

ORDINANCE NO. 04-129

Levying a tax to provide funds for the purposes of general municipal operation, maintenance of equipment, extension, enlargement and improvement of municipal services and facilities and capital improvements, on all salaries, qualifying wages, commissions, and other compensations earned or received by residents of the City of Greenville; on all salaries, qualifying wages, commissions, and other compensation earned or received by non-residents of the City of Greenville, for work done or services performed or rendered in the City of Greenville; on the net profits earned on all businesses, professions, or other activities conducted by residents of the City of Greenville; on the net profits earned on all businesses, professions or other activities conducted in the City of Greenville by non-residents, and on the net profits earned by all corporations doing business in the City of Greenville as the result of work done or services performed or rendered in the City of Greenville; requiring the filing of returns and furnishing of information by the employers and all those subject to said tax; imposing on employers the duty of collecting the tax at the source and paying the same to the City of Greenville; providing for the administration, collection and enforcement of said tax; declaring violation thereof to be a misdemeanor and imposing penalties therefor.

**BE IT ORDAINED BY the Council of the City of Greenville,
State of Ohio, that:**

Section 1. PURPOSE

To provide funds for the purpose of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements of the City of Greenville there shall be, and is hereby, levied a tax on qualifying wages, commissions and other compensation earned or received, and on net profits and other taxable income as hereinafter provided.

Section 2. DEFINITIONS

- A. As used in this Ordinance, the following words shall have the meanings ascribed to them in this section, except as and if the context clearly indicates or requires a different meaning.
1. "Adjusted Federal Taxable Income" means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, but including subsequent adjustments from required additions and deductions. Pass-through entities must compute adjusted federal taxable income as if the pass-through entity was a C corporation. This definition does not apply to any taxpayer required to file a return under Ohio Revised Code Section 5745.03 or to the net profit from a sole proprietorship.
 2. "Administrator" means the individual designated by the Ordinance, and appointed by the City Treasurer, with confirmation of Council to administer and enforce the provisions of the Ordinance.
 3. "Association" means a partnership, limited partnership, S-corporation or any other form of unincorporated enterprise, owned by one or more persons.
 4. "Board of Review" means the Board created by and constituted as provided for in Section 13.
 5. "Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity, including but not limited to the renting or leasing of property, real, personal or mixed.
 6. "City" means the City of Greenville, Darke County, Ohio.

7. "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.
8. "Domicile" means a principal residence that the taxpayer intends to use for an indefinite time and to which whenever he is absent he intends to return. A taxpayer has only one domicile even though he may have more than one residence.
9. "Employee" means one who works for wages, salary, commission or other types of compensation in the services of an employer.
10. "Employer" means an individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profits, who or that employs one or more persons on a salary, wage, commission or other compensation basis.
11. "Fiscal year" means an accounting period of twelve (12) months or less ending on any day other than December 31.
12. "Form 2106" means Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
13. "Generic form" means an electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability or for filing a refund claim that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation's tax on income. Any municipality that requires taxpayers to file income tax returns, reports, or other documents shall accept for filing a generic form of such a return, report, or document if the generic form, once completed and filed, contains all of the information required to be submitted with the municipality's prescribed returns, reports, or documents.
14. "Gross receipts" means total income of taxpayers from whatever source derived.
15. "Income from a pass-through entity" means partnership income of partners, membership interests of members of a limited liability company, distributive shares of shareholders of an S corporation, or other distributive or proportionate ownership shares of income from other pass-through entities.
16. "Intangible income" means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, tradenames, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings or other similar games of chance.
17. "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.
18. "Internet" means the international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork known as the World Wide Web.
19. "Joint Economic Development District" means districts created under the Ohio Revised Code Sections 715.70 through 715.83 as amended from time to time.
20. "Limited Liability Company" means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.

21. "Municipality" means the City of Greenville, Darke County, Ohio.
22. "Net profit" for a taxpayer other than an individual means adjusted federal taxable income and "net profit" for a taxpayer who is an individual means the individual's profit, other than amounts described in Division (F) of Section 3, required to be reported on Schedule C, Schedule E, or Schedule F.
23. "Nonqualified deferred compensation plan" means a compensation plan described in Section 3121(v)(2)(C) of the Internal Revenue Code.
24. "Nonresident" means an individual domiciled outside the City of Greenville.
25. "Nonresident incorporated business entity" means an incorporated business entity not having an office or place of business within the City of Greenville.
26. "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the City of Greenville.
27. "Other payer" means any person, other than an individual's employer or the employer's agent that pays an individual any amount included in the federal gross income of the individual.
28. "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.
29. "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, (b) the total income from that entity of all owners whose income from the entity is subject to taxation by that municipal corporation.
30. "Pass-through entity" means a partnership, limited liability company, S corporation, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code.
31. "Person" includes individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities, and any other entity.
32. "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.
33. "Principal place of business" means in the case of an employer having headquarters' activities at a place of business within a taxing municipality, the place of business at which the headquarters is situated. In the case of any employer not having its headquarters' activities at a place of business within a taxing municipality, the term means the largest place of business located in a taxing municipality.
34. "Qualified plan" means a retirement plan satisfying the requirements under Section 401 of the Internal Revenue Code as amended.
35. "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.

36. "Resident" means an individual domiciled in the City of Greenville.
 37. "Resident incorporated business entity" means an incorporated business entity whose office, place of operations or business situs is within the City of Greenville.
 38. "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the City of Greenville.
 39. "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.
 40. "Rules and Regulations" means the Rules and Regulations as set forth in this Ordinance.
 41. "Schedule C" means Internal Revenue Service Schedule C filed by a taxpayer pursuant to the Internal Revenue Code.
 42. "Schedule E" means Internal Revenue Service Schedule E filed by a taxpayer pursuant to the Internal Revenue Code.
 43. "Schedule F" means Internal Revenue Service Schedule F filed by a taxpayer pursuant to the Internal Revenue Code.
 44. "S Corporation" means a corporation that has made an election under Subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.
 45. "Tax Administrator" means the person appointed to administer the municipality's income tax ordinance and to direct the operation of the municipal income tax department or the person executing the duties of the Tax Administrator.
 46. "Taxable income" means qualifying wages paid by an employer or employers, compensation for personal services, other income defined by statute as taxable, and/or adjusted federal taxable income from the operation of a business, profession, or other enterprise or activity adjusted in accordance with the provisions of this Ordinance.
 47. "Taxable year" means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.
 48. "Taxing municipality" means a municipality levying a tax on income earned by nonresidents working within such municipality or on income earned by its residents.
 49. "Taxpayer" means a person subject to a tax on income levied by a municipal corporation. "Taxpayer" does not include any person that is a disregarded entity or a qualifying Subchapter S subsidiary for federal income tax purposes, but "taxpayer" includes any other person who owns the disregarded entity or qualifying Subchapter S subsidiary.
- B. The singular shall include the plural, the masculine shall include the feminine and the neuter, and all periods set forth shall be inclusive of the first and last mentioned dates.

Section: 3 IMPOSITION OF TAX

- A. Basis of Imposition: To provide for the purposes of general municipal operations, maintenance, new equipment, and capital improvements of the City of Greenville, there is hereby levied a tax at a rate of one and one half percent (1.5%) per annum upon the following:

1. On all qualifying wages, commissions, other compensation, and other taxable income earned or received by residents of the City of Greenville;
2. On all qualifying wages, commissions, other compensation, and other taxable income earned or received by nonresidents for work done, or services performed or rendered, in the City of Greenville;
3. On the portion attributable to the City of Greenville of the net profits earned by all resident unincorporated businesses, pass-through entities, professions or other activities, derived from work done or services performed or rendered, and business or other activities conducted in the City of Greenville. On the portion of the distributive share of the net profits earned by a resident owner of a resident unincorporated business entity or pass-through entity not attributable to the City of Greenville and not levied against such unincorporated business entity or pass-through entity;
4. On the portion attributable to the City of Greenville on the net profits by all nonresident unincorporated businesses, pass-through entities, professions or other activities, derived from work done or services performed or rendered and business or other activities conducted in the City of Greenville, whether or not such unincorporated business entity has an office or place of business in the City of Greenville. On the portion of the distributive share of the net profits earned by a resident owner of a nonresident unincorporated business entity or pass-through entity not attributable to the City of Greenville and not levied against such unincorporated business entity or pass-through entity;
5. On the portion attributable to the City of Greenville of the net profits earned by all corporations that are not pass-through entities from work done or services performed or rendered and business or other activities conducted in the City of Greenville, whether or not such corporations have an office or place of business in the City of Greenville;
6. On all income received as gambling winnings as reported on IRS Form W-2G, Form 5754 and/or any other form required by the Internal Revenue Service that reports winnings from gambling, prizes and lottery winnings.

B. Businesses Both In and Outside the Municipal Boundaries

This section does not apply to taxpayers that are subject to and required to file reports under Chapter 5745, of the Ohio Revised Code. Except as otherwise provided in Division (D) of this section, net profit from a business or profession conducted both within and without the boundaries of a municipal corporation shall be considered as having a taxable situs in such municipal corporation for purposes of municipal income taxation in the same proportion as the average ratio of the following.

1. Multiply the entire net profits of the business by a business apportionment percentage to be determined by:
 - a. The average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in such municipal corporation during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated;

As used in the preceding paragraph, real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight (8);
 - b. Wages, salaries, and other compensation paid during the taxable period to persons employed in the business or profession for services performed in such municipal

corporation, to the wages, salaries, and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed, excluding compensation that is not taxable by the municipal corporation under Section 718.011 of the Ohio Revised Code;

- c. Gross receipts of the business or profession from sales made and services performed during the taxable period in such municipal corporation to gross receipts of the business or profession during the same period from sales and services, wherever made or performed;
- d. Adding together the percentages determined in accordance with Subsections (B)(1)(a)(b) and (c) hereof, or such of the aforesaid percentages as are applicable to the particular taxpayer and dividing the total so obtained by the number of percentages used in deriving such total.
 - .1 A factor is applicable even though it may be apportioned entirely in or outside the City of Greenville.
 - .2 Provided however, that in the event a just and equitable result cannot be obtained under the formula provided for herein, the Tax Administrator, upon application of the taxpayer, shall have the authority to substitute other factors or methods calculated to effect a fair and proper apportionment.

C. As used in Division (B) of this section, "sales made in a municipal corporation," means

- 1. All sales of tangible personal property delivered within such municipal corporation regardless of where title passes if shipped or delivered from a stock of goods within such municipal corporation;
- 2. All sales of tangible personal property delivered within such municipal corporation regardless of where title passes even though transported from a point outside such municipal corporation if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such municipal corporation and the sales result from such solicitation or promotion;
- 3. All sales of tangible personal property shipped from a place within such municipal corporation to purchasers outside such municipal corporation regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

D. Except as otherwise provided in Division (E) of this section, net profit from rental activity not constituting a business or profession shall be subject to tax only by the municipal corporation in which the property generating the net profit is located.

E. This section does not apply to individuals who are residents of the City of Greenville and, except as otherwise provided in Section 718.01 of the Ohio Revised Code, the City of Greenville may impose a tax on all income earned by residents of the City of Greenville to the extent allowed by the United States Constitution.

F. Net Operating Loss (NOL)

- 1. The portion of a net operating loss sustained in any taxable year, apportioned to the City of Greenville, may be applied against the portion of the profit of succeeding tax years apportioned to the City of Greenville, until exhausted, but in no event for more than the three (3) taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.
- 2. The portion of a net operating loss sustained shall be apportioned to the City of Greenville in the same manner as provided herein for apportioning net profits to the City of Greenville.

3. The Tax Administrator shall provide by Rules and Regulations the manner in which such net operating loss carry-forward shall be determined.
4. The net operating loss of a taxpayer that loses its legal identity, by any means such as merger or consolidation, shall not be allowed as a carry-forward loss deduction to the surviving or new taxpayer.
5. The net operating loss sustained by a business or profession is not deductible from employee earnings, but may be carried forward as provided in Subsection F. However, if a taxpayer is engaged in two or more taxable business activities to be included in the same return, the net loss of one unincorporated business activity (except any portion of a loss reportable for municipal income tax purposes to another municipality) may be used to offset the profits of another for purposes of arriving at overall net profits.

G. Consolidated Returns

1. A consolidated return may be filed by a group of corporations who are affiliated through stock ownership if that affiliated group filed for the same tax period a consolidated return for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code. A consolidated return must include all companies that are so affiliated.
2. Once a consolidated return has been filed for any taxable year, consolidated returns shall continue to be filed in subsequent years unless the applicable requirements of the Rules and Regulations for discontinuing the filing of consolidated returns have been met.

H. Exclusions

The provisions of this Ordinance shall not be construed as levying a tax upon the following:

1. Proceeds from welfare benefits, unemployment insurance benefits, social security benefits, and qualified retirement plans as defined by the Internal Revenue Service.
2. Proceeds of insurance, annuities, workers' compensation insurance, permanent disability benefits, compensation for damages for personal injury and like reimbursements, not including damages for loss of profits and wages.
3. Dues, contributions and similar payments received by charitable, religious, educational organizations, or labor unions, trade or professional associations, lodges and similar organizations.
4. Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations and income of a decedent's estate during the period of administration (except such income from the operation of a business).
5. Alimony
6. Compensation for damage to property by way of insurance or otherwise.
7. Interest and dividends from intangible property.
8. Military pay or allowances of members of the Armed Forces of the United States and of members of their reserve components, including the Ohio National Guard (ORC 718.01).
9. Income of any charitable, educational, fraternal or other type of nonprofit association or organization enumerated in Ohio Revised Code 718.01 to the extent that such income is

Comment [sl1]:

derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.

10. Any association or organization falling in the category listed in the preceding paragraph receiving income from non-exempt real estate, tangible or intangible personal property, or business activities of a type ordinarily conducted for profit by taxpayers operating for profit shall not be excluded hereunder.
11. In the event any association or organization receives taxable income as provided in the preceding paragraph from real or personal property ownership or income producing business located both within and without the corporate limits of the City of Greenville, it shall calculate its income apportioned to the City of Greenville under the method or methods provided above.
12. If exempt for federal income tax purposes, fellowship and scholarship grants are excluded from municipal income tax.
13. The rental value of a home furnished to a minister of the gospel as part of his compensation, or the rental allowance paid to a minister of the gospel as part of his compensation, to the extent used by him to rent or provide a home pursuant to Section 107 of the Internal Revenue Code.
14. Compensation paid under Section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct official, to the extent that such compensation does not exceed one thousand dollars (\$1,000.00) annually. Such compensation in excess of one thousand dollars (\$1,000.00) may be subject to taxation. The payer of such compensation is not required to withhold municipal tax from that compensation.
15. Compensation paid to an employee of a transit authority, regional transit authority, or a regional transit commission created under Chapter 306 of the Ohio Revised Code for operating a transit bus or other motor vehicle for the authority or commission in or through the City of Greenville, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such tax by reason of residence or domicile in the City of Greenville, or the headquarters of the authority or commission is located within the City of Greenville.
16. The City of Greenville shall not tax the compensation paid to a nonresident individual for personal services performed by the individual in the City of Greenville on twelve (12) or fewer days in a calendar year unless one of the following applies:
 - a. The individual is an employee of another person, the principal place of business of the individual's employer is located in another municipality in Ohio that imposes a tax applying to compensation paid to the individual for services paid on those days; and the individual is not liable to that other municipality for tax on the compensation paid for such services.
 - b. The individual is a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such promoter, all as may be reasonably defined by the City of Greenville.
17. The income of a public utility, when that public utility is subject to the tax levied under Section 5727.24 or 5727.30 of the Ohio Revised Code, except a municipal corporation may tax the following, subject to Chapter 5745. of the Ohio Revised Code:
 - a. The income of an electric company or combined company;

- b. The income of a telephone company.

As used in Division (F)(17) of this section, "combined company", "electric company", and "telephone company" have the same meanings as in Section 5727.01 of the Ohio Revised Code.

- 18. An S corporation shareholder's distributive share of net profits or losses of the S corporation.
- 19. The provisions of this Ordinance shall not apply to any person who has not during the taxable year, attained his eighteenth (18) birthday.
- 20. 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.

I. Mandatory Registration

- 1. Each new resident of the City of Greenville shall register with the City Income Tax Department within thirty (30) days of residency in the City.
- 2. All employers, contractors or subcontractors who do work in the City of Greenville shall register with the City Income Tax Department when work begins and shall present a list of all subcontractors and others that may do work for them.
- 3. All landlords who rent property or dwellings in the City of Greenville must submit on a semi-annual basis an up-to-date list of their tenants to the Tax Administrator. The list is not required if the tenants are responsible for their own water utility payments.
- 4. Any person who violates this section shall be in violation of this Ordinance punishable as provided in Section 12.

Section 4. EFFECTIVE PERIOD

Said tax shall be levied, collected and paid with respect to the salaries, qualifying wages, commissions and other compensation earned or received and shall be levied with respect to the net profits of the businesses, professional or other activities earned on and after January 1, 2005.

Section 5. RETURN AND PAYMENT OF TAX

- A. On or before April 15th of each year, every resident subject to the provisions of Section 3, paragraph A through H inclusive, of the Ordinance shall, except hereinafter provided, make and file with the Tax Administrator a municipal tax return on a form prescribed by and acceptable to the Tax Administrator, whether or not a tax is due. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed on or before the fifteenth (15th) day of the fourth (4th) month following the end of such fiscal year or period. The Tax Administrator is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of municipal tax deducted by said employer or employers from the qualifying wages, commissions, other compensation, and other taxable income of a nonresident employee, and paid by him or them to the Tax Administrator may be accepted as the return required of a nonresident employee whose sole income, subject to tax under this Ordinance, is such qualifying wages, commissions, other compensation, and other taxable income.
- B. A husband and wife may file either separate returns or a joint return for municipal purposes, even though one of the spouses has neither taxable income nor deductions included on the

municipal return regardless of whether their federal and state returns were filed separately or jointly. If a joint city return is made, the tax shall be computed on the aggregate taxable income and the liability with respect to the tax shall be joint and several.

- C. The return shall be filed with the Tax Administrator on a form or forms furnished by or obtainable upon request from the Tax Administrator; or on a generic form, if the generic form, when completed and filed, contains all of the information required to be submitted with the municipality's prescribed return and, if the taxpayer or return preparer filing the generic form otherwise complies with the ordinance governing the filing of returns.
- D. The return shall set forth
 - 1. The aggregate amounts of qualifying wages, commissions, other compensation received, allocated, apportioned or set aside, other income defined by statute as taxable, and gross income from any business, profession or other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to said tax; and
 - 2. The amount of the tax imposed by this Ordinance on such earnings and profits; and
 - 3. Such other pertinent statements, information returns, copies of federal or state tax returns and/or schedules, or other information as the Tax Administrator may require, including a statement that the figures used in the return are the figures used for federal income tax adjusted to set forth only such income as is taxable under the provisions of this Ordinance.
- E. Extensions
 - 1. Any taxpayer that has requested an extension for filing a federal income tax return may request an extension for the filing of a municipal income tax return by filing a copy of the taxpayer's federal extension request with the municipal tax division. Any taxpayer not required to file a federal income tax return may request an extension for filing a municipal income tax return in writing. All requests for extension must be filed on or before the original due date of the annual return. If the request is granted, the extended due date of the municipal income tax return shall be the last day of the month following the month to which the due date of the federal income tax return has been extended.
 - 2. The Tax Administrator may deny a taxpayer's request for extension if the taxpayer:
 - a. Fails to timely file the request; or
 - b. Owes the municipality any delinquent income tax, penalty, interest or other charge for the late payment or nonpayment of income tax; or
 - c. Has failed to file any required income tax return, report, or other related document for a prior tax period.
 - 3. The granting of an extension for filing a municipal tax return does not extend the due date as provided in this section for payment of the tax; hence, penalty and interest may apply to any unpaid tax during the period of extension at the rate set out by Section 10. No penalty shall be assessed in those cases in which the return is filed and the final tax paid within the extension period provided all other filing and payment requirements of the Ordinance have been met. Any extension by the Tax Administrator shall be granted upon the condition that declaration filing and payment requirements have been fulfilled; however, if, upon further examination it then becomes evident that declaration filing and payment requirements have not been fulfilled, penalty and interest may be assessed in full and in the same manner as though no extension had been granted.

F. Payments 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. However, credit shall be allowed for:
 - a. Any portion of the tax so due which shall have been deducted at the source pursuant to the provisions of Section 6; and
 - b. Any portion of said tax which shall have been paid by the taxpayer pursuant to the provisions of Section 7; and
 - c. Credit to the extent allowed by Section 15 for tax paid to another municipality.
2. Subject to the limitations contained in Section 11 of this Ordinance, any taxpayer who has overpaid the amount of tax to which the City of Greenville is entitled under the provisions of this Ordinance may have such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such overpayment (or part thereof) shall be refunded, provided that no additional taxes or refunds of less than five dollars (\$5.00) shall be collected or refunded.
3. The mere submission of a return reporting a tax liability shall not constitute filing unless accompanied by the required payment.

G. Amended Returns

1. Where necessary, an amended return shall 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 15. The Tax Administrator shall provide by regulation the format in which such amended return shall be filed. 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 municipal tax liability, such taxpayer shall make and file an amended municipal return showing income subject to the municipal 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.

- H. Information returns, schedules and statements required to support tax returns which are incomplete without such information shall be filed within the time limits set forth for the filing of the tax returns and the failure to file such information returns, schedules and statements shall be a violation of this Ordinance. Provided, however, that the taxpayer shall have twenty (20) days after notification by the Tax Administrator, or his authorized representative, to file the items required by this paragraph.

Section 6. COLLECTION AT SOURCE

- A. Withholding by Employer: Each employer within, or doing business within, the City of Greenville who employs one or more persons on a salary, wage, commission or other compensation basis shall deduct, when such salary, wage, commission or other compensation is paid, allocated, apportioned or set aside, the tax at the rate provided in Section 3 hereof on the qualifying wages due by such employer to each such employee and shall, on or before the last day of the month following such withholding, make a return and pay to the Tax Administrator the amount of taxes so deducted. The return shall be on a form or forms prescribed by or acceptable to the Tax Administrator and shall be subject to the Rules and Regulations prescribed by the Tax

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

- B. An employer is not required to make any withholding with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of the corporation with respect to whose stock the option has been issued.
- C.
 1. An employee is not relieved from liability for a tax by the failure of the employer to withhold the tax as required by a municipal corporation or by the employer's exemption from the requirement to withhold the tax.
 2. The failure of an employer to remit to the municipal corporation the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer in connection with the failure to remit the tax withheld.
- D. So long as the taxes withheld by an employer for the City of Greenville during the measurement period are less than five hundred dollars (\$500.00) per month or \$6,000.00 annually, payments may be made quarterly on or before the last day of the month following the end of each quarter, subject to the approval of the Tax Administrator. The Tax Administrator may revoke the approval of quarterly filing and payments whenever the Tax Administrator has reason to believe that the conditions for granting such authorization have changed, were judged incorrectly, were not met, or when it is in the best interest of the City of Greenville to do so. Notice of withdrawal shall be made in writing and, in such case, the employer must begin to file in accordance with this section.
- E. Employer Considered as Trustee: Each employer in collecting such tax shall be deemed to hold the same, until payment is made by such employer to the City of Greenville, as a trustee for the benefit of the City of Greenville, and any such tax collected by such employer from his employees shall, until the same is paid to the City of Greenville, be deemed a trust fund in the hands of such employer. Each employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such tax, in fact, has been withheld.
- F. Any person who is required to withhold tax from qualifying wages shall pay all such tax to the City of Greenville in accordance with the provisions of this section. In the event taxes withheld from the qualifying wages of employees are not paid to the City of Greenville in accordance with the provisions of this section, all officers, members, managers, employees, and trustees having control or supervision of or charged with the responsibility of filing the return and making payment are jointly and severally personally liable for the tax not returned or paid to the City of Greenville as well as any related interest and penalties, and are also liable under the provisions of Section 12 hereof. The dissolution, termination, or bankruptcy of a corporation, limited liability company, or business trust does not discharge an officer's, member's, manager's, employee's, or trustee's liability for a failure of the corporation, limited liability company, or business trust to file returns or pay said taxes.
- G. Withholding Return; List of Employees: Each employer shall file a withholding tax reconciliation showing the sum total of all compensation paid all employees, the portion of which, (if any) was not subject to withholding along with an explanation for same, and the portion of which was subject to withholding, together with the amount of such withholdings remitted. Such return shall include information concerning each employee from whom the municipal tax was withheld, showing the name, address, zip code and social security number of each such employee, the total amount of compensation paid during the year and the amount of municipal tax withheld. If the total tax withheld from any employee includes tax withheld and remitted to another municipality, the amount of same shall be separately shown on the return of information to the City of Greenville concerning each employee. The withholding tax reconciliation shall be filed by each employer on or before February 28 following the end of such calendar year.

- H. In addition to the wage reporting requirements of this section, any person required by the Internal Revenue Service to report on Form 1099-Misc. payments to individuals not treated as employees for services performed shall also report such payments to the City of Greenville when the services were performed in the City of Greenville. 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.
- I. 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.

Section 7. DECLARATIONS

A. Requirement for Filing

Every person who anticipates any taxable income which is not subject to Section 6 or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 3, shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon, if any. Provided, however, if a person's income is wholly from qualifying wages from which the tax will be withheld and remitted to the City of Greenville in accordance with Section 6 hereof, or the estimated tax due is one hundred dollars (\$100.00) or less, such person need not file a declaration.

B. Dates for Filing

- 1. Such declaration shall be filed on or before April 15 of each year during the life of this Ordinance, or on or before the fifteenth (15th) day of the fourth (4th) month following the date the taxpayer becomes subject to tax for the first time.
- 2. Those taxpayers having a fiscal year or period differing from the calendar year shall file a declaration on or before the fifteenth (15th) day of the fourth (4th) month following the start of each fiscal year or period.

C. Forms; Credit for Tax Withheld or Paid Another Municipality

- 1. Such declaration shall be filed upon a form furnished by or obtainable from the Tax Administrator or an acceptable generic form, and credit shall be taken for the municipal tax to be withheld from any portion of such income. In accordance with the provisions of Section 6, credit may be taken for tax to be withheld and remitted to another taxing municipality.
- 2. For taxpayers who are individuals, such declaration of estimated tax to be paid the City of Greenville shall be accompanied by a payment of at least twenty-five percent (25%) of the estimated annual tax and at least a similar amount shall be paid on or before the last day of the seventh, tenth and thirteenth months after the beginning of the taxable year.
- 3. For taxpayers that are not individuals, such declaration of estimated tax to be paid the City of Greenville shall be accompanied by a payment of at least twenty-five percent (25%) of the estimated annual tax and at least a similar amount shall be paid on or before the fifteenth (15th) day of the sixth, ninth and twelfth months after the beginning of the taxable year.

4. The mere submission of a declaration estimating a tax liability shall not constitute filing unless accompanied by the required payment.

D. Amended Declaration

1. A declaration may be amended at any time.
2. In the event that an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

E. Annual Return Required

On or before the 15th day of the fourth month of the calendar or fiscal year, an annual return shall be filed and any balance which may be due the City of Greenville shall be paid therewith in accordance with the provisions of Section 5.

Section 8. APPOINTMENT AND DUTIES OF TAX ADMINISTRATOR

- A.
 1. It shall be the duty of the Tax Administrator to collect and receive the tax imposed by this Ordinance in the manner prescribed therein, 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 income taxes owing the City of Greenville, to keep accurate records for a minimum of five (5) years, showing the amount due from each taxpayer required to file a declaration or make any return, including a return of taxes withheld, and to show the dates and amounts of payments thereof.
- B. The Tax Administrator is hereby charged with the enforcement of the provisions of this Ordinance, including the interpretation and enforcement of the Rules and Regulations set forth in Article I through Article XVII, and is hereby empowered, subject to the approval of the City Council, to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and the administration and enforcement of the provisions of this Ordinance, including provisions for the re-examination and correction of returns.
- C. In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Tax Administrator may determine the amount of tax appearing to be due the City of Greenville from the taxpayer and may send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.
- D. Subject to the consent of a majority of the Board of Review, the Tax Administrator shall have the power to compromise any liability imposed by this Ordinance.
- E. Upon the demonstration and documentation of good cause, the Tax Administrator shall have the power to compromise penalty and interest liabilities imposed by this Ordinance, consistent with this Ordinance and the Rules and Regulations.

Section 9. INVESTIGATIVE POWERS OF TAX ADMINISTRATOR; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION

- A. The Tax Administrator, or any of his authorized agents, is hereby authorized to examine the books, papers, records and federal income tax returns of any employer, taxpayer, or any person subject to, or whom the Tax Administrator believes is subject to, the provisions of this Ordinance for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax or withholdings due under this Ordinance. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish, upon written

request of the Tax Administrator, or his duly authorized agent or employee, the means, facilities and opportunities for making such examinations and investigations as are hereby authorized.

- B. The Tax Administrator is hereby authorized to order any person, presumed to have knowledge of the facts, to appear at the office of the Tax Administrator and to examine such person, under oath, concerning any income which was or should have been reported for taxation, or withheld, or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and federal income tax returns, and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.
- C. The refusal to produce books, papers, records or federal income tax returns, or the refusal to submit to such examination by any employer or person subject, or presumed to be subject, to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax, or the failure of any person to comply with the provisions of this section or with an order or subpoena of the Tax Administrator authorized hereby, shall be deemed a violation of this Ordinance punishable as provided in Section 12.
- D. Every taxpayer shall retain all records necessary to compute his tax liability for a period of five (5) years from the date his return is filed or the taxes required to be withheld are paid.
- E. Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by this Ordinance shall be confidential and no person shall disclose such information except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of the municipal corporation as authorized by this Ordinance. The Tax Administrator of the municipal corporation may furnish copies of returns filed under this Ordinance to the Internal Revenue Service and to the State Tax Commissioner.
- F. Any person divulging such information shall be guilty of a misdemeanor of the first degree, punishable by a maximum fine of one thousand dollars (\$1,000.00) or imprisonment for not more than six (6) months, or both.
- G. In addition to the above penalty, any employee of the City of Greenville who violates the provisions of this section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

Section 10. INTEREST AND PENALTIES

- A. All taxes imposed and monies withheld or required to be withheld by employers under the provisions of this Ordinance and remaining unpaid after they become due shall bear interest at the rate of one percent (1%) per month or fraction thereof.
- B. In addition to interest as provided in Paragraph A hereof, penalties 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 or required to be 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 said return as set forth herein shall pay a late filing fee of twenty five dollars (\$25.00) if said return is filed no more than thirty (30) days past its due date. In the event said return is filed more than thirty (30) days past its due date, said person shall pay a late filing fee 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 City of Greenville, or that a refund is due to be paid to the taxpayer, as the result of the filing of such return.

- C. Exceptions. A penalty shall not be assessed on an additional tax assessment made by the Tax Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Tax Administrator; and provided further that, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, providing an amended return is filed and the additional tax is paid within three (3) months after the final determination of the federal tax liability.
- D. Upon recommendation of the Tax Administrator, the Board of Review may abate penalty, interest and/or the late filing fee, or upon an appeal from the refusal of the Tax Administrator to recommend abatement of the penalty, interest and/or the late filing fee, concerning an item of income or expense, the Board may nevertheless abate penalty, interest and/or the late filing fee.
- E. The Tax Administrator is hereby given the authority to abate any of the penalties imposed by this section, upon written request of the taxpayer, and subject to the provisions of this section. Such abatement is authorized whether in full or in part. The Tax Administrator may promulgate rules and regulations governing the abatement of penalties.

Section 11. COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS

- A. All taxes imposed by this Ordinance shall be collectible, together with any interest and penalties thereon, by civil action at law. No additional assessment shall be made after three (3) years from the time the tax was due or the return was filed, whichever is later; provided however, there shall be no period of limitation on an additional assessment in a case of a return that omits gross income in excess of twenty-five per cent (25%) of that required to be reported or in the case of filing a false or fraudulent return with intent to evade the tax, or in the case of failure to file a return. 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 additional assessment may be made by the Tax Administrator shall be extended one (1) year from the time of the final determination of the federal tax liability.
- B. Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date on which such payment was made or the return was due, or within three (3) months after final determination of the federal tax liability, whichever is later.
- C. Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment, with the following exception: No interest shall be allowed on any overpayment that is refunded within ninety (90) days after the final filing date of the annual return or ninety (90) days after the complete return is filed, whichever is later. For purposes of computing the payment of interest on overpayments, no amount of tax for any taxable year shall be treated as having been paid before the date on which the tax return for that year was due without regard to any extension of time for filing that return. The interest shall be paid at the rate of interest prescribed by Ohio Revised Code 5703.47.
- D. Amounts of less than five dollars (\$5.00) shall not be collected or refunded.

Section 12. VIOLATIONS AND PENALTIES

- A. Any person who shall:
 - 1. Fail, neglect or refuse to make any return or declaration required by this Ordinance; or
 - 2. Knowingly make an 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 and remit such withholding tax to the Tax Administrator; or
5. Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his or his employer's books, records, papers, or federal income tax returns; or
6. Fail to appear before the Tax Administrator and to produce his or his employer's books, records, papers or federal income tax returns upon order or subpoena of the Tax Administrator; or
7. Refuse to disclose to the Tax Administrator any information with respect to such persons or such person's employer's income or net profits; or
8. Willfully give to an employer by an employee false information as to his true name, correct social security number and residence address, or the failure of such employee to promptly notify an employer of any change in residence address and date thereof; or
9. Failure on the part of any employer to maintain proper records of employees' residence addresses, total wages paid and municipal tax withheld, or to knowingly give the Tax Administrator false information; or
10. Fail to comply with the provisions of this Ordinance or any order or subpoena of the Tax Administrator; or
11. Willfully fail or willfully refuse to make any payment on the estimated tax for any year or part of any tax year as required by Section 7; or
12. Fail to cause the tax withheld from the qualifying wages of the employees pursuant to this Ordinance to be paid to the City of Greenville in accordance with the provisions of Section 6; or
13. 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 of the first degree 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.

B. Statute of Limitations

1. Civil actions to recover municipal income taxes and penalties and interest on municipal income taxes shall be brought within three (3) years after the tax was due or the return was filed, whichever is later.
2. Prosecutions for an offense made punishable under this Ordinance shall be commenced within three (3) years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five percent (25%) or more of income required to be reported, prosecutions may be commenced within six (6) years after the commission of the offense. (ORC 718.12)

C. 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, return or declaration, from filing such form, or from paying the tax.

D. The term "person" as used in this section shall, in addition to the meaning prescribed in Section 2, include in the case of an association or corporation not having any partner, member or officer

within the City of Greenville, any employee or agent of such association or corporation who can be found within the corporate limits of the City of Greenville.

Section 13. BOARD OF REVIEW

- A. A Board of Review, consisting of three members, to be appointed by the Mayor and approved by Council, is hereby created and shall be maintained to hear appeals. The members of the Board of Review shall be appointed for a term of three years; however, the members of the first Board of Review shall be appointed for (one, two and three years respectively). A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board shall be conducted privately and the provisions of Section 9 with reference to the confidential character of information required to be disclosed by the Ordinance shall apply to such matters as may be heard before the Board on appeal.
- B. All rules and regulations and amendments or changes thereto which are adopted by the Tax Administrator under the authority conferred by this Ordinance, must be approved by the City Council before the same become effective. After such approval, such rules, regulations, amendments and changes shall be filed with the Clerk of Council and shall be open to public inspection. The Board shall hear and pass on appeals from any ruling or decision of the Tax Administrator, and, at the request of the taxpayer or Tax Administrator, is empowered to substitute alternate methods of apportionment.
- C. Whenever the Tax Administrator issues a decision regarding an income tax obligation that is subject to appeal as provided in this section, or in an ordinance or regulation of the City of Greenville, the Tax Administrator shall notify the taxpayer in writing at the same time of the taxpayer's right to appeal the decision and of the manner in which the taxpayer may appeal the decision.
- D. Any person who is aggrieved by a decision by the Tax Administrator and who has filed with the City of Greenville the required returns or other documents pertaining to the municipal income tax obligation at issue in the decision may appeal the decision to the Board of Review by filing a request with the Board. The request shall be in writing, shall state with particularity why the decision should be deemed incorrect or unlawful, and shall be filed within thirty (30) days after the Tax Administrator has issued the decision.
- E. The imposition of penalty and interest as prescribed in the Codified Ordinance of the City of Greenville is not a sole basis for an appeal.
- F. The Board of Review shall schedule a hearing within forty-five (45) days after receiving the request, unless the taxpayer waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the Board and may be represented by an attorney at law, certified public accountant or other representative.
- G. The Board may affirm, reverse, or modify the Tax Administrator's decision or any part of that decision. The Board shall issue a decision on the appeal within ninety (90) days after the Board's final hearing on the appeal, and send notice of its final decision by ordinary mail to all of the parties to the appeal within fifteen (15) days after issuing the decision. The taxpayer or the Tax Administrator may appeal the Board's decision as provided in Section 5717.011 of the Ohio Revised Code.
- H. Each Board of Review created pursuant to this section shall adopt rules governing its procedures and shall keep a record of its transactions. Such records are not public records available for inspection under Section 149.43 of the Ohio Revised Code. Hearings requested by a taxpayer before a Board of Review created pursuant to this section are not meetings of a public body subject to Section 121.22 of the Ohio Revised Code.

- I. Vacancies on said Board shall be filled by appointment by the Mayor, subject to confirmation by Council, and shall be for the unexpired term of the Board member replaced. All terms shall begin on January 1 and end on December 31 of the appropriate year. All appointments and confirmations thereof shall state the dates of beginning and ending of the term for which the appointment is made, calculated in accordance with this section. Members of the Board shall receive no compensation, but shall be allowed such amounts for actual expenses, including but not limited to mileage, as Council may provide.

Section 14. ALLOCATION OF FUNDS

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

- A. For the costs and expenses of collecting the taxes levied by this Ordinance and the costs of administering and enforcing the provisions hereof, such part of said funds as may be necessary.
- B. The balance remaining in the Income Tax Account shall be applied, apportioned and transferred by City Council by and in its annual budget in such proportions as Council may from time to time determine for the following purposes:
 1. Wages, salaries, and other lawful compensation of taxes payable to, on behalf of, or by reason of the employment of all elected and appointed officials of the City and all employees of the City.
 2. Payments on behalf of the City and/or its employees or elected or appointed officials into the Public Employees Retirement System.
 3. Operating expenses, including expenses for materials, supplies, equipment, transportation, insurance, rentals, maintenance, services and incidentals, of and for the following departments, functions, offices, programs, or activities; but, not necessarily in this order:
 - a. Police Department
 - b. Fire Department
 - c. Street Department
 - d. Sewer Department
 - e. Engineering Department
 - f. Municipal Court
 - g. Civil Service Commission
 - h. Civil Defense
 - i. Planning and Zoning
 - j. City Council
 - k. Clerk of Council
 - l. Mayor
 - m. Auditor
 - n. Treasurer
 - o. Solicitor
 - p. Director of Service and Safety
 - q. General Administration
 - r. Recreation Program
 - s. Codification of Ordinances
 - t. Legal Advertising
 - u. Recordation of Instruments
 - v. Garbage and Refuse Disposal
 - w. Building and Real Estate Maintenance

- x. Parks
 - y. Investments
3. All lawful costs, expenses and other payments attributed to the following:
- a. Repair, maintenance, construction and replacement of streets, sidewalks, storm and sanitary sewers.
 - b. Capital improvements lawfully authorized by Council.
 - c. Principal and interest on obligations of the City, whether incurred before or after the effective date hereof.
 - d. Payment or settlement of debt
 - e. Professional fees and charges
 - f. Fiscal agent fees
 - g. Real Estate taxes
 - h. Acquisition, repair and replacement of traffic control devices.
4. Such other purposes as may from time to time be authorized by Council.

Section 15. CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY OR JOINT ECONOMIC DEVELOPMENT DISTRICT (JEDD)

- A. Limitation: Effective from and after January 1, 2005, where a resident of the City of Greenville is subject to a municipal income tax imposed by another municipality, such affected resident of the City of Greenville shall not pay a total municipal income tax on the other income greater than the tax imposed at the higher rate.
- B. Credit to Residents: Effective from and after January 1, 2005, each individual taxpayer who resides in the City of Greenville who receives net profits, salaries, wages, commissions or other personal service compensation for work done or services performed or rendered outside of the City of Greenville and pays a municipal income tax on the same income taxed by the City of Greenville to another municipality, shall be granted a credit against the tax imposed by the said City of Greenville in such amount so paid to such other municipality. The subject credit shall not exceed the amount of the income tax imposed by the City of Greenville on such income earned in such other municipality or municipalities where such tax is paid.
- C. The City of Greenville shall grant a credit against the tax imposed by this Ordinance to every taxpayer who works in a joint economic development zone created under Section 715.691 or a joint economic development district created under Section 715.70, 715.71, or 715.72 of the Ohio Revised Code. The credit shall not exceed the tax assessed by this Ordinance on such income earned in such joint economic development zone or joint economic development district where such tax is paid.
- D. Except as provided in Division (E) of this section, if tax or withholding is paid to a municipal corporation on income or wages, and if a second municipal corporation imposes a tax on that income or wages after the time period allowed for a refund of the tax or withholding paid to the first municipal corporation, the second municipal corporation shall allow a nonrefundable credit, against the tax or withholding the second municipality claims is due with respect to such income or wages, equal to the tax or withholding paid to the first municipal corporation with respect to such income or wages.
- E. If the tax rate in the second municipal corporation is less than the tax rate in the first municipal corporation, then the credit described in Division (D) of this section shall be calculated using the tax rate in effect in the second municipal corporation.
- F. Effective from and after January 1, 2005, a claim for refund or credit authorized under this Ordinance shall be made in such manner as the Tax Administrator may, by regulation, provide.

Section 16. REQUIREMENTS FOR JOINT ECONOMIC DEVELOPMENT DISTRICTS (JEDD)

Specific provisions of this Ordinance may be modified as they apply to Joint Economic Development Districts if the modifications are passed by Council in an ordinance which either specifically approves a Joint Economic Development District contract or specifically amends this Ordinance.

Section 17. SAVING CLAUSE

This Ordinance shall not apply to any person, firm or corporation, or to any property as to whom or which, it is beyond the power of Council to impose the tax herein provided for. Any sentence, clause, section or part of this Ordinance, or any tax against or exception granted any individual or any of the several groups of persons, or forms of income specified herein is found to be unconstitutional or illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this Ordinance and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this Ordinance. It is hereby declared to be the intention of Council of the City of Greenville that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence or part thereof, not been included therein.

Section 18. COLLECTION OF TAX AFTER TERMINATION OF ORDINANCE

- A. This Ordinance and Model Income Tax Ordinance 74-94 shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this Ordinance are concerned, it shall continue effective until all of said taxes levied hereunder are fully paid and any and all suits and prosecutions for the collection of said taxes or for the punishment of violations of this Ordinance shall have been fully terminated, subject to the limitations contained in Section 11 and 12 hereof.
- B. Annual returns due for all or any part of the last effective year of this Ordinance shall be due on the date provided in Sections 5 and 6 of this Ordinance as though the same were continuing.

Section 19. EMERGENCY CLAUSE

This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of public peace, health, and safety and it shall go into effect forthwith. The reason for the said emergency is the immediate necessity of levying the tax provided for herein in order to provide funds for the purposes of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements of the City of Greenville, Ohio, during the year 2005 and thereafter.

Passed this 7th day of December 2004.

Allen B. Hauberg
President of Council

Attest:
Nancy Myers Clerk

Approved this 7th day of December 2004.
Gregory S. Fraley Mayor

**CITY OF GREENVILLE, OHIO
EARNED INCOME TAX RULES AND REGULATIONS
ISSUED BY**

TAX ADMINISTRATOR

Under Authority of Section 8 of Ordinance 04-129

**Approved by Council on December 7, 2004
Effective January 1, 2005**

ARTICLE I PURPOSE OF CLAUSE

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

ARTICLE II DEFINITIONS

- A. As used in these Rules and Regulations the following words shall have the meaning ascribed to them herein, except as and if the context clearly indicates or requires a different meaning.
1. "Adjusted Federal Taxable Income" means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:
 - a. Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income,
 - b. Add an amount equal to five percent (5%) of intangible income deducted under Division (A)(1)(a) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in Section 1221 of the Internal Revenue Code;
 - c. Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in Section 1221 or 1231 of the Internal Revenue Code;
 - d.(i) Except as provided in Article II (A)(1)(d)(ii) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in Section 1221 or 1231 of the Internal Revenue Code;
 - (ii) Article II (A)(1)(d)(i) of this section does not apply to the extent the income or gain is income or gain described in Section 1245 or 1250 of the Internal Revenue Code.
 - e. Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;
 - f. In the case of a real estate investment trust and regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;
 - g. If the taxpayer is not a C corporation and is not an individual, the taxpayer shall compute adjusted federal taxable income as if the taxpayer were a C corporation, except;

- (i) Guaranteed payments and other similar amounts paid or accrued to a partner, former partner, member, or former member shall not be allowed as a deductible expense; and
- (ii) Amounts paid or accrued to a qualified self-employed retirement plan with respect to an owner or owner-employee of the taxpayer, amounts paid or accrued to or for health insurance for an owner or owner-employee, and amounts paid or accrued to or for life insurance for an owner or owner-employee shall not be allowed as a deduction.

Nothing in this section of Article II shall be construed as allowing a taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.

Nothing in Ordinance 04-129 or these Rules and Regulations shall be construed as limiting or removing the ability of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax.

- 2. "Administrator" means the individual designated by the Ordinance, and appointed by the City Treasurer, with confirmation of Council to administer and enforce the provisions of the Ordinance.
- 3. "Association" means a partnership, limited partnership, S-corporation or any other form of unincorporated enterprise, owned by one or more persons.
- 4. "Board of Review" means the Board created by and constituted as provided for in Section 13.
- 5. "Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity, including but not limited to the renting or leasing of property, real, personal or mixed.
- 6. "City" means the City of Greenville, Darke County, Ohio.
- 7. "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.
- 8. "Domicile" means a principal residence that the taxpayer intends to use for an indefinite time and to which whenever he is absent he intends to return. A taxpayer has only one domicile even though he may have more than one residence.
- 9. "Employee" means one who works for wages, salary, commission or other types of compensation in the services of an employer.
- 10. "Employer" means an individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profits, who or that employs one or more persons on a salary, wage, commission or other compensation basis.
- 11. "Fiscal year" means an accounting period of twelve (12) months or less ending on any day other than December 31.
- 12. "Form 2106" means Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
- 13. "Generic form" means an electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability or for filing a refund claim that is not

prescribed by a particular municipal corporation for the reporting of that municipal corporation's tax on income. Any municipality that requires taxpayers to file income tax returns, reports, or other documents shall accept for filing a generic form of such a return, report, or document if the generic form, once completed and filed, contains all of the information required to be submitted with the municipality's prescribed returns, reports, or documents.

14. "Gross receipts," means total income of taxpayers from whatever source derived.
15. "Income from a pass-through entity" means partnership income of partners, membership interests of members of a limited liability company, distributive shares of shareholders of an S corporation, or other distributive or proportionate ownership shares of income from other pass-through entities.
16. "Intangible income" means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, trade names, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings or other similar games of chance.
17. "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.
18. "Internet" means the international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical sub-network known as the World Wide Web.
19. "Joint Economic Development District" means districts created under the Ohio Revised Code Sections 715.70 through 715.83 as amended from time to time.
20. "Limited Liability Company" means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.
21. "Municipality" means the City of Greenville, Darke County, Ohio.
22. "Net profit" for a taxpayer other than an individual means adjusted federal taxable income and "net profit" for a taxpayer who is an individual means the individual's profit, other than amounts described in Division (F) of Section 3, required to be reported on Schedule C, Schedule E, or Schedule F.
23. "Nonqualified deferred compensation plan," means a compensation plan described in Section 3121(v)(2)(C) of the Internal Revenue Code.
24. "Nonresident" means an individual domiciled outside the City of Greenville.
25. "Nonresident incorporated business entity" means an incorporated business entity not having an office or place of business within the City of Greenville.
26. "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the City of Greenville.
27. "Other payer" means any person, other than an individual's employer or the employer's agent that pays an individual any amount included in the federal gross income of the individual.

28. "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.
29. "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, (b) the total income from that entity of all owners whose income from the entity is subject to taxation by that municipal corporation.
30. "Pass-through entity" means a partnership, limited liability company, S corporation, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code.
31. "Person" includes individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities, and any other entity.
32. "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.
33. "Principal place of business" means in the case of an employer having headquarters' activities at a place of business within a taxing municipality, the place of business at which the headquarters is situated. In the case of any employer not having its headquarters' activities at a place of business within a taxing municipality, the term means the largest place of business located in a taxing municipality.
34. "Qualified plan" means a retirement plan satisfying the requirements under Section 401 of the Internal Revenue Code as amended.
35. "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.
36. "Resident" means an individual domiciled in the City of Greenville.
37. "Resident incorporated business entity" means an incorporated business entity whose office, place of operations or business situs is within the City of Greenville.
38. "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the City of Greenville.
39. "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.
40. "Rules and Regulations" means the Rules and Regulations as set forth in this Ordinance.
41. "Schedule C" means Internal Revenue Service Schedule C filed by a taxpayer pursuant to the Internal Revenue Code.
42. "Schedule E" means Internal Revenue Service Schedule E filed by a taxpayer pursuant to the Internal Revenue Code.
43. "Schedule F" means Internal Revenue Service Schedule F filed by a taxpayer pursuant to the Internal Revenue Code.

44. "S Corporation" means a corporation that has made an election under Subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.
 45. "Tax Administrator" means the person appointed to administer the municipality's income tax ordinance and to direct the operation of the municipal income tax department or the person executing the duties of the Tax Administrator.
 46. "Taxable income" means qualifying wages paid by an employer or employers, compensation for personal services, other income defined by statute as taxable, and/or adjusted federal taxable income from the operation of a business, profession, or other enterprise or activity adjusted in accordance with the provisions of this Ordinance.
 47. "Taxable year" means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.
 48. "Taxing municipality" means a municipality levying a tax on income earned by nonresidents working within such municipality or on income earned by its residents.
 49. "Taxpayer" means a person subject to a tax on income levied by a municipal corporation. "Taxpayer" does not include any person that is a disregarded entity or a qualifying Subchapter S subsidiary for federal income tax purposes, but "taxpayer" includes any other person who owns the disregarded entity or qualifying Subchapter S subsidiary.
- B. The singular shall include the plural, the masculine shall include the feminine and the neuter, and all periods set forth shall be inclusive of the first and last mentioned dates.

ARTICLE III IMPOSITION OF TAX

A. Bases

1. Resident Employee

- a. In the case of residents of the City of Greenville, an annual tax of one and one half percent (1.5%) is imposed on qualifying wages, commissions, other compensation and other taxable income earned or received during the effective period of the Ordinance. For the purpose of determining the tax on the earnings of resident taxpayers taxed under Section 3, Paragraph A (1) of the Ordinance, the source of earnings and the place or places in or at which the services were rendered are immaterial. All such earnings wherever earned or paid are taxable.
- b. The following are items, which are subject to the tax imposed by Section 3, Paragraph A (1) of the Ordinance:
 - .1 Qualifying wages, bonuses, incentive payments and any other compensation earned or received by an individual whether directly or through an agent and whether in cash or in property for services rendered during the tax period as:
 - .01 An officer, director or employee of a corporation (including charitable and other non-profit organizations), joint stock 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 one 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 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, bi-weekly, semi-monthly, monthly, annually, unit of production or piece work rates and whether paid by an individual, partnership, association, corporation (including charitable and other non-profit corporations), governmental administration, agency, authority, board, body, branch, bureau, department, division, subdivision, section or unit, or any other entity.
- .2 Commissions earned by a taxpayer whether directly or through an agent and whether in cash or in property for services rendered during the effective period of the Ordinance, regardless of how computed or by whom or wheresoever paid.
- .01 If amounts received as a drawing account exceed the commissions earned and the excess is not subject to 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 Ordinance Section 3 (A)(3) or (A)(4), they shall not be taxed under Section 3 Paragraph (A)(1).
- .3 Fees, unless such fees are properly included as part of the net profits of a trade, business, profession, or enterprise regularly carried on by an unincorporated entity owned or partly owned by said individual and such net profits are subject to the tax under Section 3 (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 and under a wage continuation plan during periods of disability or sickness is

taxable. Payments made by third parties (insurance companies) to an employee for sick or disability pay are taxable if the amount appears on a W-2 form and the employee has paid the premium for this insurance coverage.

- .6 Losses from the operation of a business or profession are not deductible from employee earnings but may be carried forward as provided in Article III (C).
- c. Where compensation is paid or received in property, its fair market value, at the time of receipt, shall be subject to the tax and to withholding. Board, lodging and similar items received by an employee in lieu of additional cash compensation shall be included in earnings at their fair market value.
 - .1 In the case of domestics and other employees whose duties require them to live at their place of employment or assignment, board and lodging shall not be considered as wages or compensation earned.
 - .2 Rentals given to clergymen are not to be considered as income.

2. Nonresident Employee

- a. In the case of individuals who are not residents of the City of Greenville, there is imposed under Section 3 (A)(2) of the Ordinance, a tax of one and one half percent (1.5%) on all qualifying wages, commissions, other compensation, and other taxable income earned or received during the effective period of the Ordinance, for work done or services performed or rendered within the City of Greenville, 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 the tax under Section 3 (A)(2) of the Ordinance are the same as those listed and defined in Article III (A). For the methods of computing the extent of such work or services performed within the City of Greenville, in cases involving compensation for personal services partly within and partly without the City of Greenville, see Article VI (A)(6).
- ## 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 the City of Greenville, there is imposed an annual tax of one and one half percent (1.5%) on the net profits earned, accrued or received during the effective period of the Ordinance attributable to the City of Greenville, under the formula provided for in Section 3 (b) of the Ordinance, derived from sales made, work done or services performed or rendered and business or other activities conducted in the City of Greenville.
 - .2 The tax imposed on resident associations or other unincorporated entities owned by one or more persons is upon the entities rather than the individual members or owners thereof, but the tax imposed on an unincorporated resident entity owned by one person is upon the individual owner. For tax on that part of a resident owner's distributive share of net profits not taxed against the entity, see Article III (A)(3)(b).

- .3 The tax imposed by Section 3 (A)(3)(a) of the Ordinance is imposed on all resident unincorporated entities having net profits attributable to the City of Greenville under the apportionment provided for in the Ordinance, regardless of where the owner or owners of such resident unincorporated business entity reside.
 - .4 Resident associations owned by one or more persons all of whom are residents of the City of Greenville shall disregard the business apportionment percentage formula provided for in the Ordinance and pay the tax on their entire net profits thereof. In such case, the tax paid by the entity shall constitute all tax due from the owners or members of the entity for their distributive share of such net profits; however, an additional return shall be required from any such owner or member having taxable income other than the distributive share of the net profits from the entity. (See Article XV for credits)
- b. Imposition of Tax on Resident's Distributive Share of Profits of a Resident Unincorporated Entity, not attributable to the City of Greenville
- .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 the resident unincorporated business entity. (See Article XV)
 - .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 and one half percent (1.5%) on such individual's distributive share of net profits earned during the effective period of the Ordinance not attributable to the City of Greenville, under the method of apportionment provided for in Section 3 of the Ordinance, and not taxed against the entity. (See Article XV)
4. a. Imposition of Tax on Net Profits of Nonresident Unincorporated Business
- .1 In the case of nonresident unincorporated businesses, professions, enterprises, undertakings, or other activities conducted, operated, engaged in, prosecuted or carried on whether or not they have an office or any place of business in the City of Greenville, there is imposed an annual tax of one and one half percent (1.5%) on the net profits earned, accrued or received during the effective period of the Ordinance, that are attributable to the City of Greenville, under the business apportionment formula provided for in the Ordinance.
 - .2 The tax imposed on nonresident unincorporated entities owned by one or more persons is upon the entities rather than the individual members or owners thereof. (For the tax on that part of a resident owner's distributive share of net profits not taxed against the entity, see Article III (A)(4)(b)).
 - .3 The tax imposed by Section 3 (A)(4) of the Ordinance is imposed on all non-resident associations and other nonresident unincorporated entities having net profits attributable to the City of Greenville under the method of apportionment provided for in the Ordinance, regardless of where the owner or owners of such nonresident unincorporated business or resident associations, etc., reside.

- .4 Nonresident unincorporated entities owned by one or more persons all of whom are residents of the City of Greenville shall disregard the method of apportionment provided for in the Ordinance and pay the tax on their entire net profits. In such case, the tax paid by the entity shall constitute all tax due from the owners or members of the entity for their distributive share of 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. (See Article XV for Credits)
- b. Imposition of Tax on Resident's Share of Profits of a Nonresident Unincorporated Business Entity Not Attributable to the City of Greenville (See Article XV for Credits)
 - .1 A resident individual who is sole owner of a nonresident unincorporated business entity shall disregard the business apportionment formula and pay the tax on the entire net profits of his unincorporated entity.
 - .2 In the case of a resident individual partner or part owner of a nonresident unincorporated entity, there is imposed an annual tax of one and one half percent (1.5%) on such individual's distributive share of net profits not attributable to the City 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, including S corporations, whether domestic or foreign and whether or not such corporations have an office or place of business in the City of Greenville, there is imposed an annual tax of one and one half percent (1.5%) on the net profits attributable to the City of Greenville under the formula provided for in the Ordinance.
 - b. In determining whether a corporation is conducting a business or other activity in the City of Greenville, the provisions of Article III (B) of these regulations shall be applicable.
 - c. Corporations, which are required by the provisions of Section 5727.38 to 5727.41, inclusive, of the Ohio Revised Code, to pay an excise tax in any taxable year as defined by the Ordinance, may exclude that part of their gross receipts upon which the excise tax is paid. In such cases, expenses incurred in the production of such gross receipts shall not be deducted in computing net profits subject to the tax imposed by the Ordinance.
 - d. A legal corporation is taxable as a separate entity for municipal tax purposes and distributions to shareholders are considered as non-taxable income to the shareholders. The losses are not deductible by individual stockholders.
- 6. Amplification

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

 - a. Net Profits

- .1 Net Profits for a taxpayer other than an individual means adjusted federal taxable income and "Net Profit" for a taxpayer who is an individual means the individual's profit, other than amounts described in Section 3 (f) of the Ordinance, required to be reported on Schedule C, Schedule E, or Schedule F.

- .2 Adjusted federal taxable income means a C corporation's federal taxable income before net operation losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:
 - .01 Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income,
 - .02 Add an amount equal to five percent (5%) of intangible income deducted under this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in Section 1221 of the Internal Revenue Code,
 - .03 Add losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in Section 1221 or 1231 of the Internal Revenue Code; however, this section does not apply to the extent income or gain is described in Section 1245 or 1250 of the Internal Revenue Code,
 - .04 Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income,
 - .05 Add amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income in the case of real estate investment trust and regulated investment company,
 - .06 If the taxpayer is not a C corporation and is not an individual, the taxpayer shall compute adjusted federal taxable income as if the taxpayer were a C corporation, except guaranteed payments and other similar amounts paid or accrued to a partner, former partner, member, or former member shall not be allowed as a deductible expense; and, amounts paid or accrued to a qualified self-employed retirement plan with respect to an owner or owner-employee of the taxpayer, amounts paid or accrued to or for health insurance for an owner or owner-employee, and amounts paid or accrued to or for life insurance for an owner or owner-employee shall not be allowed as a deduction.

Nothing in this section shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.

b. Gross Receipts

- .1 Gross receipts shall include but not be limited to income in the form of commissions, fees, capital gains, rentals from real and tangible personal property, and other compensation for work done or services performed or rendered as well as income from sales of stock in trade.
- .2 Gross receipts shall include the ordinary income from Form 4797.

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, guaranteed payment or withdrawal of a proprietor or of the partners, members, or other owners of an unincorporated business or enterprise.
- .2 If not claimed as part of the cost of goods sold or elsewhere in the return filed, there may be claimed and allowed a reasonable deduction for depreciation, depletion, obsolescence, losses resulting from theft or casualty, not compensated for by insurance or otherwise of property used in the trade or business, but the amount may not exceed that recognized for the purpose of 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.
- .3 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.
- .4 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.
- .5 Bad debts in a reasonable amount may be allowed in the year ascertained worthless and charged off, or at the discretion of the Administrator (if the reserve method is used), a reasonable addition to the reserve may be claimed, but in no event shall the amount exceed the amount allowable for federal income tax purposes.
- .6 Only taxes directly connected with the business may be claimed as a deduction. If for any reason the income from property is not subject to the tax, then taxes on and other expenses of said property are not deductible. In any event, the following taxes are not deductible from income: (1) the tax under the Ordinance; (2) federal or other taxes based upon income; (3) gift, estate or inheritance taxes; (4) taxes for local benefit or improvements to property which tend to appreciate the value thereof; and (5) self-employment taxes for unincorporated businesses or other entities, including credit for employment taxes as allowed for federal tax purposes.
- .7 Expenses attributable to non-taxable income shall not be allowed. Where no record of such expenses is kept, five percent (5%) of the non-taxable income will be considered as applicable expenses.

- .8 An employee who is paid on a commission or other compensation basis and who pays his business expense from his commissions or other compensation, without reimbursement from his employer, may deduct from his gross commissions, or other compensations, business expenses only as allowed by the Internal Revenue Service for federal income tax purposes and only to the extent said expenses are incurred in earning commissions or other compensations subject to the tax imposed by the Ordinance. Business expenses allowed shall be those expenses allowed to be claimed on the Federal Form 2106, "Business Expenses" and upon the request of the Administrator, verifiable with supporting schedules and/or receipts. No expenses claimed on Federal Form Schedule A, "Itemized Deductions" shall be allowed and failure to produce the supporting schedules and/or receipts upon request by the Administrator shall result in disallowance of the expenses in question.
- .9 Expenses incurred while attending educational courses may not be deducted from wages.
- .10 Moving expenses included in gross earnings shall be an allowance as a deductible expense. No deduction will be allowed if the taxpayer does not provide the Federal Form 3903, "Employee Moving Expenses Information", for his moving deductions. Only moving expenses incurred, as part of income included in gross earnings will be allowed.

7. Rentals from Real Property

- a. Rentals received by the taxpayers are to be included only if and to the extent that the rental, ownership, management or operation of the real estate from such rentals are derived (whether so rented, managed or operated by the taxpayer individually or through agents or other representatives) constitutes a business activity of the taxpayer in whole or in part.
- b. Receipt of gross monthly rental from real properties, regardless of the number and value of such real properties, and/or the aggregate amount of such gross monthly rental amount, 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. In the 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. 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 upon a percentage of the gross or net receipts derived from the farm. The person who operates a rooming house of five or more rooms rented shall be considered in business.
- c. In determining the amount of gross monthly rental of any real property, periods during which (by reason of vacancy or any other cause) rentals are not received shall not be taken into consideration by the taxpayer.
- d. Rentals received by a taxpayer engaged in the business of buying and selling real estate shall be considered as part of a business income.
- e. Real property, as the term is used in this regulation, shall include commercial property, residential property, farm property and any and all types of real estate.

- f. In determining the taxable income from rentals, the deductible expenses shall be of the same nature, extent and amount as are allowed by the Internal Revenue Service for federal income tax purposes.
 - g. Residents of the City of Greenville 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. Nonresidents of the City of Greenville are subject to such taxation only if the real property is situated within the City of Greenville.
 - i. Corporations owning or managing real estate are taxable only on that portion of income derived from property located in the City of Greenville.
8. Income in the form of royalties is taxable if taxpayer's activities produced the publication or other product, the sale of which produces the royalties.

B. Apportionment of Business Profits

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

1. Business Apportionment Percentage Method

- a. STEP 1: Ascertain the percentage which the original cost of real and tangible personal property, including leasehold improvements, owned or used in the business and situated within the City of Greenville 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 the City of Greenville is determined by dividing the original cost of all such property within and without the City of Greenville. In determining such percentage property rented to the taxpayer as well as real and tangible personal property owned by taxpayer must be considered.
 - .2 The original cost of real and tangible personal property rented by taxpayer shall be determined by multiplying gross annual rents by eight (8).
 - .3 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:
 - .01 Any amount payable for the use or possession of real and tangible personal property or any part thereof, whether designated as a fixed sum of money or as a percentage of sales profits or otherwise;
 - .02 Any amount payable as additional rent or in lieu of rent such as interest, taxes, insurance, repairs, or other amounts required to be paid by the terms of a lease or other arrangement.
 - .4 A residence may not be considered an office unless a portion thereof is used exclusively for business purposes and is reached by a separate entrance in an exterior wall, which does not serve as the entrance to the balance of the building.

b. STEP 2. Ascertain the percentage which the total wages, salaries, commissions and other compensation of employees within the City of Greenville is of the total wages, salaries, commissions and other compensation of all the taxpayer's employees within and without the City of Greenville 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 wages for the purpose of this computation.
- .2 Wages, salaries, and other compensation shall be computed on the cash or accrual basis in accordance with the method of accounting used in the computation of the entire net income of the taxpayer.
- .3 In the case of an employee, who performs services both within and without the City of Greenville, the amount treated as compensation for services performed within the City shall be deemed to be:
 - .01 In the case of an employee whose compensation depends directly on the volume of business secured by him, such as salesmen on a commission basis, the amount received by him for the business attributable to his efforts within the City of Greenville.
 - .02 In the case of an employee whose compensation depends on other results achieved, the proportion of the total compensation received which the value of his services within the City of Greenville bears to the value of all his services; and
 - .03 In the case of an employee compensated on a timely basis, the proportion of the total amount received by him which his working time within the City of Greenville is of his total working time.
 - .04 Provided, however, all employees regularly connected with or working out of a place of business maintained by the taxpayer in the City who perform ninety percent (90%) or more of their services within the City shall be considered employees within the City.
- .4 Nonresident professional persons shall use the factor of days spent within the municipality to total working days.

All employees regularly connected with or working out of a place of business maintained by the taxpayer outside the City who perform ten percent (10%) or less of their services within the City shall be considered employees outside the City. The provisions of this sub-paragraph are not applicable in determining the tax liability of a nonresident who works in and outside the City.

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

- .1 The following sales shall be considered the City of Greenville's sales:

- .01 All sales made through retail stores located within the City of Greenville to purchasers within or without the City of Greenville except such of said sales to purchasers outside the City of Greenville that are directly attributable to regular solicitations made outside the City of Greenville personally by taxpayer's employees.
 - .02 All sales of tangible personal property delivered to purchasers within the City of Greenville if shipped or delivered from an office, store, warehouse, factory, or place of storage located within the City of Greenville.
 - .03 All sales of tangible personal property delivered to purchasers within the City of Greenville even though transported from a point outside the City of Greenville if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City of Greenville 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 the City of Greenville to purchasers outside the City of Greenville 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 sub-paragraphs 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 the City of Greenville by mail or phone from an office or place of business within the City of Greenville shall not be considered a solicitation of sales outside the City of Greenville.
- d. STEP 4: Add the percentage determined in accordance with steps 1, 2 and 3 or such of the aforesaid percentages as may be applicable to the particular taxpayer's business and divide the total so obtained by the number of percentages used in ascertaining said total. The result so obtained is the business apportionment percentage. In determining the average percentage, a factor shall not be excluded from the computation merely because said factor is found to be apportioned entirely in or outside the City of Greenville. A factor is excluded only when it does not exist anywhere.
- e. STEP 5: The business apportionment percentage determined in step 4 above shall be applied to the entire taxable net profits apportioned to the City of Greenville.
3. Substitute Method
- a. In the event a just and equitable result cannot be obtained under the formula, the Administrator may substitute other factors in the formula or prescribe other methods of apportioning net income calculated to effect a fair and proper apportionment.

- b. Application to the Administrator to substitute other factors in the formula or to use a different method to allocate net profits must be in writing and shall state the specific grounds on which the substitution of factors or use of a different method is requested and the relief sought to be obtained. A copy thereof shall be served at the time of filing upon the taxpayer or Administrator as the case may be. No specific form need be followed in making such application. Once a taxpayer has filed under a substitute method, he must continue to so file until given permission to change by the Administrator.
 - c. The decision of the Administrator on Subsections 3(a) and (b) hereof may be appealed by the taxpayer to the Board of Review, which shall have the power to adjust, modify or overrule such decision of the Administrator.
4. In the case of professional people and others furnishing personal services, if their only place of business is within the City of Greenville, all their net profit shall prima facie be attributable to the City of Greenville.

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, apportioned to the City of Greenville may be applied against the portion of the profit of succeeding years apportioned to the City of Greenville until exhausted, but in no event for more than three (3) years immediately following the year in which the loss was sustained. No portion of a net operating loss shall be carried back against net profits of any prior year.
- a. Losses from the operation of business, profession or any other type of unincorporated entity are not deductible against employee earnings (as reported on W-2 or 1099-Misc), but may be carried forward as set forth herein. However, if a taxpayer is engaged in two or more taxable business activities to be included in the same return, the net loss of one unincorporated business activity (except any portion of a loss separately reportable for municipal tax purposes to another taxing entity) may be used to offset the profits of another for purposes of arriving at overall net profits.
 - b. Losses recognized shall be the actual loss sustained in a given year. No passive losses as allowed for federal tax purposes will be recognized for city purposes.
2. In the event net profits are apportioned both within and without the City of Greenville, the portion of net operating loss sustained shall be apportioned to the City of Greenville in the same manner as provided herein for apportioning net profits to the City of Greenville. 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. A short fiscal year (a fiscal year of less than twelve [12] months) brought about by a change in accounting period, a new taxpayer selecting a short fiscal year, or a taxpayer operating in the City of Greenville for less than his full accounting period, shall be considered as a full taxable fiscal year for purposes of loss carry-forward.

4. In any return in which a net operating loss deduction is claimed, a schedule should be attached showing:
 - a. The year in which the net operating loss was sustained.
 - b. The method of accounting and apportionment used to determine the portion of net operating loss apportioned to the City of Greenville.
 - c. The amount of net operating loss used as a deduction in prior years.
 - d. The amount of net operating loss claimed as deduction in current year.
5. The net operating loss of a taxpayer that loses its identity through merger, consolidation, etc. shall not be allowed as a carry-forward loss deduction to the surviving business entity.
6. In the case of a net operating loss sustained by taxpayers filing a consolidated return, see Article III (D).
7. Losses sustained in a given year must be filed and reported in the same given year in order to be carried forward to offset future net profits.

D. Consolidated Returns

1. Consolidated returns may be filed by a group of corporations who are affiliated through stock ownership provided such group files consolidated returns for federal income tax purposes. For a corporation to be included in a consolidated return, eighty percent (80%) of its stock must be owned by the other members of the affiliated group. A consolidated return must include all companies that 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 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 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 number of days in the taxable year.

4. In determining the apportionment fraction where a corporation becomes a member of the group or ceases to be a member of the group during the taxable year, the property fraction (step 1 of the formula) shall be determined on the basis of the original cost of the property during the period such corporation was a member of the group.

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

5. All subsidiary corporations must agree in writing to the filing of the consolidated return as they will be liable for the tax as well as will be the parent corporation.
6. 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.
7. In determining expenses that are not allowable because they are apportioned to non-taxable income, such calculations shall be based on the consolidated net income. As an example, inter-company dividends that are eliminated in the consolidation will not be taken into consideration in determining non-taxable income.

- E. Capital gains from the sale of depreciable property shall be taxable to the extent of the aggregate amount of depreciation taken on such property for City income tax purposes. The taxable amount shall be the ordinary portion recognized on Federal Form 4797, "Sales of Business Property". Only losses sustained in prior years on such property shall apply against any gain.

F. Exclusions

The following shall not be considered taxable:

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

7. Income from intangibles by way of dividends, interest and the like if such income is subject to taxation under the intangible personal property laws of the State of Ohio, when in effect, are specifically exempt from municipal taxation under said law.
8. Military pay and allowances received as a member of the Armed Forces of the United States.
9. Any charitable, educational, fraternal or other type of non-profit association or organization enumerated in Section 718.01 of the Ohio Revised Code and/or recognized under the Internal Revenue Code Section 501(C) which is exempt from payment of real estate taxes is exempt from payment of the tax imposed by this Ordinance, but only to the extent enumerated in said section.
10. Any association or organization listed in the preceding paragraph is required to file declarations and final returns and remit the taxes levied under the Ordinance on all net profits from activities the income from which is not specifically exempt from taxation in Section 718.01 of the Ohio Revised Code.
11. Where such non-profit association or organization conducts income-producing business both within and without the corporate limits, it shall calculate its profits not exempt from taxation in Section 718.01 of the Ohio Revised Code apportioned to the City of Greenville under the method or methods provided above.
12. If exempt for federal income tax purposes, fellowship and scholarship grants also are exempt from the city tax.
13. Compensation paid to a person serving as a precinct election official, to the extent that such compensation does not exceed one thousand dollars (\$1,000.00) annually, such compensation in excess of one thousand dollars (\$1,000.00) shall be subject to taxation. The payer of such compensation is not required to withhold city tax from that compensation.
14. Compensation paid to an employee of a transit authority, regional transit authority, or regional transit commission created under Chapter 306, of the Ohio Revised Code for operating a transit bus or other motor vehicle for the authority or commission in or through the municipal corporation, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such a tax by reason of residence or domicile in the municipal corporation, or the headquarters of the authority or commission is located within the municipal corporation.
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, and the income of a telephone company or combined company, as defined in Section 5727.01 of the Ohio Revised Code, shall be taxed by a municipal corporation subject to Chapter 5745 of the Ohio Revised Code.
16. The compensation of a nonresident individual if the compensation is paid for personal services performed by the individual in the City on twelve (12) or fewer days during the calendar year, and, in the case of an individual who is an individual who is an employee, the principal place of business of the individual's employer is located outside of the City and the individual pays tax on compensation described above, to the City, if any, in which the employer's principal place of business is located, and no portion of the tax is refunded to the individual. The individual is not a professional entertainer or professional athlete, the promoter of entertainment or sports event, or an employee of such a promoter, all as

may be reasonably defined by the City. For purposes of the twelve (12) day calculation, "Day" means any part of a twenty-four (24) hour calendar day where compensation is earned in the municipality. Beginning with the thirteenth (13th) day, the individual shall no longer be considered an occasional entrant and is liable for taxes on income earned for the first twelve (12) days.

17. The rental value of a home furnished to a minister of the gospel as part of his compensation, or the rental allowance paid to a minister of the gospel as part of his compensation, to the extent used by him to rent or provide a home pursuant to Section 107 of the Internal Revenue Code.
18. Generally the above noted items in this section are the only forms of income not subject to tax. Any other income, benefits or other forms of compensation shall be taxable.

ARTICLE IV EFFECTIVE PERIOD OF TAX

- A. The tax imposed by Section 3, Paragraph A(1) and A(2) of the Ordinance shall be levied, collected and paid with respect to qualifying wages, commissions, other compensation and other taxable income earned or received on and after January 1, 2005.
- B. The tax imposed by Section 3, Paragraphs A(3), A(4) and A(5) of the Ordinance, with respect to the net profits of trades, businesses, professions, enterprises, undertakings and other activities is on the net profits earned on and after January 1, 2005.

ARTICLE V RETURN AND PAYMENT OF THE TAX

- A. Date and Requirement for Filing
 1. On or before April 30 of each year for tax years prior to 2004 and April 15 of each year thereafter, every person subject to the provisions of Section 3 (a)(1) to (b)(5), inclusive, of the Ordinance shall, except hereinafter provided, make and file on or before April 30 of each year prior to tax year 2004 and April 15 of each year thereafter. In the event the due date falls on a weekend or a legal U.S. holiday, the due date shall be extended until the end of the next business day. The return shall be on a form prescribed by and acceptable to the Administrator, whether or not a tax is due. The City shall accept for filing a generic form of such any return, report, or document if the generic form, once completed and filed, contains all of the information required to be submitted with the City's prescribed returns, reports or documents, and if the taxpayer or return preparer filing the generic form otherwise complies with the Rules and Regulations or Ordinance of the City governing the filing of returns, reports or documents. (Ordinance 05-100, 09/20/05)
 - a. Every resident as defined shall file an annual return. Exception shall be children under the age of eighteen (18), if said children are not subject to the provisions of Section 3(a)(1) to (b)(5), inclusive, of the Ordinance.
 - b. To constitute a valid form, the following information must be included:
 - .1 The City's account number and/or the taxpayer's Social Security number or Employer's Federal Identification number.
 - .2 Credit to other cities must show separately the tax paid to the municipality, tax paid to other cities not to exceed one and one half percent (1.5%), estimated payments made during the current year and prior overpayments.

- .3 A separate line indicating amounts for penalty, interest and late filing fees.
 - .4 Schedules X and Y on the business returns.
 - .5 Taxpayer(s) signatures.
 - .6 A statement as follows: "I certify I have examined this return including the accompanying schedules and statements, and declare that it is true, correct and the figures used herein are accurate. If prepared by a person other than the taxpayer, the declaration is based on all information which the preparer has any knowledge."
 - .7 All applicable federal schedules, forms and statements.
2. If the return is made for a fiscal year or any period less than a year, said return shall be made within four (4) months from the end of each fiscal year or other period.
 3. Every person subject to the provisions of Section 3 of the Ordinance shall, except as hereinafter provided, file a return setting forth the aggregate amount of qualifying wages, commissions and other personal service compensation, net profits from business or other activities, including the rental from use of real and personal property, and other income taxable under the Ordinance, received for the period covered by the return and such other pertinent facts and information in detail as the Administrator may require.
 4. Where a nonresident employee's entire earnings for the tax period are paid by an employer or employers, and the one and one half percent (1.5%) 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 Administrator and where such employee has no taxable income other than such earnings and the tax so withheld has been paid to the Administrator, such employee need not file a return.
 5. An employee who is permitted to deduct business expenses, as allowable and described under Article III (A)(6)(c)(8) of these Regulations, from qualifying wages, or commissions must file a return in order to claim such deductions even though all or part of such qualifying wages, or commissions are subject to withholding. Such amounts must be properly reported on Form 2106, as filed with the Internal Revenue Service, and must be verifiable.
 6. Any taxpayer who received taxable income not subject to withholding under the Ordinance must file a return.
 7. Any taxpayer having income, wages, or other compensation for which a return must be filed and also having net profits from a business is required to file only one (1) return.
 8. Trustees of active trusts are required to file returns and pay the tax on the taxable income thereof.
 9. Except as provided for herein, the tax is on the partnership or association as an entity whether resident or nonresident and a return is required disclosing the net profits apportioned to the City of Greenville 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 Article III (A)(3)(b)(2) of these regulations.

10. A husband and wife may file a joint return either when engaged in the same or separate business, but may not deduct business losses of either from compensation paid by the employer. If a joint return is made, the tax shall be computed on the aggregated taxable income and the liability with respect to the tax shall be joint and several.
11. Operating losses from business or professional activities, the profits of which would be taxable under the Ordinance, may not be offset against qualifying wages, commissions and other personal service compensation.
12. Executors and administrators are liable for the payment of any taxes due by a deceased from an estate of said deceased.
13. The return shall be accompanied by payment of any taxes thereon.
14. College students and/or those serving in the U.S. Armed Forces who maintain a Greenville mailing address (within the corporation limits of Greenville) are required to file an annual return.

B. Information Required and Reconciliation With Federal Returns

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

C. Extensions

1. Upon filing of a copy of the taxpayer's request for filing a federal extension, or a written request of the taxpayer postmarked on or before the original date for filing the return as prescribed in Section 5 of the Ordinance, the Administrator may extend the time for filing such return for a period to the last day of the month following the month to which the due date of the federal income tax return has been extended. Whenever deemed necessary, the Administrator may require a tentative return accompanied by payment of the estimated tax. An extension of time for filing does not extend the time for payment of the tax; hence, interest and penalty, as defined under Section 10 of the Ordinance, may apply to any unpaid tax from the original due date of the return until said filing of the return. No penalty or interest will be assessed in those cases in which the return is filed and the final tax paid within the period as extended provided all other filing and payment requirements of the Ordinance have been met. Any extension by the Administrator shall be granted with the understanding that declaration filing and payment requirements have

been fulfilled; however, if, upon further examination it then becomes evident that declaration filing and payment requirements have not been fulfilled, interest and penalties may be assessed in full and in the same manner as though no extension had been granted.

a. The Administrator may deny the taxpayer's request for extension if the taxpayer fails to timely file the request, fails to file a copy of the federal extension request (if applicable), owes the City any delinquent income tax or any penalty, interest, assessment or other charge for late payment of income tax, or has failed to file any required income tax return, report, or other related document for a prior tax period.

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

D. Payment with Return

1. The taxpayer making a return shall, at the time of the filing thereof, pay to the Administrator the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of Section 6 of the Ordinance, or where any portion of said tax shall have been paid by the taxpayer pursuant to the provisions of Section 7 of the Ordinance, or where an income tax has been paid to another municipality, credit for the amount so paid, in accordance with Section 15 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 to which the City of Greenville 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 five dollars (\$5.00) shall be collected or refunded.

3. An application for refund of overpayment of taxes withheld must be made by the employer or by the taxpayer with a letter of authorization from the employer. Refunds will be made payable to the employee.

E. Amended Returns

1. Where necessary an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and limitations contained in Section 10 and 11 of the Ordinance. Such amended return shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

2. Within three (3) months from the final determination of any federal tax liability effecting the taxpayer's Greenville, Ohio tax liability, such taxpayer shall make and file an amended Greenville, Ohio return showing income subject to the City of Greenville tax based upon such final determination of federal tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment.

ARTICLE VI COLLECTION OF TAX AT THE SOURCE

A. Duty of Withholding

1. Except as otherwise provided herein, it is the duty of each employer within or doing business within the City of Greenville, 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 and one half percent (1.5%) from:
 - a. Qualifying wages, bonuses, incentive payments, severance payments, fees, commissions or other forms of compensation paid to residents of the City of Greenville, regardless of the place where services are rendered.
 - b. All compensation paid nonresidents for services rendered, work performed or other activities engaged in within the City of Greenville.
 - c. An employer is liable for the payment of the tax required to be deducted and withheld, whether or not such tax, in fact, has been withheld.
2. All employers within or doing business within the City of Greenville 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 the City of Greenville, were performed outside the City of Greenville.
3. Employers who do not maintain a permanent office or place of business in the City of Greenville, but who are subject to tax on net profits attributable to the City of Greenville, under the method of apportionment provided for in the Ordinance are considered to be employers within the City of Greenville and are subject to the requirements of withholding.
4. The mere fact that the tax is not withheld will not relieve the employee of the responsibility of filing a return and paying the tax on the compensation paid. If the employer has withheld the tax and failed to pay the tax withheld to the Administrator, the employee is not liable for the tax so withheld. In such cases, the City will not process any employee claims of refund or overpayment until the employer pays the tax withheld.
5. Commissions and fees paid to professional men, brokers and others who are independent contractors, and not employees of 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 Articles V and VII of these Regulations.
 - a. The commissions and fees paid to those individuals as independent contractors and as unincorporated entities by an employer shall report to the Administrator the name, address, social security number and total amount paid if said amount is in an excess of six hundred dollars (\$600.00). This return shall be considered a required return and shall be subject to the penalty as described under Section 10(b)(3) of the Ordinance.
6. Where a nonresident receives compensation for personal services rendered or performed partly within and partly without the City of Greenville, the withholding employer shall deduct, withhold and remit the tax on that portion of the compensation which is earned within the City of Greenville in accordance with the following rules of apportionment:
 - a. If the nonresident is a salesman, agent or other employee whose compensation depends directly on the volume of business transacted or chiefly effected by him, the deducting and withholding shall attach to the entire compensation which the volume of business transacted or chiefly effected by the employee within the City of Greenville bears to the total volume of business transacted by him within and outside the City of Greenville.

- b. The deducting and withholding of personal service compensation of other nonresident 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 the City of Greenville is of the total number of working hours.
- c. The fact that nonresident employees are subject to call at any time does not permit the apportionment of pay for time worked within the City of Greenville on a seven-day per week basis. The percentage of time worked in the City of Greenville will be computed on the basis of a forty-hour week unless the employer notifies the Administrator that a greater or lesser number of hours per week is worked.
 - .1 The determination of tax liability of nonresidents working in and out of the corporate limits is to be computed on the formula of the total number of days worked in the City divided by the total number of days worked during the year and the resulting percentage applied to the total annual income from wages including sick leave, holiday pay, vacation pay and other compensation required to be reported as gross pay. Where no record can be substantiated of the number of days worked, the figure 260 is to be used as the total number of days worked.
 - .2 For purposes of determining the tax liability of professional truck drivers, a flat percentage of ten percent (10%) will be used as the percent of time in the City of Greenville, provided the wages were withheld correctly and all necessary supporting documents required by the Administrator are attached to the return.
- 7. An employer shall withhold the tax on the full amount of any advances made to an employee on account of commissions.
- 8. An employer required to withhold the tax on compensation paid to an employee shall, in determining the amount on which the tax is to be withheld, ignore any amount allowed and paid to the employee for expenses necessarily and actually incurred by the employee in the actual performance of his services, provided such expenses are incurred in earning compensation, including commissions, and are not deducted as a business expense by the employee under Article III of these Regulations.
- 9. An employer whose records show that an employee is a nonresident of the City of Greenville and has no knowledge to the contrary, shall be relieved of the responsibility of withholding the tax on personal services rendered for work done outside the City of Greenville by such employee, provided, however, that such employer must withhold the tax on all personal service compensation paid such employee after the Administrator notifies said employer in writing that such employee is a resident of the City of Greenville. All employees are required to notify the employer of any change of residence and the date thereof.
- 10. A Greenville, Ohio employer required to withhold the tax from a Greenville, Ohio resident for work done or services performed in another municipality, and who does so withhold and remit to such other municipality, shall be relieved from the requirement of withholding the Greenville, Ohio tax from such Greenville, Ohio resident, except where the rate of tax for such other municipality is less than the rate of tax imposed by the Ordinance. In such case, the employer shall withhold and remit the difference to the City of Greenville.

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

B. Employer Deemed Trustee of Taxes Withheld

1. Every employer is deemed to be a trustee for the City of Greenville 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.
2. Every such employer required to deduct and withhold the tax at the source is liable directly to the City of Greenville for payment of such tax whether actually collected from such employee or not.

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

1. The deductions from salaries, qualifying wages, and other compensation required to be made by employers are to begin with the compensation earned on and after the effective date of the Ordinance. The employer (in addition to any return required to be filed with respect to his own earnings or net profits) shall, on or before the last day of the month following each quarterly period, make a return (Form GVW-1) and pay to the Administrator the full amount of the tax so deducted or withheld with respect to compensation paid all of his employees subject to the tax under the Ordinance. The return (Form GVW-1) required to be filed under this Article shall be made on a form furnished by or obtainable on request from the Administrator.
 - a. The employer shall report the qualifying wages and remit the tax on the following criteria to the Administrator:
 - .1 If the tax liability of the qualifying wages is, on average, five hundred dollars (\$500.00) or greater per month, and/or is greater than six thousand dollars (\$6,000.00) annually, the employer shall file and pay the tax to the Administrator on a monthly basis. Such filing shall be made, paid and/or postmarked on or before the last day of the month following such withholding. In the event the due date falls on a weekend or a legal U.S. holiday, the due date shall be extended until the end of the next business day. (Ordinance 05-100, 09/20/05)
 - .2 If the tax liability of the qualifying wages is, on average, less than five hundred dollars (\$500.00) per month, and is less than six thousand dollars (\$6,000.00) annually, the employer may file and pay the tax to the Administrator on a quarterly basis. Such filing shall be made, paid and/or postmarked on or before the last day of the month following such withholding. In the event the due date falls on a weekend or a legal U.S. holiday, the due date shall be extended until the end of the next business day. (Ordinance 05-100, 09/20/05)
 - .3 The Administrator may revoke the approval of quarterly filing and payments whenever he has reason to believe that the conditions for granting such authorization have changed, were judged incorrectly, were not met, or when it is in the best interest of the City to do so. Notice of such withdrawal shall be made in writing and, in such case, the employer must begin to file in accordance with this section.
2. If more than the amount of tax required to be deducted by the Ordinance is withheld from an employee's pay, such excess may be refunded by the employer or the Administrator,

depending upon the circumstances and the time when the over-withholding is determined as follows:

- a. Current employees
 - .1 If the over-withholding is discovered in the same quarterly period, the employer shall make the necessary adjustment directly with the employee and the amount to be reported on the quarterly return (Form GVW-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 return (Form GVW-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 return (Form GVW-1).
 - .3 If the over-withholding is discovered in the following year, the employer should notify the Administrator of such over-withholding and the circumstances thereof. Upon proper verification, the Administrator shall either refund to the employer the amount of such excess withholding or credit it to the next period.
- c. Nonresidents Employed Outside the City
 - .1 Where an employer has withheld the tax from qualifying wages of a nonresident of the City of Greenville and such nonresident has been employed outside of the City of Greenville for all or a part of the time, such employee shall file a claim with the Administrator covering such erroneous withholding and the Administrator shall, upon verification thereof by the employer, refund to the employee or employer the amount of such excess withholding.
3. On or before the 28th day of February, following any calendar year in which deductions have been made by an employer, such employer shall file with the Administrator, in the form prescribed by the Administrator, an information return for each employee from whom Greenville, Ohio 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 Greenville, Ohio income tax withheld from such employee.
4. For the convenience of employers, the information return may be in one of two ways at the election of each employer, as follows:
 - a. Those employers using Federal Form W-2 furnished commercially shall submit a copy of such commercial Federal Form W-2 providing the copy furnished to the City of Greenville clearly shows the information required in three (3) immediately preceding.
 - b. Where the furnishing of this information as above indicated will create a distinct hardship to the employer, upon written request to the Administrator, the employer may be permitted to furnish a list of all employees subject to the tax, which list shall show the employee's full name, Social Security number, last known address, gross amount of compensation paid during the year and the amount of Greenville, Ohio income tax withheld.

- c. The qualifying wages to be reported for each employee shall be for the full twelve (12) calendar months of the year or such portion thereof as the employee reported on was employed.
- 5. In addition to such information returns, and at the time the same are filed, such employer shall file with the Administrator Form GVW-2 to enable the Administrator to reconcile the sum total of compensation paid and taxes withheld as disclosed by information return Form W-2, or list of employees, and prior returns and remittances made pursuant to the Ordinance.

D. Responsibility of Officers for Collecting Tax

- 1. It shall be the responsibility jointly and severally of the President and Treasurer of each corporation required to withhold taxes on employees wages to see that all taxes so withheld are paid to the City of Greenville in accordance with the provisions of the Ordinance. In the event taxes withheld by a corporation from the salaries of its employees are not paid to the City of Greenville in accordance with the provisions of the Ordinance, the President and Treasurer of said corporation shall each be criminally liable under the provisions of Section 12 hereof.

E. Round to the Nearest Dollar

- 1. In deducting and withholding the tax at the source and in payment of any tax due under the Ordinance, rounding to the nearest dollar is permitted. No person shall be entitled to a refund merely because such rounding off of the tax results in an apparent overpayment based on his or her total earnings.

ARTICLE VII DECLARATIONS

A. Requirement of Filing

- 1. A declaration of estimated tax shall be filed by every taxpayer who may reasonably expect 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 tax 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.

B. Date of Filing

- 1. A person or other entity conducting business not previously subject to the tax, or whose employer does not withhold the tax, shall file a declaration based on ninety percent (90%) of the current year's tax liability within four (4) months after the date he becomes subject to the tax.

- a. Calendar year taxpayers, who are individuals, who are subject to Section A herein, shall file quarterly estimated tax payments by the following dates of each tax year:

April 30th twenty-five percent (25%) estimated tax payment due for tax years prior to 2004 or,

- April 15th twenty-five percent (25%) estimated tax payment due for each tax year thereafter,
- July 31st fifty percent (50%) estimated tax payment due,
- October 31 seventy-five percent (75%) estimated tax payment due,
- January 31st one hundred percent (100%) estimated tax payment due.

b. Calendar year taxpayers, who are not individuals, who are subject to Section A herein, shall file quarterly estimated tax payments by the following dates of each tax year:

- April 30th twenty-five percent (25%) estimated tax payment due for tax years prior to 2004 or,
- April 15th twenty-five percent (25%) estimated tax payment due for each tax year thereafter,
- June 15th fifty percent (50%) estimated tax payment due,
- September 15th seventy-five percent (75%) estimated tax payment due,
- December 15th one hundred percent (100%) estimated tax payment due.

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.

a. Fiscal year taxpayers subject to Section 2(A) herein shall file estimated payments by the end of the fourth (4th), seventh (7th), tenth (10th) and thirteenth (13th) months from the beginning of the fiscal year and percentage of the estimated tax due each quarter shall be the same as in B(1)(a) herein prior to tax year 2004 and on the 15th of the fourth (4th) month and at the end of the seventh (7th), tenth (10th), and thirteenth (13th) months from the beginning of the fiscal year thereafter.

C. Form for Filing

1. Such declaration shall be filed upon a form or forms furnished by or obtainable from the Administrator. Provided, however, credit shall be taken for the municipality's tax to be withheld from any portion of such income. In accordance with the provisions of Section 15 of the Ordinance, credit may be taken for tax withheld and remitted to another taxing municipality.
2. The original estimate of tax liability or subsequent amendment thereof may be amended at any time.
3. An amended declaration must be filed prior to the close of the calendar year, or in the case of a fiscal taxpayer, prior to the date established by the Administrator, if it appears that the original declaration underestimated the taxpayer's income by ten percent (10%) or more. At such time a payment, which, together with prior payments sufficient to pay taxpayer's entire liability, shall be made. If a taxpayer has not complied with this requirement, the difference between ninety percent (90%) of his tax liability and the amount of estimated tax, or the date fixed by the Administrator's regulation, whichever is applicable, shall be subject to the interest and penalty provisions of Article X hereof.

D. Dates of Payments

1. The declaration must be accompanied by at least one-fourth (1/4) of the estimated tax shown due thereon. Unless such payment is made, the taxpayer will not be considered as having filed a declaration within the meaning of the Ordinance.
2. 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 five dollars (\$5.00) or more.

ARTICLE VIII DUTIES OF THE ADMINISTRATOR

A. Collection of Tax and Retention of Records

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

B. Enforcement Provisions

1. The Administrator is charged with the administration and enforcement of the provisions of the Ordinance and is, subject to the approval of the 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 Administrator has the authority to correct or adjust any return submitted, when a correction or adjustment is necessary to accomplish the intent of the Ordinance.
2. Any taxpayer or employer desiring a special ruling on any matter pertaining to the Ordinance or these Rules and Regulations, should submit to the Administrator in writing all the facts pertinent to the matter on which the ruling is sought.
3. These Regulations, together with all amendments and supplements hereto and all changes herein, will be on file at the office of the Administrator and will be open to public inspection.
4. The Administrator is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proved to the Administrator that, due to certain hardship conditions, he is unable to pay the full amount of 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 Section 11 and 12 of the Ordinance shall apply.

C. Estimation of Tax by Administrator

1. Whenever the Administrator has been unable to secure information from the taxpayer as to his taxable income for any year, he may determine the amount of tax appearing to be due and assess the taxpayer upon the basis of such determination together with 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. Compromise Authority

1. Subject to the consent of the Board of Review or pursuant to regulation approved by said Board, the Administrator shall have the authority to compromise any interest and/or penalties imposed by Section 10 of the Ordinance.

**ARTICLE IX EXAMINATION OF BOOKS AND RECORDS, INFORMATION SO OBTAINED
CONFIDENTIAL: PENALTY**

A. Investigations by Administrator

1. The Administrator, or his duly authorized agent, is authorized to examine the books, papers, records and federal income tax returns of any employer, taxpayer or person subject to the Ordinance, or whom the Administrator believes is subject to the provisions of the Ordinance, for the purpose of verifying the accuracy of any return made; or, if no return was made, to ascertain the tax due under the Ordinance.
2. An employer or supposed employer and every taxpayer shall furnish, within twenty (20) working days following a written request by the Administrator, or his duly authorized agent, the means, facilities and opportunity for making examinations and investigations authorized by the Ordinance.

B. Subpoena of Records and Persons

1. The Administrator, or any person acting in his capacity, is authorized to examine any person, under oath, concerning any income which was, or should have been, returned for taxation, or any transaction tending to affect such income. The Administrator may compel the production of books, papers and records and the attendance of all persons before him whether as parties or witnesses, whenever he believes such persons have knowledge of the facts concerning any supposed income or supposed transaction of the taxpayer.
2. The Administrator's order to examine any document mentioned in the preceding paragraph shall state whether the examination is to be at the office of the taxpayer or at the office of the Administrator.
3. The Administrator may order the appearance before him, or his duly authorized agent, of any party whom he believes to have any knowledge of a taxpayer's income or withholdings, or any information pertaining to the taxpayer under investigation, whether or not the individual so ordered has actual custody of the records of the taxpayer being investigated. The Administrator is specifically authorized to order the appearance of the local manager or representative of any taxpayer.
4. Except as otherwise provided in the Codified Ordinances for the City of Greenville, Ohio, as the same relates to criminal prosecutions for violations of the City's Income Tax Ordinance, persons required to attend any hearings shall be notified not less than twenty (20) business 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 to such hearing.

5. The notice shall be served by the Administrator, or his duly authorized agent, by delivering it to the person named personally, or by leaving the notice at his usual place of business or residence, or by mailing it to the person by certified 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 Administrator or his duly authorized agent, to submit to such examination and to produce the records requested, constitutes a misdemeanor punishable by fine or imprisonment, or both, as prescribed by Section 12 of the Ordinance.

D. Confidential Nature of Examinations

Any information gained as a result of any returns, investigations, verifications or hearings before the Administrator 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 of the first degree, punishable by a maximum fine of one thousand dollars (\$1,000.00) or imprisonment for not more than six (6) months, or both.

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

E. Retention of Records

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

ARTICLE X INTEREST & PENALTIES

A. Interest

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

B. Penalties

In addition to the interest as provided in Paragraph A hereof, penalties are hereby imposed as follows:

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

3. Any person required to file a return as set forth in this Ordinance who fails to file said return as set forth herein shall pay a late filing fee of twenty-five dollars (\$25.00) if said return is filed no more than thirty (30) days past its due date. In the event said return is filed more than thirty (30) days past its due date, said person shall pay a late filing fee 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 City, or that a refund is due to be paid to the taxpayer, as the result of the filing of such return.

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

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

D. Appeal from Assessment

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

ARTICLE XI COLLECTION OF UNPAID TAXES AND REFUND OF OVERPAYMENTS

A. Unpaid Sums

1. All taxes imposed by the Ordinance and not paid when due become, together with interest and penalties thereon, a debt due the City from the taxpayer and are recoverable, as are other debts, by either civil or criminal action. 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 or remit, become liable to the City in a criminal action or employment of a collection agency to enforce the payment of the debt created by such failure.
2. No additional assessment shall be made by the Administrator after three (3) years from the time the return was due or filed, whichever is later. Provided however, there shall be no period of limitation on such additional assessments in the case of a return that omits a substantial portion of income, does not subject a substantial portion of income to municipal tax as imposed by the Ordinance, or filing a false or fraudulent return to evade payment of the tax, or failure to file a return. Failure to report or subject to municipal tax twenty-five percent (25%) or more of gross income shall be considered a substantial omission.

3. In those cases in which the Commissioner of Internal Revenue Service and the taxpayer have executed a waiver of the federal statute of limitations, the period within which an assessment may be made by the Administrator is extended to one (1) year from the time of final determination of federal tax liability.

B. Refunds and Overpayments

1. Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date on which such payment was made, 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 Administrator.
3. Overpayments will be either refunded or credited to the taxpayer's current year liability at his option. Where no election has been made by the taxpayer, overpayments of any year's taxes shall be applied as follows:
 - a. To taxes owed for any previous years in the order in which such taxes become due.
 - b. To his current estimated tax liability.

C. Limitations

1. Where the total amount due or refund claimed for a tax year is less than five dollars (\$5.00) such amount shall not be collected or refunded to the taxpayer or his account.

ARTICLE XII VIOLATIONS, PENALTIES

A. Any person who shall

1. Fail, neglect or refuse to make any return or declaration required by the Ordinance; or
2. Make an incomplete, false or fraudulent return; or
3. Willfully fail, neglect or refuse to pay the tax, penalties or interest imposed by the Ordinance; or
4. Willfully fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator; or
5. Refuse to permit the Administrator or any duly authorized agent or employee to examine his or his employer's books, records, papers and federal income tax returns relating to the income or net profits of a taxpayer; or
6. Fail to appear before the Administrator or any duly authorized agent and to produce his or his employer's books, records, papers or federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator; or
7. Refuse to disclose to the Administrator any information with respect to such person's or such person's employer's income or net profits; or
8. Fail to comply with the provisions of the Ordinance or any order or subpoena of the Administrator; or

9. Fail, neglect, or refuse to make any payment on the estimated tax for any year as required by Section 7 of the Ordinance; or
10. Fail to use ordinary diligence in maintaining proper records of employees residence addresses, total wages paid and the City of Greenville's income tax withheld, or to knowingly give the Administrator false information; or
11. Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by the Ordinance; or
12. In addition to the foregoing, the penalties referred to in Section 10 of the Greenville City Income Tax Ordinance shall be assessed and collected,

shall be guilty of a misdemeanor of the first degree 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.

B. Penalties

1. Any person violating any of the provisions of the Ordinance shall be guilty of a misdemeanor and subject to the penalties provided for in Section 10 of the Ordinance.
2. An officer, employee, or agent of a corporation is responsible for any violations of the Ordinance on the part of the corporation.
3. The penalties provided in the Ordinance are in addition to and not exclusive of the penalties provided by all pertinent criminal statutes of the State of Ohio and to the civil remedies provided in the Ordinance.

C. Prosecutions

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

D. Failure to Receive Forms - Not a Defense

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

E. The term "person" as used in this section shall, in addition to the meaning prescribed in Section 2 of the Ordinance, include in the case of an association or corporation not having any partner, member or officer within the City of Greenville, any employee or agent of such association or corporation who can be found within the corporate limits of the City of Greenville.

ARTICLE XIII BOARD OF REVIEW OR APPELLATE AUTHORITY

Refer to Ordinance

ARTICLE XIV USE OF FUNDS

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

ARTICLE XV CREDIT ALLOWED FOR TAX PAID IN ANOTHER MUNICIPALITY

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

ARTICLE XVI SAVING CLAUSE

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

ARTICLE XVII COLLECTION OF TAX AFTER TERMINATION OF ORDINANCE

- A. Authority to collect after termination of Ordinance

The tax imposition provisions of the Ordinance are effective until the Ordinance is repealed, subject, however, to the 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 on (date), are payable in full on or before the dates specified in Sections 5 and 6 of the Ordinance and Articles 5 and 6 of these Regulations, and all final returns and withholding reports must be filed on or before that date, unless extended by the Administrator.
 2. For purposes of collection of delinquent or unpaid taxes, actions or proceedings for such collection and/or the collection of interest and penalties thereon, or enforcing any provisions of the Ordinance and including appeals before the Board of Review, the Ordinance remains in full force and effect until such time as all taxes accruing during the term of the Ordinance shall have been fully paid, and all actions, suits, prosecutions, appeals and other judicial or administrative proceedings relative to the collection or payment of such taxes, have been finally terminated.

