

# **UNIFORM RULES AND REGULATIONS**

## **TO COMPLEMENT**

### **INCOME TAX ORDINANCE**

Adopted:	June 20, 2006	Ordinance No. 6-2006
Repealing:	November 1, 1988	Ordinance No. 6-88
	October 21, 1997	Ordinance No. 20-97
	October 5, 1999	Ordinance No. 14-99
	December 19, 2000	Ordinance No. 17-2000

**VILLAGE OF ANSONIA, OHIO**

**INCOME TAX RULES AND REGULATIONS**

**ISSUED BY**

**TAX ADMINISTRATOR**

**Under Authority of Section 8(B)(1) of Ordinance 7-2006**

**Approved by Council on June 20, 2006**

**ARTICLE I**

Section of the ordinance deals only 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, except as and if 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 division (A)(1)(a) of 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 division (A)(1)(d)(ii) of this section, 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. Division (A)(1)(d)(i) of this section 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;

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- 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 real estate investment trust and regulated investment company, all amounts with respect to dividends to, distributions to, 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 division (A)(1) of this section shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid or accrued for purposes of federal self-employment tax.

Nothing in this ordinance shall be construed as limiting or removing the ability of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax.

**ADMINISTRATOR** - The individual designated by the ordinance, and appointed by the Mayor, with confirmation of Council to administer and enforce the provisions of the ordinance.

**ASSOCIATION** - A partnership, limited partnership, S corporation or any other form of unincorporated enterprise, owned by one or more persons.

**BOARD OF REVIEW** - The Board created by and constituted as provided in Section 13 of this ordinance.

**BUSINESS** - An enterprise, activity, profession, or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity, including but not limited to the renting or leasing of property, real, personal, or mixed.

**BUSINESS ALLOCATION** - As used in these regulations, means the portion of net profits to be allocated to Ansonia, Ohio - hereinafter referred to as "this municipality" as having been made in Ansonia, Ohio either under separate accounting method, or under the three factor formula of property, payroll, and sales, provided for in Section 3 of the ordinance.

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**CORPORATION** - 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.

**DOMOCILE** – 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** - One who works for wages, salary, commission or other type of compensation in the service of an employer.

**EMPLOYER** - An individual, partnership, association, corporation, government body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission, or other compensation basis.

**FISCAL YEAR** - An accounting period of twelve (12) months or less ending on any day other than December 31st.

**FORM 2106** –An Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.

**GENERIC FORM** – An electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability or for filing a refund claim that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation’s tax on income. Any municipality that requires taxpayers to file income tax returns, reports, or other documents shall accept for filing a generic form of such return, report, or document if the generic form, once completed and filed, contains all of the information required to be submitted with the municipality’s prescribed returns, reports, or documents.

**GROSS RECEIPTS** - The total income of taxpayers from any source whatsoever.

**INCOME FROM A PASS-THROUGH ENTITY** – Means partnership income of partners, membership interests of members of a limited liability company, distributive shares of shareholders of an S corporation, or other distributive or proportionate ownership shares of income from other pass-through entities.

**INTANGIBLE INCOME** – 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, tradenames, 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 chances.

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**INTERNAL REVENUE CODE** - The Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.

**INTERNET** – 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.

**JOINT ECONOMIC DEVELOPMENT DISTRICT** – Districts created under the Ohio Revised Code sections 715.70 through 715.83 as amended from time to time.

**LIMITED LIABILITY COMPANY** – A limited liability company formed under chapter 1705 of the Ohio Revised Code or under the laws of another state.

**MUNICIPALITY** – The Village of Ansonia

**NET PROFITS** – For a taxpayer other than an individual means adjusted federal taxable income and “net profits” for a taxpayer who is an individual means the individual’s profit, other than amounts described in division (F) of Section 3, required to be reported on schedule C, schedule E, or schedule F.

**NONQUALIFIED DEFERRED COMPENSATION PLAN** – A compensation plan described in section 3121 (v)(2)(C) of the Internal Revenue Code.

**NON-RESIDENT** - An individual domiciled outside this municipality.

**NON-RESIDENT INCORPORATED BUSINESS ENTITY** – An incorporated business entity not having an office or place of business within the Municipality.

**NON-RESIDENT UNINCORPORATED BUSINESS ENTITY** – An unincorporated business entity not having an office or place of business within the Municipality.

**OHIO BUSINESS GATEWAY** – A centralized electronic filing and payment system maintained by the State of Ohio.

**OTHER PAYER** – 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** – A partner of a partnership, a member of a limited liability company, a shareholder of an S corporation, or other person with an ownership interest 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 municipal corporation, to (b) the total income from that entity of all owners whose income from the entity is subject to taxation by that municipal corporation.

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**PASS-THROUGH ENTITIY** – A partnership, limited liability company, S corporation, 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** - Any bona fide office, other than a mere statutory office, factory, warehouse or other place which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his regular employees regularly in attendance.

**PRINCIPAL PLACE OF BUSINESS** – In the case of an employer having headquarters' activities at a place of business within a taxing municipality, the place of business at which the headquarters is situated. In the case of any employer not having its headquarters' activities at a place of business within a taxing municipality, the term means the largest place of business located in a taxing municipality.

**QUALIFIED PLAN** – A retirement plan satisfying the requirements under section 401 of the Internal Revenue code as amended.

**QUALIFYING WAGES** – Wages, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted in accordance with section 718.03(A) of the Ohio Revised Code.

**RESIDENT** - An individual domiciled in this municipality.

**RESIDENT INCORPORATED BUSINESS ENTITY** – An incorporated business entity whose office, place or operations or business sites is within the Municipality.

**RESIDENT UNINCORPORATED BUSINESS ENTITY** - An unincorporated business entity having an office or place of business within this municipality.

**RETURN PREPARER** – 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.

**RULES AND REGULATIONS** – The Rules and Regulations as set for in this Ordinance.

**SCHEDULE C** – Internal Revenue schedule C filed by a taxpayer pursuant to the Internal Revenue Code.

**SCHEDULE E** – Internal Revenue schedule E filed by a taxpayer pursuant to the Internal Revenue Code.

**SCHEDULE F** - Internal Revenue schedule F filed by a taxpayer pursuant to the Internal Revenue Code.

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**S CORPORATION** – 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.

**TAXABLE INCOME** – 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 Chapter.

**TAXABLE YEAR** – The corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.

**TAXING MUNICIPALITY** – A municipality levying a tax on income earned by nonresidents working within such municipality or on income earned by its residents.

**TAXPAYER** – A person subject to a tax on income levied by a municipal corporation. “Taxpayer” does not include any person that is a disregarded entity or a qualifying subchapter S subsidiary for federal income tax purposes, but “taxpayer” includes any other person who owns the disregarded entity or qualifying subchapter S subsidiary.

**THIS ORDINANCE** means Ordinance No. 6-88 enacted by the Council of this municipality and any amendments and supplements thereto effective (1st day of ordinance) and ending (last day of ordinance), both inclusive. (NOTE: hereinafter this will be referred to as "effective period of ordinance".)

**VILLAGE** - The Village of Ansonia, Darke County, Ohio

The singular shall include the plural, and the masculine shall include the feminine and the neuter, and all periods set forth shall be inclusive of the first and last mentioned dates.

### ARTICLE III

#### IMPOSITION OF TAX

##### A. Bases

1. Resident Employee:
  - a. In the case of residents of this municipality an annual tax of 1% is imposed on all qualifying wages, commissions, other compensations, and other taxable income 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, paragraph A-1 of the ordinance, the source of 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 Article III, paragraph A-1 of the ordinance:
    - .1 Qualifying wages, bonuses, incentive payments, and any other compensation earned by an individual whether directly or through an

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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 association, 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 of profession conducted by an individual owner;
  - .04 An officer or employee (whether elected, appointed or commissioned) of the United States Government or a corporation created and owned or controlled by the United States Government, or any of its agencies; 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 (including 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 whom or wheresoever paid.
- .01 If amounts received as 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 as such 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 owner or part owner and therefore subject to the tax under paragraphs A-3



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or A-4 of Section 3 of the ordinance, they shall not be taxed under Section 3 paragraph 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 paragraph A-3 of the ordinance.

.4 Other compensation, including tips, bonuses or gifts of any type, and including 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 under a wage continuation plan during periods of disability or sickness, are taxable. Payments made by third parties (insurance companies) to an employee for sick or disability pay are taxable if the amount appears on a W-2 form and the employee has paid the premium for this insurance coverage.

.6 Losses from the operation of a business or profession are not deductible from employee earnings but may be carried forward as provided in Article III (C).

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 the place of employment or assignment, board and lodging shall not be considered as wages or compensation earned.

.2 Rentals given to clergymen are not to be considered as income.

2. Non-resident Employee:

a. In the case of individuals who are not residents of this municipality, there is imposed under Section 3, paragraph A-2 of the ordinance, a tax of 1% on all qualifying wages, commissions, other compensation, and other taxable income earned or received during the effective period of the ordinance for work done or services performed or rendered within this municipality 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 for which payment is made is immaterial.

b. The items subject to tax under Section 3, paragraph 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 this municipality, in cases involving compensation for personal services partly within and partly without this municipality, see Article VI-A.6.

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3.
  - a. Imposition of Tax on Net Profits of Resident Unincorporated Businesses:
    - .1 In the case of resident unincorporated businesses, pass-through entities, professions, enterprises, undertakings, or other activities conducted, operated, engaged in, prosecuted or carried on, irrespective of whether such taxpayer has an office or place of business in this municipality, there is imposed an annual tax of 1% on the net profits earned, accrued or received during the effective period of the ordinance attributable to this municipality, under the formula or separate accounting method provided for in Section 3 of the ordinance, derived from sales made, work done or services performed or rendered and business or other activities conducted in this municipality.
    - .2 The tax imposed on resident associations or other unincorporated entities owned by one or more persons is upon the entities rather than the individual members or owners thereof but the tax imposed on an unincorporated 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 IIIA.3b).
    - .3 The tax imposed by Section 3, paragraph A-3a of the ordinance is imposed on all resident unincorporated entities having net profits attributable to this municipality under the apportionment provided for in the ordinance regardless of where the owner or owners of such resident unincorporated business entity reside.
    - .4 Resident unincorporated entities owned by one or more persons all of whom are residents of this municipality shall disregard the business apportionment percentage formula provided for in the ordinance and pay the tax on their entire net profits thereof. 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; however, 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 Profit of a Resident Unincorporated Business Entity, Not Attributable to This Municipality.
    - .1 A resident individual who is sole owner of a resident unincorporated entity shall disregard the business apportionment formula and pay the tax on the entire net profits of this resident unincorporated business entity by this municipality.
    - .2 In the case of a resident individual partner or part owner of a resident unincorporated entity, there is imposed an annual tax of 1% on such individual's distributive share of net profits earned, accrued or received during the effective period of the ordinance not attributable to this

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municipality, under the method of apportionment provided for in Section 3 of the ordinance and not taxed against the entity by this municipality.

4.
  - a. Imposition of Tax on Net Profits of Non-Resident Unincorporated Businesses:
    - .1 In the case of non-resident unincorporated businesses, pass-through entities, professions, enterprises, undertakings or other activities conducted, operated, engaged in, prosecuted or carried on, whether or not they have a place of business in this municipality, there is imposed an annual tax of 1% of the net profits earned, accrued or received during the effective period of the ordinance, that are attributable to this municipality, under the business apportioned formula provided for in the ordinance.
    - .2 The tax imposed on non-resident unincorporated entities owned by one or more person 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 this municipality. See Article IIIA.4b.
    - .3 The tax imposed by Section 3 (A)(3) of the ordinance is imposed on all nonresident associations and other nonresident unincorporated entities having net profits attributable to this municipality under the method of apportionment provided for in the ordinance, regardless of where the owner or owners of such nonresident unincorporated business or resident association, etc., reside.
    - .4 Non-resident unincorporated entities owned by one or more persons all of whom are residents of this municipality 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; however, 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 municipality. See Article XV for Credits.
  - b. Imposition of Tax on Resident's Share of Profits of a Non Resident Unincorporated Business Entity Not Attributable to This Municipality. See Article XV for Credits.
    - .1 A resident individual who is the sole owner of a non-resident unincorporated business entity shall disregard the business-apportionment formula and pay the tax on the entire net profits of this unincorporated entity by this municipality.
    - .2 In the case of a resident individual partner or part owner of a non-resident unincorporated entity, there is imposed an annual tax of 1% on such individual's distributive share of net profits not attributable to the village

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under the method of apportionment provided for in Section 3 of the ordinance and not taxed against the entity by this municipality.

5. Imposition of Tax on Net Profits of Corporations.

- a. In the case of corporations, including S corporations, whether domestic or foreign and whether or not such corporations have an office or place of business in this municipality, there is imposed an annual tax of 1% on the net profits attributable to this municipality under the formula provided for in the ordinance.
- b. In determining whether a corporation is conducting a business or other activity in this municipality, 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.
- d. A legal corporation is taxable as a separate entity for municipal tax purposes and distributions to shareholders are considered as non-taxable income to the shareholders. The losses are not deductible by individual stockholders.

6. Amplification.

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

a. NET PROFITS.

- .1 Net Profits for a taxpayer other than an individual means adjusted federal taxable income and "Net Profit" for a taxpayer who is an individual means the individual's profit, other than amounts described in Section 3 (H) of the ordinance, required to be reported on Schedule C, Schedule E, or Schedule F.
- .2 Adjusted federal taxable income means a C corporation's federal taxable income before net operation losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:
  - .01 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;

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.02 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;

.03 Add 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; however, this section does not apply to the extent income or gain is described in section 1245 or 1250 of the Internal Revenue Code;

.04 Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;

.05 Add amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income in the case of real estate investment trust and regulated investment company;

.06 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 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, amounts paid or accrued to a qualified self-employed retirement plan with respect to an owner or owner-employee of the 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 section shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.

b. GROSS RECEIPTS.

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

.2 Gross receipts shall include the ordinary income from Form 4797.

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

c. EXPENSES.

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.1 All ordinary, reasonable and necessary expenses of doing business, including reasonable compensation paid employees, shall be allowed but 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.

.2 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, but the amount may not exceed that recognized for the purpose of federal income tax. Provided, however, that loss on the sale, exchange or other disposition of depreciable property or real estate, used in the taxpayer's business shall not be allowed as deductible expense.

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

.4 Where depreciation property is voluntarily destroyed only the cost of such demolition and the un-depreciated balance thereof will be allowed as an expense in the year of such demolition, to the extent allowable for federal income tax purposes.

.5 Bad debts in a reasonable amount may be allowed in the year ascertained worthless and charged off, or at the discretion of the 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.

.6 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; and (5) self-employment taxes for unincorporated businesses or other entities, including credit for employment taxes as allowed for federal tax purposes.

.07 Expenses attributable to non-taxable income shall not be allowed. Where no record of such expenses is kept, 5% of the non-taxable income will be considered as applicable expenses.

.08 An employee who is paid on a commission or other compensation basis and who pays his business expense from his commissions or other compensation, without reimbursement from his employer, may deduct from

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his commissions, or other compensations, business expenses only as allowed by the Internal Revenue Service for federal income tax purposes and only to the extent said expenses are incurred in earning commissions or other compensations subject to the tax imposed by the ordinance. Business expenses allowed shall be those expenses allowed to be claimed on the federal Form "2106, Business Expenses" and upon the request of the Administrator, verifiable with supporting schedules and/or receipts. No expenses claimed on federal Form "Schedule A, Itemized Deductions" shall be allowed and failure to produce the supporting schedules and/or receipts upon request by the Administrator shall result in disallowance of the expenses in question.

.09 Expenses incurred while attending educational courses may not be deducted from wages.

.10 Moving expenses included in gross earnings shall be an allowance as a deductible expense. No deduction will be allowed if the taxpayer does not provide the Federal Form "3903, Employee Moving Expenses Information", for his moving deductions. Only moving expenses incurred as part of income included in gross earnings will be allowed.

.11 No deduction shall be allowed for self-employed health insurance against income as allowed for federal or state tax purposes for unincorporated entities or the like.

7. Rentals from Real Property

- a. Rentals received by the taxpayer are to be included only if and to the extent that the rental, ownership, management or operation of the real estate from which such rentals are 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. Where the gross monthly rental of real properties, regardless of number and value, aggregate in excess of \$250.00 per month, it shall be prima facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental properties shall be subject to tax; provided that in case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds \$250.00 per month; provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in the crops or when rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds \$250.00 per month; and provided further that the person who operates a rooming house of five or more rooms rented shall be considered in business whether or not the gross income exceeds \$250.00 per month.

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- c. In determining the amount of gross monthly rental of any real property, periods during which (by reason of vacancy or any other cause) rentals are not received shall not be taken into consideration by the taxpayer.
- d. Rentals received by a taxpayer engaged in the business of buying and selling real estate shall be considered as part of a business income.
- e. Real property, as the term is used in this regulation, shall include commercial property, residential property, farm property, and any and all types of real estate.
- f. 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.
- g. Residents of this municipality are subject to taxation upon the net income from rentals (to the extent above specified), regardless of the location of the real property owned.
- h. Non-residents of this municipality are subject to such taxation only if the real property is situated within this municipality. Non-residents, in determining whether gross monthly rentals exceed two hundred fifty dollars (\$250.00), shall take into consideration only real estate situated within this municipality.
- i. Corporations owning or managing real estate are taxable only on that portion of income derived from property located in this municipality.

8. Income in the form of royalties is taxable if taxpayer's activities produced the publication or other product, the sale of which produces the royalties.

**B. Apportionment of Business Profits.**

A request to change the method of apportionment must be made in writing before the end of the taxable year.

**1. Apportionment Percentage Method.**

- a. STEP 1: Ascertain the percentage which the original cost of real and tangible personal property, including leasehold improvements, owned or used in the business wherever situated, during the period covered by the return.
  - .1 The percentage of taxpayer's real and tangible personal property within this municipality is determined by dividing the original cost of all such property within and without this municipality. In determining such percentage property rented to the taxpayer as well as real and tangible personal property owned by taxpayer must be considered.



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- .2 The original cost of real and tangible personal property rented by taxpayer shall be determined by multiplying gross annual rents payable by eight (8).
- .3 Gross rents mean the actual sum of money or other consideration payable, directly or indirectly, by the taxpayer for the use or possession of property and include:

- .01 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 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.

.4 A residence may not be considered an office unless a portion thereof is used exclusively for business purposes and is reached by a separate entrance in an exterior wall, which does not serve the entrance to the balance of the building.

b. STEP 2: Ascertain the percentage which the total wages, salaries, commissions, and other compensation of employees within this municipality is of the total wages, salaries, commissions and other compensation of all the taxpayer's employees within and without this municipality during the period covered by the return.

- .1 Salaries and reasonable compensation paid owners or credit to account of owners or partners during the period covered by the return are considered wages for the purpose of this computation.
- .2 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 any employee who performs services both within and without this municipality the amount treated as compensation for services performed within the village 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 salesman on a commission basis, the amount received by him for the business attributable to his efforts within this municipality.
  - .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 his services within this municipality bears to the value of all his services; and

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- .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 this municipality is of his total working time.
  - .04 Provided, however, all employees regularly connected with or working out of a place of business maintained by the taxpayer in this municipality who performs 90% or more of their services within this municipality shall be considered employees within this municipality.
- c. STEP 3: Ascertain the percentage which the gross receipts of the taxpayer derived from sales made and the services rendered in this municipality is of the total gross receipts wherever derived during the period covered by the return.
- .1 The following sales shall be considered this municipality's sales:
    - .01 All sales made through retail stores located within this municipality to purchasers within or without this municipality except such of said sales to purchasers outside this municipality that are directly attributable to regular solicitations made outside this municipality personally by tax payer's employees.
    - .02 All sales of tangible personal property delivered to purchasers within this municipality if shipped or delivered from an office, store, warehouse, factory, or place of storage located within this municipality.
    - .03 All sales of tangible personal property delivered to purchasers within this municipality even though transported from a point outside this municipality if the taxpayer is regularly engaged through its own employees in solicitation or promotion of sales within this municipality and the sale is directly or indirectly the result of such solicitation.
    - .04 All sales of tangible personal property shipped from an office, store, warehouse, factory or place of storage within this municipality to purchasers outside this municipality 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 considered the agent of the seller regardless of the FOB point or other conditions of the sale, and the place at which orders are accepted or contracts legally consummated shall be immaterial. Solicitation of customers outside this municipality by mail or phone from an office, or

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place of business within this municipality shall not be considered a solicitation of sales outside this municipality.

- d. STEP 4: Add the percentage 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 apportioned entirely outside this municipality. A factor is excluded only when it does not exist anywhere.
  - e. STEP 5: The business apportionment percentage determined in Step 4 above shall be applied to the entire taxable net profits apportioned to this municipality.
3. 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 Administrator, may substitute other factors in the formula or prescribed other methods of apportioning net income calculated to effect a fair and proper apportionment.
  - b. Application to the Administrator to substitute other factors in the formula or to use a different method to apportion net profits must be made in writing before the end of the year and 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 served at the time of filing upon the taxpayer or Administrator as the case may be. No specific form need be followed in making such application. Once a taxpayer has filed under a substitute method, he must continue to so file until given permission to change by the Administrator.
  - c. The decision of the Administrator on subsections 3 (a) and (b) hereof may be appealed by the taxpayer to the Board of Review, which shall have the power to adjust, modify or overrule such decision of the Administrator.
4. In case of professional people and others furnishing personal services, if their only place of business is within this municipality, all their net profit shall prima facie be attributable to this municipality.

C. Operating Loss Carry Forward.

- 1. The portion of a net operating loss, based on income taxable under this ordinance sustained in any taxable year subsequent to (effective date of "first" ordinance permitting loss carry-forwards) apportioned to this municipality may be applied against the portion of the profit of succeeding year(s) apportioned to this municipality, until exhausted but in no event for more than five (5) taxable years immediately following the year in which the loss was sustained. No portion of a net operating loss shall be carried back against net profits of any prior year.

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a. Losses from operation of business, profession or any other type of unincorporated entity are not deductible against employee earnings (as reported on W-2 or 1099-Misc), but may be carried forward as set forth herein. However, if a taxpayer is engaged in two or more taxable business activities to be included in the same return, the net loss of one unincorporated business activity (except any portion of loss separately reportable for municipal tax purposes to another taxing entity) may be used to offset the profits of another for purposes of arriving at overall net profits.

b. Losses recognized shall be the actual loss sustained in a given year. No passive losses as allowed for federal tax purposes will be recognized for city purposes.

2. In the event net profits are apportioned both within and without this municipality, the portion of net operating loss sustained shall be apportioned to this municipality in the same manner as provided herein for apportioning net profits to this municipality. The portion of 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 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. A short fiscal year (a fiscal year of less than twelve (12) months) brought about by a change in accounting period, where a new taxpayer selects a short fiscal year, or where a new taxpayer operates in this municipality for less than his full accounting period, shall be considered as a full taxable fiscal year for purposes of loss carry-forward.
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 portion of net operating loss apportioned to this municipality.
  - c. Amount of net operating loss used as a deduction in prior years.
  - d. Amount of net operating loss claimed as a deduction in current year.
6. The net operating loss of a taxpayer that loses its identity through merger, consolidation, etc., shall not be allowed as a carry forward loss deduction to the surviving business entity.

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7. In the case of a net operating loss sustained by taxpayers filing a consolidated return, see Article III, paragraph D.

D. Consolidated Returns:

1. Consolidated returns may be filed by a group of corporations who are affiliated through stock ownership provided such group files consolidated returns for federal income tax purposes. For a subsidiary corporation to be included in a consolidated return 80% of its stock must be owned by the other members of the affiliated group. A consolidated return must include all companies which are so affiliated in accordance with IRS regulations.
2. Once a consolidated return has been filed for any taxable year, the consolidated group must continue to file consolidated returns in subsequent years unless:
  - a. Permission in writing is granted by the 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, 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, but 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 (Step 1 of the formula) 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 real portion of the fraction, however, shall be computed at 8 times the annual rent. The gross receipts and wages shall be based on the actual figures.

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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 carryover of a corporation which filed a separate return in a prior year may be carried over 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 over 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 carryover apportioned to this municipality 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 separate corporations except that there shall be eliminated unrealized profits and losses in transactions between members of the affiliated group.
  8. In determining expenses that are not allowable because they are apportioned to non-taxable income, such 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 non-taxable income.
- E. Capital gains from the sale of depreciable property shall be taxable to the extent of the aggregate amount of depreciation taken on such property for this municipalities income tax purposes. The taxable amount shall be the ordinary portion recognized on Federal Form "4797, Sales of Business Property". Only losses sustained in prior years on such property shall apply against any gain.

F. Exclusions:

The following shall not be considered taxable.

1. Proceeds from welfare benefits, unemployment insurance benefits, social security benefits, and qualified retirement plans as defined by the Internal Revenue Service.
2. Proceeds of insurance, annuities, workers' compensation insurance, permanent disability benefits, compensation for damages for personal injury and like reimbursements, not including damages for loss of profits and wages.
3. Dues, contributions and similar payments received by charitable, religious, educational organizations, or labor unions, trade or professional associations, lodges and similar organizations.
4. Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations and income of a decedent's estate during the period of administration (except such income from the operation of a business).
5. Alimony.

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6. Compensation for damage to property by way of insurance or otherwise.
7. Interest and dividends from intangible property.
5. Military pay or allowances of members of the Armed Forces of the United States and of members of their reserve components, including the Ohio National Guard (ORC718.01).
6. Income of any charitable, educational, fraternal or other type of nonprofit association or organization enumerated in Ohio Revised Code 718.01 to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.
7. Any association or organization falling in the category listed in the preceding paragraph receiving income from non-exempt real estate, tangible or intangible personal property, or business activities of a type ordinarily conducted for profit by taxpayers operating for profit shall not be excluded hereunder.
8. In the event any association or organization receives taxable income as provided in the preceding paragraph from real or personal property ownership or income producing business located both within and without the corporate limits of this municipality, it shall calculate its income apportioned to this municipality under the method or methods provided above.
9. If exempt for federal income tax purposes, fellowship and scholarship grants are excluded from municipal income tax.
10. The rental value of a home furnished to a minister of the gospel as part of his compensation, or the rental allowance paid to a minister of the gospel as part of his compensation, to the extent used by him to rent or provide a home pursuant to section 107 of the Internal Revenue Code.
11. Compensation paid under section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct official, to the extent that such compensation does not exceed one thousand dollars (\$1,000) annually. Such compensation in excess of one thousand dollars may be subjected to taxation. The payer of such compensation is not required to withhold municipal tax from that compensation.
12. Compensation paid to an employee of a transit authority, regional transit authority, or a regional transit commission created under Chapter 306 of the Ohio Revised Code for operating a transit bus or other motor vehicle for the authority or commission in or through this municipality, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such tax by reason of residence or domicile in this municipality, or the headquarters of the authority or commission is located within this municipality.
13. This municipality shall not tax the compensation paid to a nonresident individual for personal services performed by the individual in this municipality on twelve (12) or fewer days in a calendar year unless one of the following applies:

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- a. The individual is an employee of another person, the principal place of business of the individual's employer is located in another municipality in Ohio that imposes a tax applying to compensation paid to the individual for services paid on those days; and the individual is not liable to that other municipality for tax on the compensation paid for such services.
  - b. The individual is a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such promoter, all as may be reasonably defined by this municipality.
17. 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 a municipal corporation may tax the following, subject to Chapter 5745. of the Ohio Revised Code:
- a. The income of an electric company or combined company;
  - b. The income of a telephone company.
- As used in division (F)(17) of this section, "combined company", "electric company", and "telephone company" have the same meanings as in section 5727.01 of the Ohio Revised Code.
18. An S corporation shareholder's distributive share of net profits or losses of the S corporation.
19. Generally the above noted items in this section are the only forms of income not subject to the tax. Any other income, benefits, or other forms of compensation shall be taxable.

**ARTICLE IV**

**EFFECTIVE PERIOD OF TAX**

- A. The tax imposed by Section 3, paragraph A-1 and A-2 of the ordinance shall be levied, collected and paid with respect to salaries, wages, bonuses, incentive payment, commissions, fees, and other compensation earned on and after January 1, 1989.
- B. The tax imposed by Section 3, paragraphs A-3, A-4 and A-5 of the ordinance, with the respect to the net profits of trades, businesses, professions, enterprises, undertakings and other activities is on the net profits earned on and after January 1, 1989.

**ARTICLE V**

**RETURN AND PAYMENT OF THE TAX**

- A. Date and Requirement For Filing:



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1. On or before April 15<sup>th</sup> of the year following the effective date of the ordinance and each year thereafter, every person subject to the provisions of Section 3, paragraphs A-1 to A-5 inclusive, of the ordinance shall, except as hereinafter provided, make and file with the Administrator, a return on a form prescribed by and obtainable upon request from the Administrator, or a generic form which must contain all of the information requested on the tax form as provided by the Administrator, whether or not a tax be due.
2. If the return is made for a fiscal year or any period less than a year, said return shall be made within four (4) months from 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 aggregate amount of qualifying wages, commissions and other personal service compensation, net profits from business or other activities, including the rental from use of real and personal property, and other income taxable under the ordinance, received for the period covered by the return and such other pertinent facts and information in detail as the Administrator may require.
4. Where an employee's entire earnings for the tax period are paid by an employer or employers, and the one percent (1%) 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 employee-taxpayer, and where the employer of such employee has filed a return or return in which such employee's entire and only earnings are reported to the Administrator, and where such employee has no taxable income other than such earnings and the tax so withheld has been paid to the Administrator. The 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 business expenses. As allowable and described under Article III (A)(6)(c)(8) of these Regulations, from qualifying wages, or commissions must file a return in order to claim such deductions even though all or part of such qualifying wages, or commissions are subject to withholding. Such amounts must be properly reported on Form 2106, as filed with the Internal Revenue Service, and must be verifiable.
6. Any taxpayer who received taxable income not subject to withholding under the ordinance must file a return.
7. Any taxpayer having income, wages, or other compensation for which a return must be filed, and also having net profits from a business is required to file only one (1) return.
8. Trustees of active trusts are required to file returns and pay the tax on the taxable income thereof.
9. Except as provided for herein, the tax is on the partnership or association as an entity whether residents or non-resident and a return is required to disclosing the net profits allocable to this municipality and the tax paid thereon. However, any resident partner

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or resident member of the unincorporated entity is required to make a return and pay the tax in accordance with Article III-A-3b.2 of these regulations.

10. A husband and wife may, in any tax year, elect to file separate or joint returns.
11. Operating losses from business or professional activities, the profits of which would be taxable under the ordinance, may not be offset against salaries, wages, commissions and other personal service compensation or against net profits from other business or professional activities. To the extent that such losses are offset they shall not be allowable as an operating loss carry forward under Section 3c of the ordinance or Article III-C of the regulations.
12. Executors and administrators are liable for the payment of any taxes due by a deceased from an estate of said deceased.
13. The return shall be accompanied by payment of any taxes thereon.

B. Information Required and Reconciliation With Federal Returns.

1. In returns filed hereunder, there shall be set forth the aggregate amount of qualifying wages, bonuses, incentive payments, commissions, fees and other compensation subject to the tax earned from each employer, taxable net profits and other pertinent information as the Administrator may require.
2. Where figures of total income, total deductions, and net profits are included as shown by a federal return, any items of income as are not subject to this municipality's tax and unallowable expenses shall be eliminated in determining net income subject to this municipality's tax. The fact that any taxpayer is not required to file a federal tax return does not relieve him from filing this municipality's tax return.
3. If a change in federal income tax liability, made by the Federal Internal Revenue Service, or by a judicial decision, results in an additional amount of tax payable to this municipality, a report of such change shall be filed by the taxpayer within three (3) months after receipt of the final notice from the Federal Internal Revenue Service or final Court decision, see Article XI-B-2.
4. If a change in federal income tax liability results in a reduction of taxes owed and paid to this municipality a claim for refund shall be filed with the Administrator as prescribed in Section 11 of the ordinance and Article XI-B and C of these regulations.

C. Extensions.

1. Upon written request of the taxpayer made on or before the date for filing the return, and for good cause shown, or upon receipt of a copy of the Federal Internal Revenue Service extension granted the taxpayer, the Administrator may extend the time for filing such return for a period of not to exceed six (6) months, or to one (1) month beyond any extension requested of or granted by the Federal Internal Revenue Service. Whenever he deems such necessary, the Administrator may require a tentative return accompanied by payment of the estimated tax. No penalty will be

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assessed in those cases in which the return is filed and the final tax paid within the period as extended provided all other filing and payment requirements of the ordinance has been met.

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. Payments with Return.

1. The taxpayer making a return shall, at the time of filing thereof, pay to the Administrator the amount of taxes shown as due thereon: provided, however, that where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of Section 6 of 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 Section 15 hereof, shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing said return.
2. A taxpayer who has overpaid the amount of tax to which this municipality is entitled under the provisions of the ordinance may 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, provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded.
3. An application for refund of overpayment of taxes withheld must be made by the employer or by the taxpayer with a letter of authorization from the employer. Refunds will be made payable to the employee.

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 limitations contained in Section 10 and 11. Such amended return shall be on a form obtainable on request from the 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 Ansonia, Ohio tax liability, such taxpayer shall make and file an amended Ansonia, Ohio return showing income subject to this municipality'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.

**ARTICLE VI**

COLLECTION OF TAX AT THE SOURCE

A. Duty of Withholding.

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1. Except as otherwise provided herein, it is the duty of each employer within or doing business within this municipality, 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%) from:
  - a. The qualifying wages, bonuses, incentive payments, severance payments, fees, commissions or other forms of compensation paid to residents of this municipality, regardless of the place where the service is rendered; and
  - b. All compensation paid non-residents for services rendered, work performed or other activities engaged in within this municipality.
  - c. An employer is liable for the payment of the tax required to be deducted and withheld, whether or not such tax, in fact, has been withheld.
2. All employers within or doing business within this municipality 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, as to residents of this municipality, where performed outside this municipality.
3. Employers who do not maintain a permanent office or place of business in this municipality, but who are subject to tax on net profits attributable to this municipality, under the method of apportionment provided for in the ordinance, are considered to be employers within this municipality 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 Administrator, the employee is not liable for the tax so withheld. In such cases, this municipality will not process any employee claims of refund or overpayment until the employer pays the tax withheld.
5. Commissions and fees paid to professional men, brokers and others who are independent contractors, and not employees of taxpayer, 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 regulations.
  - a. The commissions and fees paid to those individuals as independent contractors and as unincorporated entities by an employer shall report to the administrator the name, address, social security number and total amount paid if said amount is in excess of six hundred dollars (\$600.00). This return shall be considered a required return and shall be subject to the penalty as described under Section 10(B)(3) of the ordinance.
6. Where a non-resident receives compensation for personal services rendered or performed partly within and partly without this municipality, the withholding employer shall deduct, withhold and remit the tax on that portion of the

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compensation which is earned within this municipality in accordance with the following rules of apportionment:

- a. If the non-resident 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 this municipality bears to the total volume of business transacted by him within and outside this municipality.
- b. The deducting and withholding of personal service compensation of other non-resident employees, including officers of corporations, shall attach to the proportion of the personal service compensation of such employee which the total number of his working hours within this municipality is of the total number of working hours.
- c. The fact that non-resident employees are subject to call at any time does not permit the apportionment of pay for time worked within this municipality on a seven-day per week basis. The percentage of time worked in this municipality will be computed on the basis of a forty-hour week unless the employer notified the Administrator that a greater or lesser number of hours per week are worked.
  1. The determination of tax liability of non-residents working in and out of the corporate limits is to be computed on the formula of  $\frac{\text{the total number of days worked in this municipality}}{\text{the total number of days worked during the year}}$  and the resulting percentage applied to the total annual income from wages including sick leave, holiday pay, vacation pay and other compensation required to be reported as gross pay. Where no record can be substantiated of the number of days worked, the figure 260 is to be used as the total number of days worked.
  2. For purposes of determining the tax liability of professional truck drivers, a flat percentage of ten percent (10%) will be used as the percent of time in this municipality, provided the wages were withheld correctly and all the necessary supporting documents required by the Administrator are attached to the return.
7. An employer shall withhold the tax on the full amount of any advances made to an employee on account of commissions.
8. An employer required to withhold the tax on compensation paid to an employee shall in determining the amount of 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. An employer whose records show that an employee is a non-resident of this municipality and has no knowledge to the contrary, shall be relieved of the

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responsibility of withholding the tax on personal service compensation paid to such employee for services rendered or work done outside this municipality by such employee, provided, however, that such employer must withhold the tax on all personal service compensation paid such employee after the Administrator notifies said employer in writing that such employee is a resident of this municipality. All employees are required to notify the employer of any change of residence and the date thereof.

10. An Ansonia, Ohio employer required to withhold the tax from an Ansonia, Ohio resident 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 Ansonia, Ohio tax from such Ansonia, Ohio resident, except where the rate of tax for such other municipality is less than the rate of tax imposed by this ordinance. In such case the employer shall withhold and remit the difference to this municipality.
11. 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.

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, on or before the last day of the month next following each quarterly period, make a return and pay to the Administrator the full amount of the tax so deducted or withheld with respect to compensation paid all of his employees subject to the tax under the ordinance. Provided, however, the Administrator may require an employer to remit withholding taxes at more frequent intervals. The return required to be filed under this article shall be made on a form furnished by or obtainable on request from the Administrator.

a. The employer shall report the gross wages and remit the tax on the following criteria to the Administrator:

.1 If the tax liability of the qualifying wages is one thousand dollars (\$1,000.00) or greater per month, the employer shall make and pay the tax to the Administrator on a monthly basis. Such filing shall be made and paid on or before the 15<sup>th</sup> day of the month following such withholding.

2. If the tax liability of the qualifying wages is less than one thousand dollars (\$1,000.00), the employer may make and pay the tax on a quarterly basis. Such filing shall be remitted thirty (30) days after the end of the quarter.

.3 The Administrator may revoke the approval of quarterly filing and payments whenever he/she has reason to believe that the conditions for granting such authorization have changed, were judged incorrectly, were not

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met, or when it is in the best interest of this municipality to do so.  
Notice of such withdrawal shall be made in writing and, in such case, the employer must begin to file in accordance with this section.

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 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 quarterly period the employer shall make the necessary adjustment directly with the employee and the amount to be reported on the quarterly return as withheld shall be the corrected amount;
    - .2 If the over-withholding is discovered in a subsequent quarter of the same calendar year the employer may make proper adjustment with the employee. In such case the return for the quarter in which the adjustment is made shall indicate the total amount actually withheld, the amount of the adjustment deducted there from, and the corrected amount reported on the return;
    - .3 If the over-withholding is discovered in the following year, the employer should notify the Administrator of such over-withholding and the circumstances thereof. Upon proper verification the Administrator shall refund to the employer the amount of such excess withholding or credit it to the next period.
  - b. Non-Residents Employed Outside the City:
    - .1 Where an employer has withheld the tax from all qualifying wages of a non-resident of this municipality and such non-resident has been employed outside of this municipality for all or part of the time, such employee shall file a claim with the Administrator covering such erroneous withholding and the Administrator shall upon verification thereof by the employer, refund to the employee the amount of such excess withholding;
3. Every employer is deemed to be a trustee for this municipality in collecting and holding the tax required under the ordinance to be withheld and the funds so collected by such withholding are deemed to be trust fund.
4. Every such employer required to deduct and withhold the tax at the source is liable directly to this municipality for payment of such tax whether actually collected from such employee or not.
5. On or before the 28<sup>th</sup> day of February, following any calendar year in which such deductions have been made by any employer, such employer shall file with the Administrator, in the form prescribed by the Administrator, an information return for

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each employee from whom this municipality's income tax has been withheld, showing the name, address and social security number of the employee, the total amount of compensation paid during the year and the amount of this municipality's income tax withheld from such employee.

6. For the convenience of employers, the information return may be in one of three ways at the election of each employer, as follows:
  - a. Those employers using Federal Form W-2 furnished commercially shall submit a copy of such commercial Federal Form W-2 providing the copy furnished to this municipality clearly shows the information required in 5 immediately preceding.
  - b. Those employers not using Federal Form W-2 furnished commercially may obtain upon request from the Administrator Form W-3.
  - c. Where the furnishing of this information as above indicated will create a distinct hardship to the employer, upon written request to the Administrator, employer may be permitted to furnish a list of all employees subject to the tax, which list shall show the employee's full name, social security number, last known address, gross amount of compensation paid during the year and the amount of this municipality's income tax withheld.
  - d. The qualifying wages to be reported for each employee shall be for the full twelve (12) calendar months of the year or such portion thereof as the employee reported on was employed.
7. In addition to such information returns, and at the time the same are filed, such employer shall file with the Administrator a form to enable the Administrator to reconcile the sum total of compensation paid and taxes withheld as disclosed by information return W-2, or list of employees, and prior returns and remittances made pursuant to the ordinance.

C. Responsibility of Officers for Collecting Tax

1. It shall be the responsibility jointly and severally of the President and Treasurer of each corporation required to withhold taxes on employee's wages to see that all taxes so withheld are paid to this municipality in accordance with the provisions of the ordinance. In the event taxes withheld by a corporation from the qualifying wages of its employees are not paid to this municipality in accordance with the provisions of the ordinance, the President and/or Treasurer of said corporation shall each be criminally liable under the provisions of Section 12 hereof.

D. Fractional Parts of 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 (1/2) or more in which case it shall be increased to one cent (.01). No person shall be entitled to a refund merely because such rounding off of the tax results in an apparent overpayment based on his earnings.



## ARTICLE VII

### DECLARATIONS

#### A. Requirement of Filing.

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. Where required such declaration shall be filed within four (4) months 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 payment is not necessary if the estimated tax liability is less than one hundred dollars (\$100.00).

#### 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 based on ninety percent (90%) of the current year's tax liability within four (4) months after 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. Such declaration shall be filed upon a form or forms furnished by, or obtainable from the Administrator. Provided, however, credit shall be taken for this municipality's tax to be withheld from any portion of such income. In accordance with the provisions of Section 15 of the ordinance, 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 thereof may be amended at any time.
3. An amended declaration must be filed prior to the close of the calendar year, or in the case of a fiscal taxpayer, prior to the date established by the Administrator, if it appears that the original declaration underestimated the taxpayer's income by ten percent (10%) or more. At such time a payment, which together with prior payments sufficient to pay taxpayer's entire liability, shall be made. If a taxpayer has not complied with this requirement, the difference between ninety percent (90%) of his tax liability and the amount of estimated tax paid by January 31<sup>st</sup> of the year

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immediately following the tax, or the date fixed by the Administrator's regulation, whichever is applicable, shall be subject to the interest and penalty provisions of Article X hereof.

D. Dates of Payments.

1. For taxpayers who are individuals, the estimated tax may be paid in full with the declaration or in equal installments on or before the fifteenth (15<sup>th</sup>) day of the fourth month, and the last day of the seventh, tenth, and thirteenth months after the beginning of the taxable year.
2. For taxpayers that are not individuals, such declaration of estimated tax to be paid to this municipality may be paid in full with the declaration or in installments on or before the fifteenth (15<sup>th</sup>) day of the sixth, ninth, and twelfth months after the beginning of the taxable year.
3. Not more than twenty-two and one half percent (22.5%) of the taxpayer's estimated tax liability for the current year shall be required to have been remitted on the fifteenth (15<sup>th</sup>) day of April or the day on which the annual tax return for the prior year is required to be filed, disregarding any extension.
4. Not more than forty-five percent (45%) of the taxpayer's estimated tax liability for the current year shall be required to have been remitted for the second quarter declaration payment.
5. Not more than sixty-seven and one half percent (67.5%) of the taxpayer's estimated tax liability for the current year shall be required to have been remitted for the third quarter declaration payment.
6. No more than ninety percent (90%) of the taxpayer's estimated tax liability for the current year shall be required to have been remitted for the fourth quarter declaration payment.
7. In the event an amended declaration has been filed the unpaid balance shown due thereon shall be paid in equal installments over the remaining 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 over one dollar (\$1.00).

**ARTICLE VIII**

**DUTIES OF THE ADMINISTRATOR**

A. Collection of Tax and Retention of Records.

1. It shall be the duty of the Tax Administrator to collect and 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 received.

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2. It shall be the duty of the Administrator to enforce payment of all taxes owing this municipality, 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, including taxes withheld, and to show the dates and amounts of payments thereof.

B. Enforcement Provisions.

1. The Administrator is charged with the administration and enforcement of the provisions of the ordinance and is, subject to the approval of the Village Council, empowered to adopt, promulgate, and enforce rules and regulations or any amendment thereof relating to any matter or thing pertaining to the administration and enforcement of the ordinance. The 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.
2. Any taxpayer or employer desiring a special ruling on any matter pertaining to the ordinance or these rules and regulations, should submit to the Administrator in writing all the facts involved and the ruling sought.
3. These regulations, together with all amendments and supplements hereto and all changes herein, will be on file at the office of the Administrator and will be open to public inspection.
4. The 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 Administrator that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under the ordinance.
5. 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 10, 11 and 12 of the ordinance shall apply.

C. Estimation of Tax by Administrator.

1. Whenever the Administrator has been unable to secure information from the taxpayer as to his taxable income for any year, he may 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 by the taxpayer of actual records from which his tax may be computed.

C. Compromise Authority.

Subject to the consent of the Board of Review or pursuant to regulation approved by said Board, the 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, INFORMATION  
SO OBTAINED CONFIDENTIAL: PENALTY**

**A. Investigation by Administrator.**

1. The Administrator, or his duly authorized agent, 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 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 Administrator, or his duly authorized agent, the means, facilities and opportunity for making examinations and investigations authorized by the ordinance.

**B. Subpoena of Records and Persons.**

1. The 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, returned for taxation, or any transaction tending to affect such income. The 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 supposed transaction, of the taxpayer.
2. The 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 Administrator.
3. The Administrator may order the appearance before him or his duly authorized agent, of 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 record of the taxpayer being investigated. The 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.

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5. The notice shall be served by the Administrator, or his duly authorized agent, by delivering it to the person named personally, or 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.

B. Penalty for Non-Compliance.

Refusal by any employer, supposed employer, taxpayer or supposed taxpayer, or the refusal of any such person to appear before the Administrator or his duly authorized agent, 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 any returns, investigations, verifications or hearings before the Administrator, required by the ordinance or authorized by these rules and regulations shall be confidential and no disclosure thereof 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 maximum fine of One Thousand Dollars (\$1,000.00) or imprisonment for not more than six (6) months, or both.

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

E. Retention of Records.

All employers and taxpayers are required to keep such records as will enable the filing of true and accurate returns whether of taxes withheld at the source or of taxes payable upon 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-half of one percent (1/2%) per month or fraction thereof.

B. Penalties.

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In addition to the interest as provided in paragraph A hereof, penalties based on the unpaid tax due, or a failure to file an income tax return when due, regardless of the amount, if any, of the unpaid tax due, are hereby imposed as follows:

1. For failure to pay taxes due, other than taxes withheld: Two percent (2%) per month of the unpaid balance.
2. For failure to remit taxes withheld from employees: Five percent (5%) per month or fraction thereof; or twenty five dollars (\$25.00), whichever is greater.
3. Any person who fails to file a return as required by this ordinance shall pay a penalty of Twenty Five dollars (\$25.00) if said return is filed no more than thirty (30) days past its due date. In the event said return is filed more than thirty (30) days past its due date, said person shall pay a penalty of Fifty dollars (\$50.00). It shall be no defense in the payment of such penalty that no tax shall be due to be paid to the Village, or that a refund is due to be paid to the taxpayer as a result of the filing of such return.

The penalties set forth herein are deemed to be cumulative in nature, and not mutually exclusive in application.

B. Exceptions.

1. No penalty shall be assessed on additional taxes found on audit 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 nor interest shall be assessed on any additional taxes resulting from a federal audit for federal income tax purposes provided an amended return is filed and the additional tax paid within three (3) months after final determination of the federal tax liability.
3. A taxpayer or employer shall have thirty (30) days after receipt of notice of any proposed imposition of interest and penalties within which to file a written protest or explanation with the Administrator. If no protest or explanation is filed within the prescribed time, the proposed imposition of interest and penalties shall become and be the final assessment. Upon filing of a written protest or explanation, the Administrator shall withdraw the assessment or he shall adjust or reaffirm the assessment and it shall then become final.

D. Appeal from Assessment.

1. Upon recommendation of the Administrator, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the Administrator to recommend abatement of penalty and-or interest, the Board may nevertheless abate penalty or interest, or both.
2. Imposition of penalty and/or interest as prescribed by the ordinance is not a sole basis for appeal.

**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 this municipality in a civil suit to enforce the payment of the deficiency created by such failure.
2. No additional assessment shall be made by the Administrator after three (3) years from the time the return was due or filed, whichever is later. Provided, 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, or 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 Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitations, the period within which an assessment may be made by the 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 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 become due.
  - b. To his current estimated tax liability.

C. Limitation.

Where the total amount due or refund claimed for a tax year is less than one dollar (\$1.00) such amount shall not be collected, refunded, or credited to the taxpayer or his account.

**ARTICLE XII**

A. Any person who shall:

1. Willfully fail, neglect or refuse to make any return or declaration required by the ordinance; or
2. Make any incomplete, false or fraudulent return; or
3. Willfully fail, neglect or refuse to pay the tax, penalties or interest imposed by this ordinance; or
4. Willfully fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator; or
5. Refuse to permit the Administrator or any duly authorized agent or employee to examine his books, records, papers and federal income tax returns relating to the income or net profits of a taxpayer; or
6. Fail to appear before the Administrator and 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 Administrator; or
7. Refuse to disclose to the 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 Administrator authorized hereby; or
9. Give to an employer false information as to his true name, correct social security number and residence address, or fail to promptly notify an employer of any change in residence address and date thereof; or
10. Fail to use ordinary diligence in maintaining proper records of employees residence addresses, total wages paid and this municipality's income tax withheld, or to 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.



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Shall be guilty of a misdemeanor of the first degree and shall be fined not more than One Thousand (\$1,000.00) or imprisoned not more than six (6) months or both, for each offense.

In addition to the foregoing, the penalties referred to in Section 10 of the Ansonia Village Income Tax Ordinance and Article X of the Uniform Rules and Regulations shall be assessed and collected.

B. Prosecutions.

Prosecutions for an offense made punishable under this Section or any other provision of this ordinance shall be commenced within three (3) years after the commission of the offense provided that in the case of fraud, failure to file a return, or the omission of twenty-five percent (25%) or more of the income required to be reported, prosecutions may be commenced within six (6) years after the commission of the offense.

C. Failure to Receive Forms-Not a Defense.

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

**ARTICLE XIII**

**BOARD OF REVIEW OR APPELLATE AUTHORITY**

Refer to Ordinance.

**ARTICLE XIV**

**USE OF FUNDS**

No regulation on this section as it is a policy matter for council.

**ARTICLE XV (1)**

**CREDIT ALLOWED FOR TAX PAID IN ANOTHER MUNICIPALITY**

A. Limitation.

Refer to Ordinance.

B. Credits to Residents.

Refer to Ordinance.

C. Method of Applying for Credit:

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1. No credit will be given unless the taxpayer claims such on his return or other form prescribed by the Administrator, and presents such evidence of the payment of a similar tax to another municipality, as the Administrator may require.
  2. A refund must be claimed by the taxpayer or his employer within three (3) years of the date of filing the final return for the year for which such refund is claimed. The Administrator shall prescribe rules for verification.
- D. A statement satisfactory to the Administrator from the taxing authority of the municipality to which the taxes are paid that an Ansonia, Ohio resident or his employer is paying the tax shall be considered as fulfilling the requirement of this article.

**ARTICLE XVI**  
SAVING CLAUSE

No regulation as this section pertains to the legality of the ordinance and not to its administration.

**ARTICLE XVII**

COLLECTION OF TAX AFTER TERMINATION OF ORDINANCE

- A. Authority to collect after termination of Ordinance.  
The tax imposition provisions of the ordinance are effective until the ordinance is repealed, subject, however, to the provision of Section 11 of the ordinance with respect to the limitation of time within which an additional assessment may be made.
- B. Payment of Taxes.
1. Taxes due and unpaid on account of compensation paid or received and on account of profits earned in the last effective year of the ordinance or any part thereof which remains unpaid, are payable in full on or before the dates specified in Sections 5 and 6 of the ordinance and Articles 5 and 6 of these regulations, and all final returns and withholding reports must be filed on or before that date, unless extended by the Administrator.
  2. For purposes of collection of delinquent or unpaid taxes, actions or proceedings for such collection and-or the collection of interest and penalties there on, or enforcing any provisions of the ordinance and including appeals before the Board of Review, the ordinance remains in full force and effect until such time as all taxes accruing during the term of the ordinance shall have been fully paid, and all actions, suits, prosecutions, appeals and other judicial or administrative proceedings relative to the collection or payment of such taxes, have been finally terminated.

**ARTICLE XVIII**

AMENDMENTS AND SUPPLEMENTS

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From time to time, the Administrator may issue amendments and supplements to these regulations.