

**RULES AND REGULATIONS TO COMPLEMENT UNION CITY
INCOME TAX ORDINANCE NO. 150
TAX RATE 1%**

SECTION I

Section 1 of the ordinance deals only with the purposes for which the tax collected will be used.

**SECTION II
DEFINITIONS**

As used in these rules and regulations, the following words shall have the meaning ascribed to them in this Section, except as and if the context clearly indicates or requires a different meaning.

TAX ADMINISTRATOR means the individual designated by the ordinance, whether appointed or elected, to administer and enforce the provisions of the ordinance, regardless of the particular title assigned such individual.

ASSOCIATION means a partnership, cooperative, limited partnership, or any other form of unincorporated enterprise owned by two or more persons.

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

BUSINESS means an enterprise, cooperative, activity, profession, or undertaking of any nature conducted for profit, whether by an individual, partnership, association, corporation, or any other entity. The ordinary administration of a descendant's estate by the executor or administrator, and the mere custody, supervision, and management of trust property under passive trust, whether intervivos or testamentary, unaccompanied by the actual operation of a business, as herein described, shall not be construed as the operation of a business.

BUSINESS APPORTIONMENT as used in these regulations, means the portion of net profits to be attributed to the Village of Union City, as having been made in Union City, under the three-factor formula of property, payroll, and sales, provided for in Section 3 of the ordinance.

CORPORATION means a corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory, or foreign country, or dependency.

EMPLOYEE means one who works for qualifying wages, commission or other type of compensation in the service of an employer. Any person upon whom an employer is required to withhold for either federal income or social security, or on whose account

payments are made under the Ohio Workmen's Compensation law shall prima facie be an employee.

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

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

FORM 2106 means the Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.

GENERIC FORM means electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation's tax on income.

GROSS RECEIPTS means the total income from any source whatsoever.

INTANGIBLE INCOME means income of any of the following types: income yields, interest, dividends, or other 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.

INTERNAL REVENUE CODE means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.I, as amended.

INTERNET means the international computer network of both federal and non-federal interoperable packet of switched data networks, including the graphical subnetwork known as the worldwide web.

MUNICIPALITY means the Village of Union City

NET PROFITS means a net gain from the operation of a business, profession, enterprise, or other activity after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for federal income tax purposes, without deduction of taxes imposed by this ordinance, federal, state, and other taxes based on income; and in the case of an association, without deduction of salaries paid to partners and other owners; and otherwise adjusted to the requirements of this ordinance.

NON-RESIDENT means an individual, partnership, association, corporation or other entity, domiciled outside the Village of Union City.

NON-RESIDENT UNINCORPORATED BUSINESS ENTITY means one not having an office or place of business within the Village of Union City.

THE OHIO BUSINESS GATEWAY means centralized electronic filing and payment system maintained by the State of Ohio.

THE ORDINANCE means Ordinance No. 150, enacted by the Council of Union City and any amendments and supplements thereto effective January 1, 1988.

OTHER PAYER means any person that pays an individual any item included in the taxable income of the individual, other than the individual's employer or that employer's agent.

OWNER means 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.

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

PERSON means every natural person, partnership, fiduciary, association, corporation, other entity. Whenever used in any clause prescribing and imposing a penalty, the term "person", as applied to any unincorporated entity, shall mean the partners or members thereof, and as applied to a corporation, the rated entity or corporation not having any partner, member, or officer within the Village of Union City, any employee or agent of such unincorporated entity or corporation who can be found within the corporate limits of the Village of Union City.

PLACE OF BUSINESS means any bona fide office (other than a mere statutory office), factory, warehouse, or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his regular employees regularly in attendance.

QUALIFIED PLAN means a retirement plan satisfying the requirements under section 401 of the Internal Revenue Code as amended.

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

RESIDENT means an individual, partnership, association, corporation, or other entity, domiciled in the Village of Union City.

RESIDENT UNINCORPORATED BUSINESS ENTITY means an unincorporated business entity having an office or place of business within Union City,

RETURN PREPARER means any person other than a taxpayer that is authorized by a taxpayer to complete or file an income tax return, report, or other document for or on behalf of the taxpayer.

SCHEDULE C means the Internal Revenue Schedule C filed by a taxpayer pursuant to the Internal Revenue Code.

SCHEDULE E means the Internal Revenue Schedule E filed by a taxpayer pursuant to the Internal Revenue Code.

SCHEDULE F means the Internal Revenue Schedule F filed by a taxpayer pursuant to the Internal Revenue Code.

S CORPORATION means a corporation that has made an election under sub chapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.

TAXABLE INCOME means qualifying wages, and other compensation paid by an employer or employers before any deductions of any kind, and/or the net profits from the operation of a business, profession, or other enterprise or activity adjusted in accordance with the provisions of the ordinance and these regulations.

TAXABLE YEAR means the calendar year or the fiscal year upon the basis of which net profits are to be computed under this ordinance, and in the case of a return for a fractional part of a year, the period for which such return is required to be made.

TAXPAYER means an individual, association, corporation or other entity required by the ordinance to file a return and/or to pay a tax. In all definitions and these regulations the singular shall include the plural and the masculine shall include the feminine and the neuter.

UNION CITY means the Village of Union City, Ohio.

VILLAGE means the Village of Union City, Ohio.

SECTION III **IMPOSITION OF TAX**

A. Bases

1. Resident Employee:

- a. In the case of residents of Union City, **who are 18 (eighteen) years and older**, an annual tax of one percent is imposed on all , qualifying wages, commissions, and other compensation earned 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 the earnings and the place or places in or at which the services are rendered are immaterial. All such earnings, wherever earned or paid, are taxable.

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

.1 Qualifying wages, bonuses, commissions, and other compensation, including, but not limited to earned income derived from gaming, wagering, lotteries, including the Ohio State Lottery, or schemes of chance, which shall not be taxed as business income unless an individual has an effective Federal Gambler's Permit, earned during the effective period of the ordinance by residents or domiciliaries of this municipality.

.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, or profession conducted by an individual owner;

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

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

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

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

.02 Amounts received from an employer for expenses and used as such by the individual receiving them are not deemed to be compensation if the employer deducts such expenses or advances 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 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 or A-4 of Section 3 of the ordinance.

- .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 under a wage continuation plan during periods of disability or sickness are taxable.
- 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 at their fair market value.

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

2. Non-Resident Employee:

- a. In the case of individuals who are not residents of Union City, there is imposed under Section 3, Paragraph A-2 of this ordinance a tax of one percent on all, qualifying wages, commissions, and other compensation earned during the effective period of the ordinance for work done or services performed or rendered within Union City, whether such compensation or remuneration is received or earned directly or through an agent and whether paid in cash or in property. The location of the place from 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 Section III-A. For the methods of computing the extent of such work or services performed within Union City, in cases involving compensation for personal services partly within and partly without Union City. See Section VI-A6.

- c. There is an exception for non-resident employees. Non-resident employees are not required to pay tax on services performed in Union City for a period of twelve days or less in a calendar year.

3. Imposition of Tax on Net Profits of Resident.

Unincorporated Businesses:

- .1 In the case of resident unincorporated businesses, professions, enterprises, undertakings, or other entities conducted, operated, engaged in, prosecuted or carried on, irrespective of whether such taxpayer has an office or place of business in Union City, there is imposed an annual tax of one percent on the net profits earned, accrued or received during the effective period of the ordinance attributable to Union City under the formula 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 Union City.
- .2 The tax imposed on resident associations or other unincorporated entities owned by two 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 Section III-A.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 Union City under the method of 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 two or more persons, all of whom are residents of Union City, shall disregard the method of apportionment 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 Profits of a Resident Unincorporated Business Entity, Not Attributable to Union City.

- .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.
- .2 In the case of a resident individual partner or part owner of a resident unincorporated entity, there is imposed an annual tax of one percent on such individual's distributive share of net profits earned, accrued or received during the effective period of the ordinance not attributable to Union City under the method of apportionment, provided for in Section 3 of the ordinance, and not taxed against the entity.

4. a. Imposition of Tax on Net Profits of Non-Resident Unincorporated Businesses.

- .1 In the case of non-resident unincorporated businesses, professions, enterprises, undertakings, or other activities conducted, operated, engaged in, prosecuted or carried on, there is imposed an annual tax of one percent on the net profits earned, accrued or received during the effective period of the ordinance attributable to Union City under the formula provided for in the ordinance.
- .2 The tax imposed on non-resident unincorporated entities owned by two or more persons is upon the entities rather than the individual members or owners thereof. (For tax on that part of a resident owner's distributive share of net profits not taxed against the entity, see Section III-A.4b.)
- .3 Non-resident unincorporated entities owned by two or more persons all of whom are residents of Union City may elect to disregard the method of apportionment provided for in the ordinance and pay the tax on the entire net profits. In such case, the tax paid by the entity shall constitute all tax due from the owners or members of the entity for their distributive share of the net profits; 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.

b. Imposition of Tax on Resident's Share of Profits of a Non-Resident Unincorporated Business Entity Not Attributable to Union City.

- .1 A resident individual who is sole owner of a non-resident unincorporated business entity shall disregard the business apportionment formula and pay the tax on the entire net profit of his unincorporated entity.
- .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 one percent on such individual's distributive share of net profits earned, accrued or received during the effective period of the ordinance not attributable to the Village under the method of apportionment provided for in Section 3 of the ordinance and not taxed against the entity.

5. Imposition of Tax on Net Profits of Corporations.

- a. In the case of corporations, whether domestic or foreign, and whether or not such corporations have an office or place of business in Union City, there is imposed an annual tax of one percent on the net profits earned, received or accrued during the effective period of the ordinance attributable to Union City under the business allocation percentage method.
- b. In determining whether a corporation is conducting a business or other activity in Union City, the provisions of Section 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 Revised Code of Ohio, to pay an excise tax in any taxable year, as defined by the ordinance, may exclude that part of their gross receipts upon which the excise tax is paid. In such case, expenses incurred in the production of such gross receipts shall not be deducted in computing net profits subject to the tax imposed by the ordinance.

6. Amplifications:

In amplification of the definition contained in Section 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, as used in the ordinance and these regulations, means net profits derived from any business, profession, or other activity or undertaking carried on for profit.
- .2 Net Profits, as disclosed on any return filed pursuant to the provisions of the ordinance, shall be computed by the same accounting method used in reporting net income to the Federal Internal Revenue Service (providing such method does not conflict with any provisions of the ordinance). Net profits, shown on returns filed pursuant to the ordinance, must be reconciled with the income reported to the Federal Internal Revenue Service.

b. Gross Receipts.

- .1 Gross Receipts shall include, but not be limited to, income in the form of commissions, fees, rentals from real and tangible personal property, and other compensation for work or services performed or rendered, as well as income from sales of stock in trade.
- .2 From gross receipts there shall be deducted allowable expenses to arrive at the net profit subject to tax.

c. Expenses.

- .1 All ordinary 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.
 - .01 If not claimed as part of the cost of goods sold or elsewhere in the return filed, there may be claimed and allowed a reasonable deduction for depreciation, depletion, obsolescence, losses resulting from theft or casualty, not compensated for by insurance or otherwise, of property used in the trade

or business, but the amount may not exceed that recognized for the purpose of the 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 a deductible expense.

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

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

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

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

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

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

.08 Capital gains and losses from sale, exchange or other disposition of property shall not be taken into consideration in arriving at net profits earned. Any amount received on a sale or other disposition of tangible personal property used in business in excess of book value shall be treated as taxable income under the ordinance to the extent of depreciation allowable after January 1, 1975. The balance shall be treated as a capital gain.

7. Rental 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 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 the 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.
- 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 other 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 Union City are subject to taxation upon the net income from rentals (to the extent above specified); regardless of the location of the real property owned.
- h. Non-residents of Union City are subject to such taxation only if the real property is situated within the Village of Union City. Non-residents, in determining whether gross monthly rentals exceed \$ 250.00, shall take into consideration only real estate situated in this municipality.
- i. Corporations owning or managing real estate are taxable only on that portion of income derived from property located in the Village of Union City.

8. Patents and Copyrights:

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

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. Business Apportionment Percentage Method.

- a. **Step 1:** Ascertain the percentage which the net original cost of real and tangible personal property, including leasehold improvements owned or used in the business and situated within Union City, is of the original cost of all real and tangible personal property, including leasehold improvements owned or used in the business wherever situated, during the period covered by the return.

.1 The percentage of taxpayer's real and tangible personal property within Union City is determined by dividing the original cost of such property within Union City (without deduction of any encumbrances) by the original cost of all such property within and without Union City. In determining, such percentage property rented to the taxpayer, as well as real and tangible personal property owned by the taxpayer, must be considered.

.01 The net original cost of real and tangible personal property rented by the taxpayer shall be determined by multiplying gross annual rents payable by eight (8).

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

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

.002 Any amount payable as additional rent or 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 arrangements.

b. Step 2: Ascertain the percentage which the total qualifying wages, commissions, and other compensation of employees within Union City is of the total qualifying wages, commissions, and other compensation of all the taxpayer's employees within and without Union City during the period covered by the return.

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

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

.3 In the case of an employee, who performs services both within and without Union City, 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 as a salesman on a commission basis, the amount received by him for the business attributable to his efforts within Union City.

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

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

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

.1 The following sales shall be considered Union City sales:

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

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

.03 All sales of tangible personal property delivered to purchasers within Union City even though transported from a point outside Union City if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within Union City, 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 Union City to purchasers outside Union City if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place 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 Union City by mail or phone from an office, or place of business within Union City, shall not be considered a solicitation of sales outside Union City.

- 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 allocable 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 of the taxpayer whenever derived to determine the net profits allocable to Union City.

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 Tax Administrator, may substitute other factors in the formula or prescribe other methods of allocating net income calculated to effect a fair and proper apportionment.
- b. Application to the Board to substitute other factors in the formula or to use a different method to allocate net profits must be made in writing before the end of the taxable year 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 Tax 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 Board of Review.

C. Operating Loss Carry Forward.

1. The portion of a net operating loss, based on income taxable under the ordinance, sustained in any taxable year subsequent to January 1, 1988 allocable to Union City may be applied against the portion of the profit of succeeding year(s) allocable to Union City, until exhausted, but in no event for more than three (3) taxable years. No portion of a net operating loss shall be carried back against the net profits of any prior year.
2. In the event net profits are allocated both within and without Union City, the portion of net operating loss sustained shall be allocated to Union City in the same manner as provided herein for allocating net profits to Union City. The portion of a net operating loss to be carried forward shall be determined in the year the net operating loss is sustained, on the basis of the apportionment factors applicable to that year. The same method of accounting and apportionment must be used in the year to which an operating loss is carried 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] in cases where there has been a change in accounting period, where a new taxpayer selects a short fiscal year, or where a new taxpayer operates in Union City for less than his full accounting period, shall be considered as a full taxable fiscal year.
5. In any return in which a net operating loss deduction is claimed, a schedule should be attached showing:
 - a. Year in which the net operating loss was sustained.
 - b. Method of accounting and apportionment used to determine portion of net operating loss allocable to Union City.
 - c. Amount of net operating loss used as a deduction in prior years.
 - d. Amount of net operating loss claimed as a deduction in current year.
6. The net operating loss of a business which loses its identity through merger, consolidation, etc., shall not be allowed as a carry-forward loss deduction to the surviving business entity.

7. In the case of a net operating loss in the filing of consolidated returns, see Section III, Paragraph D.

D. Consolidated Returns.

1. Consolidated returns may be filed by a group of corporations who are affiliated through a stock ownership. 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.
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 Tax Administrator to file separate returns.
 - b. A new corporation other than a corporation created or organized by a member of the group has become a member of the group during the taxable year.
 - c. A corporation member of the group is sold or exchanged. Liquidating a corporation or merging one of the corporations of the group into another will not qualify the group for filing separate returns.
3. If a corporation becomes a member of the group during the taxable year, the consolidated return must include the income for the entire taxable year of the common parent corporation and any subsidiaries which were members of the group for the entire year, plus the income of each subsidiary which becomes a member of the group during the year for the period beginning with the date it became a member of the affiliated group. For the period prior to the time any subsidiary became a member of the group, separate returns must be filed for that subsidiary. When a subsidiary ceases to be a member of the affiliated group, the consolidated return must include the income of such subsidiary for the period during which it was a member of the group, 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 a 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 average 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 receipt and wage fractions shall be based on the actual figures.

5. All subsidiary corporations must agree in writing to the filing of the consolidated return, as they will be liable for the tax as 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 carryover from a separate year shall be deducted first before application of the apportionment fraction. After application of the apportionment fraction, the consolidated net operating loss carryover allocated to Union City shall be allowed.
7. In consolidating the net income, the taxable income of each corporation shall be computed in accordance with the provisions governing the taxable income of 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 allocable 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. EXCEPTIONS

The following shall not be considered taxable.

1. Poor relief, old age pensions, or similar payments received from local, state or federal governments or charitable or religious organizations.
2. Proceeds of insurance, annuities, workman's compensation insurance, permanent disability benefits, social security benefits, pensions, compensation for damages for personal injuries and like reimbursement, not including damages for loss of profits.
3. Compensation for damage to property by way of insurance or otherwise.
4. Interest and dividends from intangible property.
5. Military pay and allowances received as a member of the armed forces of the United States and members of their reserve components, including the Ohio National Guard.
6. Any charitable, education, fraternal, or other type of non-profit association or organization enumerated in Section 718.01 of the Revised Code of Ohio

which is exempt from payment of real estate taxes is exempt from payment of the tax imposed by this ordinance.

7. Any association or organization falling in the category listed in the preceding paragraph not exempt from the payment of real estate taxes is required to file declarations and final returns and remit the taxes levied under this ordinance on all business activities of a type ordinarily conducted for profit by taxpayers operating for profit.
8. Where such non-profit association or organization conducts income-producing business both within and without the corporate limits, it shall calculate its profits allocable to Union City under the method or methods provided above.
9. Minister's housing allowance.
10. Intangible income.
11. Payments to election precinct workers of less than \$ 1, 000 per year. 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 annually. Such compensation in excess of one thousand dollars may be subjected to taxation. The payer of such compensation is not required to withhold city tax from that compensation.
12. Transit Authority bus drivers who have occasional entry into Union City. If the bus or vehicle is operated on a regularly scheduled route, the operator is subject to tax by reason of residence or domicile.
13. A non-resident employee who performs services in Union City for a period of twelve days or less in a calendar year.
14. Section 125 cafeteria plans are not taxable.
15. The income of a public utility, when that public utility is subject to the tax levied under section 5727.24 or 5727.30 of the Ohio Revised Code, except starting January 1, 2002, the income of an electric company or combined company, as defined in section 5727.0 1 of the Ohio Revised Code, may be taxed. For a combined company, only the income attributed from the activity of an electric company shall be subject to taxation. The income of an electric company or combined company subject to taxation shall be computed by taking into account the adjustments provided by division (1) (16) of section 5733.04 of the Ohio Revised Code. The 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.
16. 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.

SECTION 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, qualifying wages, bonuses, incentive payments, commissions, fees, and other compensation earned on and after January 1, 1988.
- B. The tax imposed by Section 3, Paragraphs A-3, A-4, and A-5 of the ordinance, with respect to net profits of trades, businesses, professions, enterprises, undertakings, and other activities is on the net profits earned on and after January 1, 1988.

SECTION V

RETURN AND PAYMENT OF THE TAX

A. Date and Requirement for Filing:

1. On or before April 15th 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 Tax Administrator, a return on a form prescribed by and obtainable upon request from the Tax 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 filed on or before the fifteenth (15th) day of the fourth (4th) month 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 the 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 Tax 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 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 report or return in which such

employee's entire and only earnings are reported to the Tax Administrator, and where such employee has no taxable income other than such earnings, and the tax so withheld has been paid to the Tax Administrator, such employee need not file a return.

5. An employee who is permitted to deduct business expenses from gross 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.
6. Any taxpayer that received taxable income not subject to withholding under the ordinance must file a return. Residents that are retired and have been retired for three years or longer and do not receive taxable income and are on file with the Income Tax Office, need not file a return, provided, however, should the resident return to work and again receive taxable income, then such resident shall advise the Income Tax Office within thirty days that the resident has resumed working and receiving taxable income.
7. Any taxpayer having income, qualifying wages, or other compensation, for which a return must be filed, and also having net profits from a business covering the same or a different period, is required to file only one 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 resident or non-resident, and a return is required disclosing the net profits allocable to Union City, and the tax paid thereon. However, any resident partner or resident member of an unincorporated entity is required to make a return and pay the tax in accordance with Section 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 and rental profits; the profits of which would be taxable under the Ordinance, may not be offset against, qualifying wages, commissions, and other personal service compensation or against net profits from other business or professional activities.

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 less reasonable allowable expenses incurred subject to the tax earned from each employer, taxable net profits, and other pertinent information as the Tax Administrator may require.

2. Where figures of total income, total deductions, and net profits are included, as shown by a federal return, any items of income as are not subject to Union City tax and unallowable expenses, shall be eliminated in determining net income subject to Union City tax. In the absence of records showing the actual unallowable expenses, such expenses shall be determined in accordance with Section III A-6.C.1.08 of these regulations. The fact that any taxpayer is not required to file a federal tax return does not relieve him from filing a Union City 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 Union City, 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.
4. If a change in federal income tax liability results in a reduction of taxes owed and paid to Union City, a claim for refund shall be filed with the Tax Administrator, as prescribed in Section 11 of the ordinance and Section XI-C of these regulations.

C. Extensions.

1. Upon written request of the taxpayer made on or before the date of filing the return, and for good cause shown, the Tax Administrator may extend the municipal due date to the last day of the month following the month to which the due date of the federal return has BEEN extended. Whenever she deems such necessary, the Tax Administrator may require a tentative return accompanied by payment of the estimated tax. No penalty or interest will be assessed in those cases in which the return is filed and final tax paid within the period as extended; provided all other filing and payment requirements of the ordinance have 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.

(Note: Beginning January 1,2005, R.C. 718.051 (B) provides that the due date for net profits tax returns will be extended to the last day of the month to which the due date of the federal return has been extended, provided the taxpayer notifies the tax commissioner of the federal extension through the Ohio Business Gateway on or before the original due date for filing the return. In that situation, nothing needs to be filed with the local tax administrator (s) to obtain the extension.)

D. Payment with Return.

1. The taxpayer making a return shall, at the time of the filing thereof, pay to the Tax Administrator the amount 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, 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 which the Village of Union City 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.

E. Amended Returns.

1. Where necessary, an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid subject to the requirements and/or limitations contained in Section 11 and 12. Such amended return shall be on a form obtainable on request from the Tax Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.
2. Within three (3) months from the final determination of any federal tax liability affecting the taxpayer's Union City tax liability, such taxpayer shall make and file an amended Union City return showing income subject to the Union City tax based upon such final determination of federal tax liability, and pay any additional tax shown due thereon, or make claim for refund of any overpayment.

SECTION VI

COLLECTION OF TAX AT THE SOURCE

A. Duty of Withholding.

1. Except as otherwise provided herein, it is the duty of each employer within or doing business within Union City, who employs one or more persons whether as an employee, officer, director, or otherwise, to deduct, each time any compensation is paid, the tax of one percent from:
 - a. The gross amount of all qualifying wages, bonuses, incentive payments, fees, commissions, or other forms of compensation paid to residents of Union City, regardless of the place where the services are rendered. Begin with the Medicare wage base (Box 5) and make the following mandatory adjustments (to the extent necessary):
 - i. To the extent otherwise included in Box 5, deduct amounts attributable to IRC section 125 cafeteria plans.
 - ii. To the extent otherwise excluded from Box 5, add amounts that are exempt from Medicare taxes solely because of the Medicare grandfathering provision (i.e., pre-April 1, 1986 employees).

- iii. **To the extent otherwise excluded from Box 5, add ordinary income amounts arising from the sale, exchange or other disposition of a stock option, the exercise of a stock option, or the sale, exchange or other disposition of stock purchased under a stock option.**
 - iv. **To the extent otherwise excluded from Box 5, add employee contributions and deferrals to IRC section 401 (k) or 457 plans.**
 - v. **To the extent otherwise excluded from Box 5, add supplemental unemployment compensation benefits described in IRC section 3402 (o) (2).**
 - b. All compensation paid non-residents for services rendered, work performed, or other activities engaged in within Union City.
2. All employers within or doing business within Union City are required to make the collections and deductions specified in this article, regardless of the fact that the services on account of which any particular deduction is required, as to residents of Union City, were performed outside Union City.
 3. Employers who do not maintain a permanent office or place of business in Union City, but who are subject to tax on net profits attributable to Union City under the method of apportionment provided for in the ordinance, are considered to be employers within Union City and subject to the requirement of withholding.
 4. The mere fact that the tax is not withheld will not relieve the employee of the responsibility of filing a return and paying the tax on the compensation paid. If the employer has withheld the tax and failed to pay the tax withheld to the Tax Administrator, the employee is not liable for the tax so withheld.
 5. Commissions and fees paid to professional men, brokers, and others that are independent contractors, and not employees of the payor, 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 Sections V and VII of the regulations.
 6. Where a non-resident receives compensation for personal services rendered or performed partly within and partly without Union City, the withholding employer shall deduct, withhold, and remit the tax on that portion of the compensation which is earned within Union City 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 Union City bears to the total volume of business transacted by him within and outside Union City.

- b. The deducting and withholding of personal services 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 Union City 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 Union City on a seven-day per week basis. The percentage of time worked in Union City will be computed on the basis of a forty-hour week unless the employer notifies the Tax Administrator that a greater or lesser number of hours per week is worked.
 - d. The occasional entry into Union City of a non-resident employee who performs the duties, for which he is employed primarily outside the Village, shall not be deemed to take such employee out of the class of those rendering their services entirely outside Union City.
- 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 on which the tax is to be withheld, ignore any amount allowed and paid to the employee for expenses necessarily and actually incurred by the employee in the actual performance of his services; provided such expenses are incurred in earning compensation, including commissions, and are not deducted as a business expense by the employee under Section III of these regulations.
 - 9. An employer who records show that an employee is a non-resident of Union City and has no knowledge to the contrary, shall be relieved of the responsibility of withholding the tax on personal service compensation paid to such employee for services rendered or work done outside Union City by such employee; provided, however, that such employer must withhold the tax on all personal service compensation paid such employee after the Tax Administrator notifies said employer in writing that such employee is a resident of Union City. All employees are required to notify the employer of any changes of residence and the date thereof.
 - 10. No person shall be required to withhold the tax on the qualifying wages or other compensation paid domestic servants employed exclusively in or about such person's residence, but such employee shall be subject to all of the requirements of the ordinance.
 - 11. Employers are not required to withhold the tax on non-resident employees who perform services in Union City for a period of twelve days or less in a calendar year.

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 15th day of the month next following each quarterly period, make a return (Form W-1) and pay to the Tax 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, that where she deems such precaution necessary, the Tax Administrator may require an employer to remit withholding taxes at more frequent intervals.

The return (Form W-1) required to be filed under this Section, shall be made on a form furnished by, or obtainable on request from the Tax Administrator.

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

a. Current Employees:

- .1 If the over-withholding is discovered in the same quarterly period, the employer shall make the necessary adjustment directly with the employee, and the amount to be reported on the quarterly W-1, 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 W-1 for the quarter in which the adjustment is made shall indicate the total amount actually withheld, the amount of the adjustment deducted therefrom, and the corrected amount reported on the W-1;
- .3 If the over-withholding is discovered in the following year, the employer should notify the Tax Administrator of such over-withholding and the circumstances thereof. Upon proper verification of the Tax Administrator, she shall refund to the employee the amount of such excess withholding;

b. Former Employees:

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

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

c. Non-Residents Employed Outside the Village:

.1 Where an employer has withheld the tax from all qualifying wages of a non-resident of Union City and such non-resident has been employed outside of Union City for all or a part of the time, such employee shall file a claim with the Tax Administrator covering such erroneous withholding, and the Tax Administrator shall, upon verification thereof by the employer, refund to the employee the amount of such excess withholding.

d. Insufficient Withholding:

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

3. Every employer is deemed to be a trustee for the Village of Union City 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 funds.
4. Every such employer required to deduct and withhold the tax at the source is liable directly to Union City for payment of such tax whether actually collected from such employee or not.
5. On or before the 28th day of February following any calendar year in which such deductions have been made by any employer, such employer shall file with the Tax Administrator, in the form prescribed by the Tax Administrator, an information return for each employee from whom Union City 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 Union City income tax withheld from such employee.
6. For the convenience of employers, the information return may be made in one of three ways at the election of each employer as follows:
 - a. Those employers using Form W-2 furnished commercially may submit a copy of such commercial Form W-2; providing the copy furnished the Village of Union City clearly shows the information required in Paragraph 5 immediately preceding.
 - b. Those employers not using Form W-2 furnished commercially, may obtain forms upon request from the Tax Administrator.

- c. Where the furnishing of this information, as above indicated, will create a distinct hardship, the employer, upon written request to the Tax Administrator, may be permitted to furnish a list of all employees subject to the tax, which list shall show the employee's full name, last known address, social security number, gross amount of compensation paid during the year and the amount of Union City income tax withheld. Such list may be compiled on any mechanical equipment presently used by the employer, but provisions must be made for spacing equal to at least three lines between each name. The employer's name must be indicated on each sheet, each sheet must be numbered, and the total number of sheets comprising the complete report indicated on the first page.
 - c. The gross compensation to be reported for each employee shall be for the full twelve (12) calendar months of the year or such portion as the employee reported on was employed.
- 7. In addition to such information returns, and at the same time the same are filed, such employer shall file with the Tax Administrator Form W-3 to enable the Tax 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.
 - 8. In addition to the wage reporting requirements of this section, any person required by the Internal Revenue Service to report on Form 1099-Misc. payments to individuals not treated as employees for services performed shall also report such payments to the Municipality when the services were performed in the Municipality. The information may be submitted on a listing, and shall include the name, address and social security number (or federal identification number), and the amount of the payments made. Federal form(s) 1099 may be submitted in lieu of such listing. The information shall be filed annually on or before February 28 following the end of such calendar year.**
 - 9. Domestic Servants: No person shall be required to withhold the tax on the qualifying wages, commissions, other compensation, and other taxable income paid domestic servants employed exclusively in or about such person's residence. However, such domestic servants shall be responsible for filing and paying their own returns and taxes.**

C. 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 (1/2) cent or more, in which case it shall be increased to one (1) cent.

SECTION VII
DECLARATIONS

A. Requirement of Filing.

1. A declaration of estimated tax shall be filed by every taxpayer that 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 \$ 100.**
4. A declaration of estimated tax that is less than 80 % of the tax as shown on the final return shall not be considered filed in good faith.

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 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 Tax Administrator; provided, however, credit shall be taken for Union City tax to be withheld from any portion of such income.
2. The original estimate of tax liability or any subsequent amendment thereof may be increased or decreased by filing an amended declaration on or before any quarterly payment date, as set forth in Section VII-D.I. Such amendment may be made on the regular declaration form or on the back of any quarterly notice form (Q1).

D. Dates of Payment.

1. The estimated tax may be paid in full with the declaration or in equal installments on or before the 15th day of the fourth, seventh, tenth, and thirteenth month after the beginning of the taxable year.
2. The declaration must be accompanied by at least one-fourth (1/4) of the estimated tax shown due thereon.
3. 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).

SECTION VII

DUTIES OF THE TAX ADMINISTRATOR

A. Collection of Tax and Retention of Records.

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

B. Enforcement Provisions.

1. The Tax Administrator is charged with the administration and enforcement of the provisions of the ordinance, and is subject to the approval of the Board of Review, empowered to adopt, promulgate, and enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the ordinance. The Tax Administrator has the authority to correct or adjust any return submitted, when a correction or adjustment is necessary, to accomplish the intent of the ordinance.
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 Tax Administrator in writing, all the facts involved and the ruling sought.
3. These regulations, together with all amendments and supplements hereto and all changed herein, will be on file at the office of the Tax Administrator, Union City, Ohio, and will be open to public inspection.
4. The Tax Administrator is authorized to arrange for the payment of unpaid taxes, interest, and penalties on a schedule of installment payments, when the taxpayer has proved to the Administrator that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until the 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 11 and 12 of the ordinance shall apply.

C. Estimation of Tax by the Tax Administrator.

1. Whenever the Tax Administrator has been unable to secure information from the taxpayer as to his taxable income for any year, she 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.

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

SECTION IX
EXAMINATION OF BOOKS AND RECORDS
INFORMATION SO OBTAINED
CONFIDENTIAL; PENALTY

A. Investigations by the Tax Administrator.

1. The Tax Administrator, or her 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 Tax Administrator believes is subject to the provisions of the ordinance, for the purpose of verifying the accuracy of any return made; or if no return was made, to ascertain the tax due under the ordinance.
2. An employer or taxpayer shall furnish, within ten (10) days following a written request by the Tax Administrator or her 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 Tax Administrator or any person acting in her 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 Tax Administrator may compel the production of books, papers, and records, and the attendance of all persons before her, whether as parties or witnesses, whenever she believes such persons have knowledge of the facts concerning any supposed income or supposed transactions of the taxpayer.
2. The Tax Administrator's order to examine any document mentioned in the preceding paragraph shall state whether the examination is to be at the office of the taxpayer or at the office of the Tax Administrator.
3. The Tax Administrator may order the appearance before her, or her duly authorized agent, of any party whom she believes to have any knowledge of a taxpayer's income or withholdings, or any information pertaining to the taxpayer under investigation, whether or not the individual so ordered has actual custody of the records of the taxpayer being investigated. The Tax Administrator is specifically authorized to order the appearance of the local manager or representative of any taxpayer.
4. Persons required to attend any hearings shall be notified not less than ten (10) days prior to the time of the hearing. The notice shall show the time and place of the hearing and what books, papers, or records the witness is to make available at such hearing.
5. The notice shall be served by the Tax Administrator, or her 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.

C. 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 Tax Administrator, or her 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 Tax Administrator or the Board, 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 five hundred dollars (\$500.00) or imprisonment for not more than six (6) months, or both.

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

E. 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, 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.

SECTION X

INTEREST & PENALTIES

A. Interest.

1. Except as provided in paragraph C of this Section, all taxes imposed and all monies withheld, or required to be withheld, by employers under the provisions of this ordinance and remaining unpaid after they have become due, shall bear interest, in addition to the amount of the unpaid tax or withholdings, at a rate of one-half of one percent (1/2%) per month or fraction thereof.

B. Penalties.

In addition to interest, as provided in paragraph A hereof, penalties based on the unpaid tax are hereby imposed as follows:

1. For failure to pay taxes due, other than taxes withheld, ten percent (10%) of unpaid balance.
2. For failure to remit taxes withheld from employees: five percent (5%) per month, or fraction thereof,

3. Any person required to file a return as set forth in this Ordinance who fails to file or make payment as set forth herein, shall pay a penalty of TWENTY-FIVE DOLLARS (\$25.00) if return and/or payment is filed between April 16th and May 15th, in the event the return and/or payment is filed after May 15th, 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 the result of the filing of such return.

C. 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 is paid within three (3) months after determination of the federal tax liability.

D. Appeal from Assessment.

1. Upon recommendation of the Tax Administrator, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the Tax Administrator to recommend abatement of penalty and interest, the Board may nevertheless abate penalty or interest, or both.

SECTION XI

**COLLECTION OF UNPAID TAXES AND
REFUND OF OVERPAYMENTS**

A. Unpaid Sums - A Civil Debt.

1. All taxes imposed by the ordinance and not paid when due become, together with interest and penalties thereon, a debt due the Village from the taxpayer and are recoverable, as are other debts by civil suit. Employers who are required, under Section 6 of the ordinance, to withhold and remit the taxes required to be withheld at the source, and who fail to withhold and/or remit, become liable to the Village in a civil action to enforce the payment of the debt created by such failure.
2. No additional assessment shall be made by the Tax Administrator after three (3) years from the time the return was due or filed, whichever is later; except that the Village may bring suit to recover taxes, penalties and interest within six (6) years when: the individual or entity has filed a fraudulent return, failed to file a tax return, or omitted twenty-five percent (25%) or more of income required to be filed.
2. 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 Tax Administrator is extended to one (1) years 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 on which such payment was made, or the return was due, or three (3) months after the determination of the federal income tax liability, whichever is later.
2. No refund shall be made to any taxpayer until he has complied with all provisions of the ordinance and has furnished all information required by the Tax Administrator.
3. Overpayments will be either refunded or credited to the taxpayer's current year's liability at his option. Where no election has been made by the taxpayer, overpayments of any year's taxes shall be applied as follows:
 - a. To taxes owed for any previous years in which such taxes become due.
 - b. To his current estimated tax liability.

C. Limitation.

1. 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 or refunded.
2. Overpayments due to rounding will not be credited or refunded.

SECTION XII **VIOLATIONS, PENALTIES**

A. Any Person Who Shall:

1. Fail, neglect, or refuse to make any return or declaration required by this 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 Tax Administrator; or
5. Refuse to permit the Tax Administrator, or any duly authorized agent or employee, to examine his books, records, papers, and federal income tax returns relating to the income or net profits of a taxpayer; or

6. Fail to appear before the Tax Administrator 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 Tax Administrator; or
7. Refuse to disclose to the Tax Administrator any information with respect to the income or net profits of a taxpayer; or
8. Fail to comply with the provisions of this ordinance or any order to subpoena of the Tax 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 qualifying wages paid, and Union City tax withheld, or to knowingly give the Tax Administrator false information; or
11. Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this ordinance, shall be guilty of a misdemeanor and shall be fined not more than One Thousand Dollars (\$1,000.00) or imprisoned not more than six (6) months, or both, for each offense.
12. In addition to the foregoing, the penalties referred to in Section 10 of the Union City Income Tax Ordinance shall be assessed and collected.

B. Prosecutions:

Prosecutions under the ordinance must be commenced within three (3) years from the time of the offense except in the case of failure to file a return or in the case of filing a false or fraudulent return, in which event the limitation of time within which prosecution must be commenced shall be six (6) years from the date the return was due or the date the false or fraudulent return was filed.

C. Failure to Receive Forms - Not a Defense.

The failure of any employer, **taxpayer** 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.

SECTION XIII

BOARD OF REVIEW OR APPELLATE AUTHORITY

Refer to Ordinance.

SECTION XIV **USE OF** **FUNDS**

NO REGULATION ON THIS AS IT IS A POLICY MATTER FOR COUNCIL.

SECTION XVI **SAVING CLAUSE**

NO REGULATIONS AS THIS SECTION PERTAINS TO THE LEGALITY OF THE ORDINANCE AND NOT TO ITS ADMINISTRATION

SECTION XVIII **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 provisions 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 these regulations, and all final returns and withholding reports must be filed on or before that date, unless extended by the Tax 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 thereon, or enforcing any provisions of the ordinance (including prosecutions under the criminal sections 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.

SECTION XVIII

AMENDMENTS & SUPPLEMENTS

- A. From time-to-time, amendments and supplements to these regulations may be issued by the Tax Administrator.