category listed in ARTICLE IV (E)(6) is required to file declarations and final returns and remit the taxes levied under the ordinance, on all business activities of a type ordinarily conducted for profit by taxpayers operating for profit.
8. Where such nonprofit association or organization conducts income producing business both within and without the corporate limits, it shall calculate its profits allocable to the CITY under the method or methods IN ARTICLE III (B).
9. Parsonage allowance pursuant to Section 107 of the Internal Revenue Code.
10. 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 dollars SHALL be subjected to taxation. The payer of such compensation is not required to withhold City tax from that compensation.
11. 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 CITY, unless the bus is operated on a regularly scheduled route, the operator is a resident or domiciled in the CITY, or the headquarters of the authority or commission is located within the CITY.

12. INTANGIBLE INCOME

13. 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 January 1, 2002, the income of an electric company, combined company, AND BEGINNING TAX YEAR 1/1/2004, A TELEPHONE COMPANY, as defined in Section 5727.01 of the Ohio Revised Code, shall be taxed by the CITY subject to charter 5745 of the Ohio Revised Code.

14. THE APPRECIATION ON DEFERRED COMPENSATION DISTRIBUTIONS.

15. 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 HEREIN AT THE TIME OF PAYMENT OR DISTRIBUTION.

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

17. 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 SOLVENCY 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.

F. OTHER EXCEPTIONS FOR NONRESIDENTS:

On or after January 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 CORPORATION 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.

ARTICLE IV

Effective Period of the Tax

A. The tax imposed by Section 3 (A)(1) and (2) of the ordinance shall be levied, collected and paid with respect to QUALIFYING wages, salaries, bonuses, incentive payments, commissions, fees, and other compensation earned DURING THE EFFECTIVE PERIOD OF THE ORDINANCE.

B. The tax imposed by Section 3 (A)(3), (4), and (5) of the ordinance, with respect to net profits of trades, businesses, professions, enterprises, undertakings and other activities, is on the net profits earned DURING THE EFFECTIVE PERIOD OF THE ORDINANCE.

ARTICLE V

Return and Payment of the Tax

A. Date and Requirement for Filing:

1. On or before THE FIFTEENTH (15 th) DAY OF APRIL of each year following the effective date of the ordinance, and each year thereafter, every person subject to the provisions of Section 3 (A)(1) to (5), inclusive, of the ordinance shall, except as hereinafter provided, make and file with the TAX Administrator, a return on a form prescribed by and obtainable upon request from the TAX Administrator, whether or not a tax IS due.

The City shall accept for filing a generic form of a required return, report, or document, if the form contains all of the information required to be submitted with the prescribed 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.

2. If the return is made for a fiscal year or any period OTHER THAN A CALENDAR YEAR, said return shall be FILED BY THE FIFTEENTH (15 th) DAY OF THE FOURTH MONTH following the end of each fiscal year or other period.

3. Every person subject to the provisions of Section 3 of the ordinance shall, except as hereinafter provided, file a return setting forth the QUALIFYING wages, salaries, commissions and other personal service compensation, net profits from business or other activities, including the rental INCOME from use of real and personal property, and other income taxable under the ordinance, received for the period covered by the return and ANY other pertinent facts and DETAILED information as the TAX Administrator may require.

4. Where a nonresident employee's QUALIFYING earnings for the tax period are paid by an employer or employers, and the one percent (1.0%) tax thereon has in each instance been withheld and deducted by the employer or employers from the gross amount of the entire earnings of such nonresident employee-taxpayer, and where the employer of such non-resident employee has filed a return or returns in which such nonresident employee's entire and only earnings are reported to the TAX Administrator, and where such nonresident employee has no taxable income other than such earnings and the tax so withheld has been paid to the TAX Administrator. The TAX Administrator is hereby authorized to accept such report or returns provided by the employer, unless otherwise specified, as the return required of any such employee.

5. An employee, who is permitted to deduct employee business expenses from QUALIFYING wages, salaries, or commissions, must file a Federal Form 2106 with HIS City tax return in order to claim such deductions, even though all or part of such wages, salaries, or commissions are subject to withholding.

6. Any taxpayer who received taxable income not subject to withholding under the ordinance must file a return.

7. Any taxpayer having income, QUALIFYING wages, salaries, or other compensation, and also having net profits from a business and/or rental activity covering the same or a different period, is required to file only one COMBINED return.

8. Trustees of active trusts are required to file returns and pay the tax on the taxable income.

9. Except as herein provided, the tax is on the partnership or association as an entity, whether resident or nonresident, a return is required disclosing the net profits allocable to the CITY and the tax paid thereon. Any resident partner or resident member of AN unincorporated entity is required to FILE a return and pay the tax in accordance with Article III (A)(3)(b)(2) of these Regulations.

10. A husband and wife may, in any year, elect to file a separate or joint return.

11. Operating losses from business or professional activities, the profits of which would be taxable under the ordinance, may be offset against net profits from other business or professional activities. Such operating loss may not be offset against salaries, wages, commissions, and other personal service compensation paid as an employee for which a Federal W-2 has been issued by an employer. To the extent that losses are offset they shall not be allowable as an operating loss carry forward under Section 3 (c) of the ordinance or Article III (C) of the regulations.

12. The Tax Administrator may exempt from the annual filing requirement certain individuals who have attained retirement age, have retired, and have no income subject to taxation by the City. The TAX Administrator will survey those exempted individuals every four years to check the current and previous filing status. Any tax liabilities that are due would be subject to penalties and interest AS ESTABLISHED in the current tax ordinance.

B. Information Required and Reconciliation with Federal Returns

1. In returns filed hereunder, there shall be set forth the QUALIFYING wages, bonuses, incentive payments, commissions, fees and other compensation, less reasonable allowable Federal Form 2106 expenses incurred, subject to the tax earned from each employer, taxable net profits and other pertinent information as the TAX Administrator may require.

2. Where figures of total income, total deductions, and net profits are included, as shown by a federal return, any items not subject to the CITY'S tax and unallowable expenses shall be eliminated in determining net income subject to the CITY'S tax. In the absence of records showing the actual unallowable expenses, such expenses shall be determined in accordance with Article III (A)(6)(c)(1.07) of these Regulations. The fact that any taxpayer is not required to file a federal tax return does not relieve him from filing the CITY'S tax return.

3. If a change in federal income tax liability, made by the Internal Revenue Service, or by a judicial decision, results in an additional amount of tax payable to the CITY, a report of such change shall be filed by the taxpayer within three (3) months after receipt of the final notice from the Internal Revenue Service or final court decision, see Article XI (B)(1).

4. If a change in federal income tax liability results in a deduction of taxes owed and paid to the CITY, a claim for refund shall be filed with the TAX Administrator as prescribed in Section 11 of the ordinance and Article XI of these Regulations.

C. Extensions

1. 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 City tax return.

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

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

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

1. Fails to timely file the request;
2. Fails to file a copy of the federal extension request;
3. Owes the City any delinquent income tax or penalty, interest assessment, or other charge for the late payment or nonpayment of income tax;
4. 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 a City income tax return does not extend the last date for paying the tax without penalty, unless the TAX ADMINISTRATOR grants an extension of that date.

Estimated tax payments must still be made by the due dates per the provisions of the tax ordinance.

2. Information returns, schedules and statements needed to support tax returns are to be filed within the time limits set forth for filing the tax returns.

D. Payment with Return

1. The taxpayer making a return shall, at the time of the filing thereof, pay to the TAX Administrator the amount shown as due thereon. Where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of Section 6 of the ordinance, or where any portion of said tax shall have been paid by the taxpayer pursuant to the provisions of Section 7 of the ordinance, or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with ARTICLE 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 the ordinance, to 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. No taxes due or refunds of less than one and 01/100 (\$1.01) dollars shall be collected or refunded.

E. Amended Returns

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 12 OF THE ORDINANCE. Such amended return 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's 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. Pass-through entities shall be required to file and pay tax due AT THE FOLLOWING LEVELS:

1. A resident partnership shall be required to file at the entity level.
2. Resident owners involved in nonresident partnerships shall file and pay City tax. The TAX Administrator, with proof that income subject to City tax has been paid to another municipality, will give credit for tax paid, subject to ARTICLE XV of the Rules and Regulations.
3. A resident limited liability company shall be required to file at the entity level.
4. Resident owners involved in nonresident limited liability company shall file and pay City tax. The TAX Administrator, with proof that income subject to City tax has been paid to another municipality, will give credit for tax paid, subject to ARTICLE XV of the Rules and Regulations.
5. A RESIDENT S CORPORATION SHALL BE REQUIRED TO FILE AT THE ENTITY LEVEL.
6. RESIDENT OWNERS INVOLVED IN NONRESIDENT S CORPORATIONS SHALL FILE AND PAY CITY TAX. THE TAX ADMINISTRATOR, WITH PROOF THAT INCOME SUBJECT TO CITY TAX HAS BEEN PAID TO ANOTHER MUNICIPALITY, WILL GIVE CREDIT FOR TAX PAID, SUBJECT TO ARTICLE XV OF THE RULES AND REGULATIONS.

ARTICLE VI

Collection of Tax at the Source

A. Duty of Withholding

1. Except as otherwise provided herein, it is the duty of each employer within, or doing business within the CITY, who employs one or more persons whether as an employee, officer, director, OR otherwise, to deduct each time any compensation is paid the tax of one percent (1.0%). THE DEDUCTION APPLIES TO:

a. The gross amount of all QUALIFYING wages, salaries, bonuses, incentive payments, commissions or other forms of compensation AS LISTED IN ARTICLE III (1) paid to residents of the City, regardless of the place where the services are rendered; and

b. All compensation AS LISTED IN ARTICLE III (2), paid nonresidents for services rendered, work performed, or other activities engaged in within the City.

2. All employers within or doing business within the CITY are required to make the collections and deductions specified in this Article, regardless of the fact that the services on account of which any particular deduction is required were performed outside the City.

3. Employers who do not maintain a permanent office or place of business in the CITY, but who are subject to tax on net profits attributable to the City, under the method of APPORTIONMENT provided for IN SECTION 3 (B) of the ordinance, are considered to be employers within the CITY and subject to the requirement of withholding.

4. The mere fact that the tax is not withheld will not relieve the employee of the responsibility of filing a return and paying the tax on the compensation paid. If the employer has withheld the tax and failed to pay the tax withheld to the TAX Administrator, the employee is not liable for the tax so withheld.

5. Commissions and fees paid to professional persons, brokers and others who are independent contractors, and not employees of the payer, are not subject to withholding or collection of the tax at the source. Such taxpayers must, in all instances, file a declaration and return and pay the tax pursuant to the provisions of the ordinance and Articles V and VII of the Rules and Regulations.

6. Where a nonresident receives compensation for personal services rendered or performed partly within and partly without the CITY, the withholding employer shall deduct, withhold and remit the tax on that portion of the compensation which is earned within the City in accordance with the following rules of apportionment:

a. If the nonresident is a salesman, agent or other employee whose compensation depends directly on the volume of business transacted or chiefly effected by him, the deducting and withholding shall attach to the portion of the entire compensation which the volume of business transacted or chiefly effected by the employee within the CITY bears to the total volume of business transacted by him within and outside the CITY.

b. The deducting and withholding of personal service compensation of other nonresident employees, including officers of a corporation, shall attach to the proportion of the personal service compensation of such employee which the total number of his working hours within the CITY is of the total number of working hours.

c. The fact that nonresident employees are subject to call at any time does not permit the APPORTIONMENT of pay for time worked in the CITY on a seven-day per week basis. The percentage of time worked in the CITY will be computed on the basis of a forty-hour week unless the employer notifies the TAX Administrator that a greater or lesser number of hours per week is worked.

d. The occasional entry into the CITY of a nonresident employee who performs the duties for which he is employed primarily outside the City, shall not be deemed to take such employee out of the class of those rendering their services entirely outside the CITY, subject to Article VIII (c) (3).

7. An employer shall withhold the tax on the full amount of any advances OF COMMISSIONS made to an employee.

8. An employer required to withhold the City tax on compensation paid to an employee shall, in determining the amount on which the tax is to be withheld, ignore any amount allowed and paid to the employee for expenses necessarily and actually incurred by the employee in the actual performance of his services, provided such expenses are incurred in earning compensation, including commissions, and are not deducted as a business expense by the employee under Article III of these Regulations.

9. A CITY employer required to withhold the tax from an employee for work done or services performed in another municipality, and who does so withhold and remit to such other municipality, shall be relieved from the requirement of withholding the CITY tax from that employee, except where the rate of tax for such other municipality is less than the rate of tax imposed by the ordinance. In such case the employer shall withhold and remit the difference to the CITY.

10. No person shall be required to withhold the tax on the wages or other compensation paid domestic servants employed exclusively in or about such person's residence, but such employee shall be subject to all of the requirements of the ordinance.

11. An employer whose records show that an employee is a nonresident of THE CITY and has no knowledge to the contrary, shall be relieved of the responsibility of withholding the tax on personal service compensation paid to such employee for services rendered or work done outside THE CITY by such employee. However, THE employer must withhold the tax on all personal service compensation paid such employee after the TAX Administrator notifies said employer, in writing, that such employee is a resident of the CITY. All employees are required to notify their employer of any change of residence and the date thereof.

B. Return and Payment of Tax Withheld and Status of Employers

1. The deductions from QUALIFYING wages and other compensation required to be made by employers are to begin with the compensation earned on and after the effective date of the ordinance.

The employer, in addition to any return required to be filed with respect to his own earnings or net profits, shall, before the last day of the month following the month in which the tax was deducted, FILE a return, and pay to the TAX Administrator the amount of taxes so deducted. If during the previous calendar year said annual withholding amount is less than twelve thousand dollars (\$12,000.00), 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. 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 required to be deducted and withheld, whether or not such taxes have in fact been withheld.

The return required to be filed under this Article shall be made on a form furnished by or obtainable on request from the TAX Administrator OR ON a generic form of a required return, report, or document, that 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 the City governing the filing of returns, reports, or documents.

2. If more than the amount of tax required to be deducted by the ordinance is withheld from an employee's pay, such excess may be refunded by the employer or the TAX Administrator, depending upon the circumstances and the time when the over-withholding is determined as follows:

a. Current employees:

.1 If the over-withholding is discovered in the same REPORTING period, the employer shall make the necessary adjustment directly with the employee and the amount to be reported on the return as withheld shall be the corrected amount;

.2 If the over-withholding is discovered in a subsequent REPORTING period of the same calendar year, the employer may make proper adjustment with the employee. In such case, the return for the period in which the adjustment is made shall indicate the total amount actually withheld, the amount of the adjustment deducted therefrom, and the corrected amount reported on the return.

.3 If the over-withholding is discovered in the following year, the employer shall notify the TAX Administrator of such over-withholding and the circumstances thereof. Upon proper verification the TAX Administrator shall refund to the employee the amount of such excess withholding.

b. Former employees:

.1 In case too much has been withheld from an employee who is no longer employed by the employer, the employer shall notify the TAX Administrator of the amount and circumstances of such over-withholding and the TAX Administrator shall then refund to the employee the amount of such excess withholding; or

.2 If the error is discovered by the employee, such employee shall file a claim with the TAX Administrator, and upon verification thereof by the employer, the TAX Administrator shall refund to the employee the amount of such excess withholding.

c. Nonresidents Employed Outside the City:

.1 Where an employer has withheld the CITY tax from all wages of a nonresident of the CITY and such nonresident has been employed outside of the CITY for all or a part of the time, such employee shall file a claim with the TAX Administrator covering such erroneous withholding. THE TAX Administrator shall, upon verification thereof by the employer, refund to the employee the amount of such excess withholding;

d. Insufficient Withholding:

.1 If less than the amount of tax required to be deducted is withheld from an employee, such deficiency shall be withheld from subsequent wages. If the employee-employer relationship has terminated, the employer shall notify the TAX Administrator of such deficiency and the reason therefor.

3. Every employer is deemed to be a trustee for the CITY in collecting and holding the tax WITHHELD AS required under the ordinance. The funds so collected by such withholding are deemed to be trust funds.

4. In the event taxes withheld from the salaries, wages, commissions, and other compensation of employees are not paid to the City in accordance with the provisions of this ARTICLE, 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 ARTICLE XII 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 taxes WITHHELD.

5. Every employer required to deduct and withhold the tax at the source is liable directly to the CITY for payment of such tax whether actually collected from THEIR employees or not.

6. WITHHOLDING RETURN AND EMPLOYEE LISTING: EACH EMPLOYER SHALL FILE A WITHHOLDING TAX RECONCILIATION SHOWING:

a. THE SUM TOTAL OF ALL COMPENSATION PAID ALL EMPLOYEES;

18. 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;

19. THE AMOUNT OF SUCH WITHHOLDINGS REMITTED.

THE LISTING OF EMPLOYEES SHALL INCLUDE:

a. NAME, ADDRESS, ZIP CODE AND SOCIAL SECURITY NUMBER OF EACH SUCH EMPLOYEE;

b. THE TOTAL AMOUNT OF COMPENSATION PAID DURING THE YEAR;

c. THE AMOUNT OF CITY TAX WITHHELD;

20. TAX WITHHELD FROM ANY EMPLOYEE, INCLUDING TAX WITHHELD AND REMITTED TO ANOTHER MUNICIPALITY, THE AMOUNT OF SAME SHALL BE SEPARATELY SHOWN ON THE RETURN OF INFORMATION FOR THAT MUNICIPALITY. THE WITHHOLDING TAX RECONCILIATION SHALL BE FILED BY EACH EMPLOYER ON OR BEFORE FEBRUARY 28 FOLLOWING THE END OF EACH CALENDAR YEAR.

7. The gross compensation to be reported for each employee shall be for the full twelve (12) calendar months of the year or portion that the employee reported on was employed.

C. Fractional Parts of A Cent: In deducting and withholding the tax at the source and in payment of any tax due under the ordinance, a fractional part of a cent shall be disregarded, unless it amounts to one-half cent (1/2cent) or more, in which case it shall be increased to one cent (1 cent).

D. In addition to the wage reporting requirements of this ARTICLE, any person required by the Internal Revenue Service to report PAYMENTS on form 1099-MISC 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.

Federal Form MISC-1099(s) may be submitted in lieu of a listing. The information shall be filed annually on or before February 28 following the end of such calendar year. FAILURE TO ISSUE PROPER 1099-MISC FORM(S) DOES NOT ELIMINATE THE RESPONSIBILITY FOR PROVIDING THIS INFORMATION TO THE TAX ADMINISTRATOR.

ARTICLE VII

Declaration of Estimated Tax

A. Filing Requirements

1. A declaration of estimated tax shall be filed by every taxpayer who may reasonably be expected to have taxable income, the tax on which is not or will not be withheld by an employer or employers. Such declaration shall be filed BY THE FIFTEENTH (15TH) DAY OF THE month after the beginning of the taxable year.
2. A taxpayer's final return for the preceding year may be used as the basis for computing his declaration of estimated tax for the current year. In the event a taxpayer has not previously been required to file a return, a declaration of estimated tax on anticipated income shall be filed in good faith.
3. A declaration of estimated tax which is less than ninety percent (90%) of the tax as shown on the final return shall not be considered filed in good faith.
4. When the estimated declaration payments and withholding equal or exceeds the previous tax year's liability or when the amount due on the final return is less than One hundred dollars (\$100.00), no penalty shall be due.
5. A minimum charge of Ten dollars (\$10.00) shall be imposed for failure to file any return required to be filed by provisions of the ordinance.
6. A taxpayer who 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 nonpayment of estimated tax liability. (ORC. 718.08 (e)).

B. Date of filing:

1. A person or other entity conducting a business not previously subject to the tax, or whose employer does not withhold the tax, shall file a declaration BY THE FIFTEENTH (15th) DAY OF THE month following the date he becomes subject to the tax.
2. Those taxpayers having a fiscal year or period differing from the calendar year shall file a declaration within four (4) months after the start of each fiscal year or period.

C. Form for Filing:

1. A declaration shall be filed upon a form or forms furnished by, or obtainable from the TAX Administrator. Credit shall be taken for the City's tax to be withheld from any portion of such income. In accordance with the provisions of ARTICLE XV, credit may be taken for tax to be withheld and remitted to another taxing municipality.
2. The original estimate of tax liability, or any subsequent amendment, may be increased or decreased by filing an amended declaration on or before any quarterly payment date as set forth in Article VII (D)(1). Such amendment may be made on the regular declaration form.

D. Dates of Payments:

1. The estimated tax may be paid in full with the declaration or in installments on or before the end of the seventh, tenth, and thirteenth month after the beginning of the taxable year.
2. The declaration of estimated tax must be accompanied by at least 22.5% of the annual estimated tax due.
3. In the event an amended declaration has been filed, the unpaid balance shown due thereon shall be paid at 22.5% for each REMAINING unpaid installment.
4. For taxpayers that are not individuals, estimated tax may be remitted on scheduled federal tax payment dates.

E. Final Returns Required:

1. The filing of a declaration does not relieve the taxpayer of the necessity of filing a final return, even though there is no change in the declared tax liability. A final return must be filed to obtain a refund of any overpayment of one and 1/100 dollars (\$1.01) or more.

F. Administrative Adjustments:

1. When the TAX Administrator deems a declaration of estimated tax to be inadequate, he shall determine the estimated tax, adjust the declaration, and demand the additional payment due. The Tax Administrator CAN demand a declaration immediately upon a taxpayer becoming subject to the tax and subject to Article VIII (C)(3).

G. SEE ARTICLE X – PENALTY AND INTEREST.

ARTICLE VIII

Duties of the TAX Administrator

A. Collection of Tax and Retention of Records:

1. It shall be the duty of the City TAX Administrator to receive the tax imposed by the ordinance in the manner prescribed herein from the taxpayers; to keep an accurate record thereof, and to report all monies so received.
2. It shall be the duty of the TAX Administrator to enforce payment of all taxes owed the CITY, to keep accurate records for a minimum of five (5) years showing the amount due from each taxpayer required to file a declaration and/or make any return, taxes withheld, and the dates and amounts of payments.

B. Enforcement Provisions:

1. The TAX Administrator is charged with the administration and enforcement of the provisions of the ordinance. Subject to the approval of the Board of Review, HE IS empowered to adopt, promulgate, and enforce rules

and regulations or any amendment relating to any matter or thing pertaining to the administration and enforcement of the ordinance. All rules and regulations and amendments or changes thereto, which are adopted by the Administrator under the authority conferred by the ordinance, must be approved by City Council before the same become effective.

2. The TAX Administrator has the authority to correct or adjust any return submitted, when a correction or adjustment is necessary to accomplish the intent of the ordinance.

3. Any taxpayer or employer desiring a special ruling on any matter pertaining to the ordinance or these Rules and Regulations, should submit to the TAX Administrator, in writing, all the facts involved and the ruling sought.

4. These Regulations, together with all amendments and supplements, will be on file at the office of the TAX Administrator, 2nd Floor of City Hall and will be open to public inspection DURING normal business hours.

5. 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 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 the ordinance.

6. 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 Sections 11 and 12 of the ordinance shall apply.

C. Estimation of Tax by TAX Administrator:

1. Whenever the TAX Administrator has been unable to secure information from the taxpayer as to his taxable income for any year, he CAN determine the amount of tax appearing to be due and assess the taxpayer upon the basis of such determination, together with the interest and penalties as prescribed in Section 10 of the ordinance.

2. Such determination of tax may be adjusted upon submission of actual records by the taxpayer from which his tax may be computed.

3. If a nonresident physically reports to an employer's premises within the City on a regular basis, such employee would be presumed to have at least a minimal tax liability.

D. Subject to the consent of the Board of Review, the TAX Administrator shall have the power to compromise any interest or penalty, or both, imposed by Section 10 of the ordinance.

ARTICLE IX

Examination of Books and Records and Information

A. Investigations by the TAX Administrator:

1. The TAX Administrator, or ANY PERSON ACTING IN HIS CAPACITY, is authorized to examine the books, papers, records and federal income tax returns of any employer, taxpayer or person subject to the ordinance, or whom the TAX Administrator believes is subject to the provisions of the ordinance, for the purpose of verifying the accuracy of any return made; or if no return was made, to ascertain the tax due under the ordinance.

2. An employer or taxpayer shall furnish, within ten (10) days following a written request by the TAX Administrator, or ANY PERSON ACTING IN HIS CAPACITY, the means, facilities and opportunity for making examinations and investigations authorized by the ordinance.

B. Subpoena of Records and Persons:

1. The TAX Administrator, or ANY PERSON ACTING IN HIS CAPACITY, is authorized to examine any person, under oath, concerning any income which was, or should have been, reported for taxation, or any transaction tending to

effect such income. The TAX Administrator may compel the production of books, papers, and records and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of the facts concerning any supposed income or transaction of the taxpayer.

2. The TAX Administrator's order to examine any document mentioned in the preceding paragraph shall state whether the examination is to be at the office of the taxpayer or at the office of the TAX Administrator.

3. The TAX Administrator, or ANY PERSON ACTING IN HIS CAPACITY, may order the appearance before him, any party whom he believes to have any knowledge of a taxpayer's income or withholdings, or any information pertaining to the taxpayer under investigation, whether or not the individual so ordered has actual custody of the records of the taxpayer being investigated. The TAX Administrator is specifically authorized to order the appearance of the local manager or representative of any taxpayer.

4. Persons required to attend any hearings shall be notified not less than ten (10) days prior to the time of the hearing. The notice shall show the time and place of the hearing and what books, papers or records the witness is to make available at such hearing.

5. The notice shall be served by the TAX Administrator, or ANY PERSON ACTING IN HIS CAPACITY, by delivering it to the person named personally, by leaving the notice at his usual place of business or residence, or by mailing it to the person by registered mail, return receipt requested, addressed to his usual place of business or residence.

C. Penalty for Noncompliance:

Refusal by an employer, supposed employer, taxpayer, or supposed taxpayer, or the refusal of any such person to appear before the TAX Administrator, or any person acting in his capacity, to submit to such examination and to produce the records requested constitutes a misdemeanor punishable by fine or imprisonment, or both as prescribed by Section 12 of the ordinance.

D. Confidential Nature of Examinations:

Any information gained as a result OF EXAMINATION of any returns, investigations, verifications or hearings before the TAX Administrator, required by the ordinance or authorized by these Rules and Regulations shall be confidential. No disclosure shall be made, except for official purposes or as ordered by a court of competent jurisdiction. Any person divulging such information shall be guilty of a misdemeanor punishable by a fine of not less than One Hundred Dollars (\$100.00), NOR more than Five Hundred Dollars (\$500.00), or imprisonment for not more than six (6) months, or both.

In addition to the above penalty, any employee of the CITY who violates the provisions of this ARTICLE, relative to the disclosure of confidential information, shall be guilty of an offense punishable by immediate dismissal.

E. Retention of Records:

All employers and taxpayers are required to keep such records THAT will enable the filing of true and accurate returns, whether of taxes withheld at the source, or of taxes payable on earnings or net profits, or both. Such records shall be preserved for a period of not less than five (5) years from the date the final return is filed and paid or the withholding taxes are paid.

ARTICLE X

Interest & Penalties

A. Interest:

1. Except as provided in Paragraph C of this Article, all taxes imposed and all monies withheld, or required to be withheld, by employers under the provisions of the ordinance and remaining unpaid after they have become due shall bear interest, in addition to the amount of the unpaid tax or withholdings, at the rate of one percent (1.0%) per month or fraction thereof.

B. In addition to interest as provided in Paragraph A ABOVE, 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.
2. For failure to remit taxes withheld from employees: three percent (3%) per month.
3. A minimum charge of ten dollars (\$10.00) shall be imposed for failure to file any return required to be filed by provisions of the ordinance.
4. 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.No penalty shall be due, when the estimated declaration payments and withholding equal or exceeds the previous year's tax liability,.
6. A taxpayer, who 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 penalty and interest charges for the late payment or nonpayment of estimated tax liability. See Ohio Revised Code Section 718.08 (e).

C. Exceptions:

1. No penalty shall be assessed IF AN AUDIT DETERMINES additional taxes to be due when a return was timely filed in good faith and the tax paid thereon within the prescribed time.
2. In the absence of fraud neither penalty or interest shall be assessed on any additional taxes resulting from a federal tax audit, provided an amended return is filed and the additional tax paid within three (3) months after final determination of the federal tax liability.

D. Appeal from Assessment:

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/or interest, the Board may nevertheless abate penalty or interest, or both.

ARTICLE XI

Collection of Unpaid Taxes and Refund of Overpayments

A. Unpaid Sums - Civil Suit:

1. In addition to any criminal penalties which may be imposed pursuant to Section 12 of the ordinance, all taxes imposed by Section 3 of the ordinance and not paid when due, shall be collectible, together with any interest and penalties thereon, by civil suit. Employers who are required, under Section 6 of the ordinance, to withhold and remit the taxes required to be withheld at the source, and who fail to withhold and/or remit, become liable to the CITY in a civil action to enforce the payment of the deficiency created by such failure.
2. No additional assessment shall be made by the TAX Administrator after three (3) years from the time the return was due or filed, whichever is later. However, there shall be no period of limitation on such additional assessments in the case of a return that omits a substantial portion of income, for filing a false or fraudulent return to evade payment of the tax, or failure to file a return. Failure to report 25% or more of income required to be reported shall be considered a substantial omission.
3. In those cases in which the Commissioner of the Internal Revenue Service and the taxpayer have executed a waiver of the federal statute of limitations, the period within which an assessment may be made by the TAX Administrator is extended to one (1) year from the time of final determination of federal tax liability.

B. Refunds and Overpayments:

1. Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date the tax was due or the return was filed, or three (3) months after the determination of the federal income tax liability, whichever is later.

2. No refund shall be made to any taxpayer until he has complied with all provisions of the ordinance and has furnished all information required by the TAX Administrator.

3. Overpayments will be either refunded or credited to the taxpayer's current year's liability at his option. Where no election has been made by the taxpayer, overpayments of any year's taxes shall be applied as follows:

a. To taxes owed for any previous years in the order in which such taxes became due.

b. To his current estimated liability.

C. INTEREST SHALL BE ALLOWED AND PAID ON ANY OVERPAYMENT BY A TAXPAYER OF ANY CITY INCOME TAX OBLIGATION FROM THE DATE OF THE OVERPAYMENT, WITH THE FOLLOWING EXCEPTION: NO INTEREST SHALL BE ALLOWED ON ANY OVERPAYMENT THAT IS REFUNDED WITHIN NINETY (90) DAYS AFTER THE FINAL FILING DATE OF THE ANNUAL RETURN OR NINETY (90) DAYS AFTER THE COMPLETED RETURN IS FILED, WHICHEVER IS LATER. FOR PURPOSES OF COMPUTING THE PAYMENT OF INTEREST ON OVERPAYMENTS, NO AMOUNT OF TAX FOR ANY TAXABLE YEAR SHALL BE TREATED AS HAVING BEEN PAID BEFORE THE DATE ON WHICH THE TAX RETURN FOR THAT YEAR WAS DUE WITHOUT REGARD TO ANY EXTENSION OF TIME FOR FILING THAT RETURN. THE INTEREST SHALL BE PAID AT THE RATE OF INTEREST PRESCRIBED BY OHIO R.C. 5703.47.

D. Limitation:

Amounts of less than One and 1/100 dollars (\$1.01) shall not be collected, carried forward, or refunded.

ARTICLE XII

VIOLATIONS - PENALTIES

A. Any person who shall:

1. Fail, neglect or refuse to make any return or declaration; or

2. 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 PERSON ACTING IN HIS CAPACITY, 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 the ordinance or any order or subpoena of the TAX Administrator HEREIN authorized ; or

9. Give to any employer false information as to his true name, social security number and residence address; or fail promptly to notify an employer of any change in residence address and the date thereof; or

10. Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and City tax withheld; or knowingly give the 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 the ordinance;

shall be guilty of a misdemeanor and shall be fined 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 ARTICLE must be commenced within three (3) years from the time of the offense, except in the case of failure to file a return or filing a false or fraudulent return, THEN the limitation of time within which prosecution must be commenced shall be 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 FILING any return, declaration form, from paying, withholding or remitting the tax.

ARTICLE XIII

BOARD OF REVIEW

A. A Board of Review, consisting of a chairman and two other individuals to be appointed by the Mayor of the City, is hereby created. No elected officer or employee of the City may qualify for such appointment. 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 1 of the appropriate year, and thereafter all terms shall begin on January 2 and end on January 1. 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 Article. 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.

B. The Board of Review created in the ordinance 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 the Board of Review created pursuant to the ordinance are not meetings of a public body subject to section 121.22 of the Ohio Revised Code. A majority of the members of the Board shall constitute a quorum.

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

D. Whenever the Tax Administrator issues a decision regarding an income tax obligation that is subject to appeal, as provided in this Article, or in an ordinance or regulation of the City, the Tax Administrator shall notify the taxpayer SIMULTANEOUSLY of his right to appeal the decision and of the manner in which he may appeal the decision.

E. 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 tax obligation at issue in the decision, may appeal the decision to the Board of Review by filing a written request with the Board.

1. The request shall be in writing, state with particularity why the decision should be deemed incorrect or unlawful, and be filed within thirty (30) days after the Tax Administrator has issued the decision complained of.

2. The imposition of penalty and interest as prescribed in the ordinance is not a sole basis for an appeal.

3. The Board of Review shall schedule a hearing within forty-five (45) days after receiving a request, unless the taxpayer waives a hearing.

4. 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.

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

ARTICLE XIV

ALLOCATION OF RECEIPTS

The funds collected under the provisions of the 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 the ordinance, and the costs of administering and enforcing the provisions hereof.

B. The balance remaining in the Income Tax Account shall be applied, apportioned and transferred by City Council 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 City 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 City Council.

ARTICLE XV

CREDITS FOR TAX PAID TO ANOTHER MUNICIPALITY

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.

ARTICLE XVI

SAVING CLAUSE

If any sentence, clause, ARTICLE or part of the RULES AND REGULATIONS, 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 the RULES AND REGULATIONS and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of the RULES AND REGULATIONS. It is hereby declared to be the intention of the Council of the City of Celina that the RULES AND REGULATIONS would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, ARTICLE or part thereof not been included herein.

ARTICLE XVII

COLLECTION OF TAX AFTER TERMINATION OF ORDINANCE

A. The ordinance shall continue effective insofar as the levy of taxes is concerned until repealed. Insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of the 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 the ordinance shall have been fully terminated, subject to the limitations contained in Articles XI and XII hereof.

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

ARTICLE XVIII

STUDENTS

The provisions of this ARTICLE shall not apply to persons who have not, during the taxable year, attained their sixteenth (16th) birthday, nor shall the provisions of ARTICLE VI hereof apply to employers of such persons with respect to such persons.

ARTICLE XIX

These Rules and Regulations shall take effect and be in force from and after the earliest period allowed by law.

EXTRAS

1. PRIOR TO TAX YEAR 2005, WHERE A RESIDENT OF CELINA, OHIO, IS SUBJECT TO A MUNICIPAL INCOME TAX IN ANOTHER MUNICIPALITY, HE SHALL NOT PAY A TOTAL MUNICIPAL INCOME TAX ON THE SAME INCOME GREATER THAN THE TAX IMPOSED AT THE HIGHER RATE;
 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;
 2. EFFECTIVE FOR THE TAX YEAR 2003, AND THEREAFTER NO CREDIT SHALL BE GIVEN AGAINST ANY TAX IMPOSED BY ANOTHER MUNICIPALITY.
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1. PRIOR TO TAX YEAR 2003, WHERE A RESIDENT OF CELINA, OHIO, IS SUBJECT TO A MUNICIPAL INCOME TAX IN ANOTHER MUNICIPALITY, HE SHALL NOT PAY A TOTAL MUNICIPAL INCOME TAX ON THE SAME INCOME GREATER THAN THE TAX IMPOSED AT THE HIGHER RATE;
 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;

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

- CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY

A. WHERE A RESIDENT OF CELINA, OHIO, IS SUBJECT TO A MUNICIPAL INCOME TAX IN ANOTHER MUNICIPALITY, HE SHALL HAVE A CREDIT AGAINST THE TAX IMPOSED BY THIS ORDINANCE AS FOLLOWS:

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

B. 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 MUNICIPAL 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, SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ORDINANCE AS FOLLOWS:

CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES

NOT THIS LANGUAGE CHANGED

RESIDENT INDIVIDUALS OF THE CITY WHO ARE REQUIRED TO PAY AND DO PAY TAX TO ANOTHER MUNICIPALITY ON SALARIES, WAGES COMMISSIONS, AND OTHER COMPENSATION FOR WORK DONE OR SERVICES PERFORMED OUTSIDE THE CITY OR NET PROFITS FROM BUSINESS, PROFESSIONS, OR OTHER ACTIVITIES CONDUCTED OUTSIDE THE CITY, MAY CLAIM A CREDIT 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 BEING LIMITED TO ONE PERCENT (1%) OF THE AMOUNT OF INCOME TAX PAID TO SUCH OTHER MUNICIPALITY. 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.

[§ 718.02.1] § 718.021. Credit for qualifying loss relating to nonqualified deferred compensation plan.

(A) As used in this section:

(1) "Nonqualified deferred compensation plan" means a compensation plan described in section 3121(v)(2)(C) of the Internal Revenue Code.

(2) (a) Except as provided in division (A)(2)(b) of this section, "qualifying loss" means the excess, if any, of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan over the total amount of income the taxpayer has recognized for federal income tax purposes for all taxable years on a cumulative basis as compensation with respect to the taxpayer's receipt of money and property attributable to distributions in connection with the nonqualified deferred compensation plan.

(b) If, for one or more taxable years, the taxpayer has not paid to one or more municipal corporations income tax imposed on the entire amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan, then the "qualifying loss" is the product of the amount resulting from the calculation described in division (A)(2)(a) of this section computed without regard to division (A)(2)(b) of this section and a fraction the numerator of which is the portion of such compensation on which the taxpayer has paid income tax to one or more municipal corporations and the denominator of which is the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan.

(c) With respect to a nonqualified deferred compensation plan, the taxpayer sustains a qualifying loss only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to that nonqualified deferred compensation plan.

(3) "Qualifying tax rate" means the applicable tax rate for the taxable year for the which the taxpayer paid income tax to a municipal corporation with respect to any portion of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan. If different tax rates applied for different taxable years, then the "qualifying tax rate" is a weighted average of those different tax rates. The weighted average shall be based upon the tax paid to the municipal corporation each year with respect to the nonqualified deferred compensation plan.

(B) (1) Except as provided in division (D) of this section, a refundable credit shall be allowed against the income tax imposed by a municipal corporation for each qualifying loss sustained by a taxpayer during the taxable year. The amount of the credit shall be equal to the product of the qualifying loss and the qualifying tax rate.

(2) A taxpayer shall claim the credit allowed under this section from each municipal corporation to which the taxpayer paid municipal income tax with respect to the nonqualified deferred compensation plan in one or more taxable years.

(3) If a taxpayer has paid tax to more than one municipal corporation with respect to the nonqualified deferred compensation plan, the amount of the credit that a taxpayer may claim from each municipal corporation shall be calculated on the basis of each municipal corporation's proportionate share of the total municipal corporation income tax paid by the taxpayer to all municipal corporations with respect to the nonqualified deferred compensation plan.

(4) In no case shall the amount of the credit allowed under this section exceed the cumulative income tax that a taxpayer has paid to a municipal corporation for all taxable years with respect to the nonqualified deferred compensation plan.

(C) (1) For purposes of this section, municipal corporation income tax that has been withheld with respect to a nonqualified deferred compensation plan shall be considered to have been paid by the taxpayer with respect to the nonqualified deferred compensation plan.

(2) Any municipal income tax that has been refunded or otherwise credited for the benefit of the taxpayer with respect to a nonqualified deferred compensation plan shall not be considered to have been paid to the municipal corporation by the taxpayer.

(D) The credit allowed under this section is allowed only to the extent the taxpayer's qualifying loss is attributable to:

(1) The insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan;
or

(2) The employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation.

HISTORY: 150 v H 95, § 1, eff. 6-26-03.