

total compensation which the value of his services within Smithville bears to the value of all his services; and (c) in the case of an employee compensated on a time basis, the proportion of the total amount received by him which the working time employed in Smithville bears to the total working time.

6. ADJUSTMENT OF BUSINESS ALLOCATION PERCENTAGE FORMULA. Generally, the Business Allocation Percentage Formula will result in a fair apportionment of the taxpayer's net profits within and without Smithville. However, due to the peculiar circumstances of certain businesses, the formula may work a hardship in some cases or result in tax evasion in others, thus not do justice to the taxpayer or the Village. Accordingly, in such cases, the Village Clerk may substitute factors calculated to bring about a fair and proper allocation in any case where the taxpayer has adopted the optional use of the business allocation percentage formula.

ARTICLE II-7

On What Earnings or Net Profits Tax First Levied

The tax referred to in Article II-1 and II-2 shall first be levied, collected and paid with respect to the salaries, wages, bonuses, incentive payments, commissions, fees and/or other compensations earned on and after January 1, 1969 and to and including December 31, 1972. The tax referred to in Article II-3, II-4 and II-5 with respect to net profits of trades, businesses, professions, enterprises, undertakings, and other activities shall first be levied, collected and paid with respect to such net profits earned or accrued (in accordance with the regular accounting system of taxpayer as approved by the Director of Internal Revenue) from and after January 1, 1969, and to and including December 31, 1972. But see Article II-8 for fiscal year returns.

ARTICLE II-8

Fiscal Years

Where the fiscal year of a trade, business, profession, enterprise, undertaking and/or other activity differs from the calendar year, the tax shall be applicable to the net profits of the fiscal year, but for the first fiscal year with respect only to such portion thereof as was earned on and after January 1, 1969. A fiscal year will be recognized only if it has been or may be recognized as such by the Director of Internal revenue for the purpose of Federal Income Tax.

ARTICLE II-9

Net Business Profit

In amplification of the definition of the term "Net Profits" as set forth in Section I subsection G of the Ordinance, but not in limitation thereof, the following additional information and requirements respecting net business profits are furnished: (a) Where necessary to properly reflect income, inventories must be used. The basis of pricing used for the purpose of the Federal Income Tax must in each instance be used. (b) Where the books and records are kept on an "accrual basis", "long-term contract basis", or "installment basis", and said basis is used in the filing of Federal Income Tax Returns, the same basis must be used for the purpose of this tax. (c) If the return is made on a "cash basis", Gross Profit shall include (1) commissions, fees and interest earned, plus (2) the gross profit or loss from sales of merchandise, chattels, goods, wares, securities, notes, choses-in-action and services, except as hereinafter provided. (e) From Gross Profit there shall be subtracted allowable expense to arrive at the net profits subject to tax. (f) All ordinary and necessary expense of doing business, including reasonable compensation paid employees, shall be allowed (but no deduction may be claimed for "salary" or withdrawals of a proprietor or of the partners, members or other co-owners of an unincorporated business or enterprise). (g) 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 the Federal Income Tax. (h) Bad debts in a reasonable amount may be allowed in the year ascertained worthless and charged off, but in no event shall the amount allowed exceed the amount recognized as a deduction for the purpose of the Federal Income Tax. (i) Only taxes directly connected with the taxpayer's business may be claimed as a deduction. If for any reason the income from property is not subject to tax, then the tax 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) Any Federal taxes based upon income; (3) Gifts, estate or inheritance taxes, and (4) Taxes and/or special assessments for local benefits or improvements to property which tend to appreciate the value thereof. (j) Capital gains and losses (including gains or losses from the sale, exchange, or other disposition of depreciable business property, and real property used in the taxpayer's trade or business) shall not be taken into consideration in arriving at Net Profits Earned. (k) If the taxpayer is a non-resident, only the amount of net profits applicable to the activities of the business in Smithville shall be subjected to tax. If the non-resident taxpayer's records do not disclose the actual net profits for the Smithville branch, office, store, or activity separately, then the basis of allocation shall be disclosed in the return. If such basis of allocation is not deemed correct, in view of all the known circumstances, the Village Clerk will make a reallocation based upon gross receipts or any other basis which shall, under the circumstances of the case, more accurately reflect the net profits. (l) In general, all business expense recognized and to the extent allowed as such for the purpose of determining Federal Income Tax will be recognized and allowed for ... determining Smithville income tax under the provisions of the Ordinance ... However, all expense connected with the acquisition or carrying of securities, the income from which is not recognized as taxable under this Ordinance, may not be deducted in determining taxable net profits hereunder. (m) In general, unearned income is not to be included in computing the tax levied hereunder. Income from intangibles ... by way of dividends, interest and the like, should not be included if the property from which such income is derived is subject to taxation under the Intangible Personal Property Tax Laws of the State of Ohio, or is specifically exempted from taxation under said laws. (n) 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 taxpayer individually or through agents or other representatives) constitutes a business activity of the taxpayer in whole or in part. Following are the circumstances under which, in any instance, the rental of any real property shall or shall not be deemed to be a "Business Activity": (1) Where the gross monthly rental of any and all real properties, regardless of number and value, aggregates in excess of \$100 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 property 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 \$100 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 the rental is based on a percentage of the gross or net receipts derived from the farms, whether or not the gross income exceeds \$100 per month; and provided further that the person who operates a rooming house shall be considered in business whether or not the gross income exceeds \$100 per month. (2) 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. (3) Rentals received by a taxpayer engaged in the business of buying and selling real estate shall be considered as part of business income. (4) Real property, as the term is used in this regulation, shall include commercial property, residential property, farm property, and any and all other types of real estate. (5) In determining the taxable net income from rentals, the deductible expense shall be of the same nature, extent and amount as are allowed by the Department of Internal Revenue for Federal Income Tax Purposes. (6) Residents of Smithville are subject to taxation upon the net income from rentals (to the extent above specified) regardless of the location of the real property owned; Non-residents of Smithville are subject to such taxation only if the real property is situated within the Village of Smithville. Non-residents, in determining whether gross monthly rentals exceed \$100 shall take into consideration only real estate situated within Smithville. (o) Income ... from royalties or copyright is not to be included.