

ORDINANCE NO. 15-20

**AN ORDINANCE TO AMEND THE MUNICIPAL INCOME TAX CODE
OF THE VILLAGE OF BOTKINS**

WHEREAS, the Home Rule Amendment of the Ohio Constitution, Article XVII, Section 3, provides that "Municipalities shall have authority to exercise all powers of local self-government," and the municipal taxing power is one of such powers of local self-government delegated by the people of the State to the people of municipalities; and

WHEREAS, Article XIII, Section 6 of the Ohio Constitution provides that the General Assembly may restrict a municipalities power of taxation to the extent necessary to prevent abuse of such power, and Article XVIII, Section 13 of the Ohio Constitution states that "laws may be passed to limit the powers of municipalities to levy taxes and incur debts for local purposes;" and

WHEREAS, the General Assembly has determined that it is necessary and appropriate to comprehensively review and amend Chapter 718 of the Ohio Revised Code, setting forth statutory requirements for municipal income tax codes in Ohio; and

WHEREAS, more specifically, the General Assembly enacted H. B. 5 in December 2014, and mandated that municipal income tax codes be amended by January 1, 2016 such that any income or withholding tax is "levied in accordance with the provisions and limitations specified in [Chapter 718];" and

WHEREAS, upon a detailed review of H. B. 5 and the Income Tax Code of the Village of Botkins, Ohio, this Ordinance is found and determined by this Council to enact the amendments required prior to the January 1, 2016, deadline to be in accord with the provisions and limitations specified in Chapter 718 of the Revised Code; and

WHEREAS, Council also finds and determines that the constitutionality of certain provisions of the state-mandated code may have been put in question by recent decisions of the Ohio Supreme Court regarding, among other things, taxation of professional athletes, but these provisions must be included if the municipal income tax code is to be "levied in accordance with the provisions and limitations specified in Chapter 718" and thus reluctantly are adopted by this Council but are disclaimed to the extent they are unlawful or unconstitutional;

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF BOTKINS, STATE OF OHIO, THAT:

Section 1. The Amended and Restated Income Tax Code be amended to read as set forth in the document entitled Village of Botkins, Ohio, Income Tax Code, both the Amended and Restated Income Tax Code and the Village of Botkins, Ohio, Income Tax Code are attached hereto as Exhibit A and Exhibit B, respectively, and are incorporated herein by reference. The Village of Botkins, Ohio, Income Tax Code shall not modify or repeal the Amended and Restated Income Code unless there is a direct conflict between the provisions of the Amended

and Restated Income Tax Code and the Village of Botkins, Ohio, Income Tax Code, in which case the Village of Botkins, Ohio, Income Tax Code shall prevail.

Section 2. That this Ordinance shall take effect and be in force from and after January 1, 2016.

Passed this 8th day of DECEMBER, 2015.

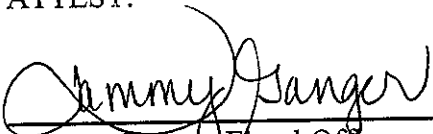


Steven Woodruff, Mayor



STEVE HAWKER President of Council

ATTEST:

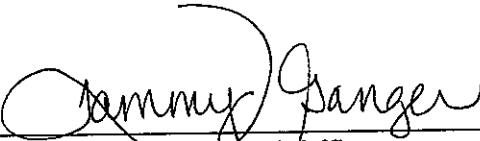


Tammy Ganger, Fiscal Officer

CERTIFICATION

STATE OF OHIO)
)SS:
COUNTY OF SHELBY)

I, Tammy Ganger, as Fiscal Officer of the Village of Botkins, Ohio, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 15-20 passed by the Council of the Village of Botkins on the 8th day of DECEMBER, 2015; that publication of such Ordinance has been made and certified of record according to law; and that no proceedings looking to a referendum upon such Ordinance have been taken.



Tammy Ganger, Fiscal Officer

VILLAGE OF BOTKINS, OHIO

AMENDED AND RESTATED INCOME TAX CODE
ORDINANCE NO. 04-08

ADOPTED BY THE COUNCIL OF THE VILLAGE OF BOTKINS JUNE 8, 2004

Section 1 PURPOSE

Section 1.1 The One Percent (1%) Tax

The initial One Percent (1%) of tax passed pursuant to Ordinance No. 632 shall be used to provide funds for the purposes of construction, maintaining, operating and acquiring of capital improvements and for general municipal operations in the Village of Botkins, Ohio, and there shall be and hereby is levied a tax on , qualifying wages, commissions and other compensation and on net profits and other taxable income as hereinafter provided.

Section 1.2 The One Half Percent (½%) Tax

The additional one half percent (½%) tax passed pursuant to Ordinance No. 88-16 shall be used to provide funds for the construction and acquisition of capital improvements and new equipment in the Village of Botkins.

Section 2 DEFINITIONS

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. The singular shall include the plural and the masculine shall include the feminine and the neuter:

"ADJUSTED FEDERAL TAXABLE INCOME" - 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.

Add an amount equal to five percent (5%) of intangible income deducted.

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.

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

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 income.

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-employment 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.

"ASSOCIATION" - A partnership, limited partnership, or any other form of unincorporated enterprise, owned by two or more persons.

"BOARD OF REVIEW" - The Board created by and constituted as provided in Section 13 of Ordinance 632.

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

"BUSINESS ALLOCATION APPORTIONMENT" - The portion of net profits to be allocated to the Village of Botkins as having been made within the Village of Botkins pursuant to Section 3 of Ordinance 632.

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

"DOMICILE" - A principal place of residence that the taxpayer intends to use and whenever absent, intends to return. A taxpayer has only one domicile even though the taxpayer may have more than one residence.

"EMPLOYEE" - One who works for wages, salary, commission, or other types of compensation in the service of an employer. Any person upon whom an employer is required to withhold for either federal income or social security, or on whose account

payments are made under the Workers' Compensation Law, shall prima facie be an employee.

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

"FISCAL YEAR" - An accounting period of twelve months ending on any day other than December 31.

"GENERIC FORM" - An electronic or paper form designed for reporting estimated Village of Botkins income taxes and annual Village of Botkins income tax liability for filing a refund claim that is not prescribed by the Village of Botkins for the reporting of the Village of Botkins' tax on income.

"GROSS RECEIPTS" - Total income from any source whatsoever excepting from intangible and capital gains from the sale of property used in the trade or business as defined in Section 1231(b) of the Internal Revenue Code.

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

"INTANGIBLE INCOME" - Income of any of the following types: income yield, interest, capital gains, dividends, or other income arising, from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, 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 similar games of chance.

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

"LIMITED LIABILITY COMPANY" - A limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.

"NET PROFITS" - The profit required to be reported on Schedule C, Schedule E, or Schedule F, other than amounts described in Section 3 E, for a taxpayer who is an individual, and adjusted federal taxable income for a taxpayer who is other than an individual.

"NONRESIDENT" - A person, whether an individual, association, corporation, or other entity, domiciled outside the Village of Botkins.

"NONRESIDENT UNINCORPORATED BUSINESS" - An unincorporated business not having an office or place of business within the Village of Botkins.

THE or THIS ORDINANCE means Ordinance No. 632 enacted by the Council of Botkins effective January 1, 1976, and Ordinance 88-16, enacted by the Council of Botkins effective July 1, 1988, and any amendments and supplements.

"OTHER ENTITY" - A person or unincorporated body not previously named or defined, including but not limited to fiduciaries.

"OWNER" - A partner of a partnership, a member of a limited liability company, a shareholder of an S corporation or other person with an ownership interest in a pass-through entity.

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

"PERSON" - Individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities, and any other entity.

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

A taxpayer does not have a regular place of business outside Botkins solely by consigning goods to an independent factor or other contractor outside of the Village for sale.

"PRINCIPAL PLACE OF BUSINESS" - In the case of an employer having headquarters' activities at a place of business within the Village of Botkins, the place of business at which the headquarters is situated. In the case of any employer not having its headquarters' activities at a place of business within the Village of Botkins, the largest place of business located in the Village of Botkins.

"QUALIFIED RETIREMENT PLAN" - A retirement plan satisfying the requirements under section 401 of the Internal Revenue Code as amended.

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

"RESIDENT" - A person, whether an individual, association, corporation, or other entity, domiciled in the Village of Botkins.

"TAX COMMISSIONER" - The Income Tax Commissioner of the Income Tax Department of the Village of Botkins, or the person executing the duties of the aforesaid Commissioner.

"TAXABLE INCOME" - Qualifying wages paid by an employer or employers, compensation for personal services, other income defined by statute as taxable, and/or adjusted federal taxable income from the operation of a business, profession, or other enterprise or activity adjusted in accordance with the provisions of this Ordinance.

"TAXABLE YEAR" - The calendar year, or the fiscal year ending during such calendar year, upon the basis of which the net profits are to be computed under this Ordinance and, in the case of a return for a fractional part of a year, the period for which such return is made. Unless approved by the Tax Commissioner, the taxable year of an individual shall be a calendar year.

"TAXPAYER" - An association, business, corporation, employer, person, or other entity required by this Ordinance to file a return on earnings or net profits or to pay a tax upon such earnings or net profits.

Section 3 IMPOSITION OF THE TAX
Section 3.1 The One Percent (1%) Tax

A. Subject to the provisions of Section 16, an annual tax for the purpose specified in Section 1 of Ordinance 632, shall be levied on and after January 1, 1976, at the rate of one percent (1%) per annum upon the following:

On all qualifying wages, commissions, rentals, and other compensation earned or received on and after January 1, 1976, by residents of the Village of Botkins.

On all qualifying wages, commissions, rentals, and other compensation earned or received on and after January 1, 1976, by nonresidents for works done or services performed or rendered in the Village of Botkins.

(A) On the portion attributable to the Village of Botkins of the net profits earned on and after January 1, 1976, of all resident associations, unincorporated businesses, pass-through entities, professions, or other activities derived from work done or services performed or rendered, and business conducted in the Village of Botkins.

(B) On a resident partner's or owner's share of the net profits of a resident association or other unincorporated business entity not attributable to the Village of Botkins and not levied against such association or other unincorporated business entity.

(A) On the portion attributable to the Village of Botkins, the net profits earned on and after January 1, 1976, of all nonresident associations, unincorporated business, professions, or other activities, derived from sales made, work done, or services performed or rendered or business or other activities derived from work done or services performed or rendered, and business or other activities conducted in the Village of Botkins, whether or not such association or unincorporated business entity has an office or place of business in the Village of Botkins.

(B) On a resident partner's or owner's share of the net profits of a nonresident association or other unincorporated business entity not attributable to the Village of Botkins and not levied against such association or other unincorporated business entity.

5. On the portion attributable to the Village of Botkins of the net profits earned on and after January 1, 1976, of all corporations derived from sales made, work done or services performed or rendered and business or other activities conducted in the Village of Botkins, whether or not such corporations have an office or place of business in the Village of Botkins.

6. On all income received as gambling winnings as reported on Internal Revenue Service 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. An employee who pays his business expenses from his commissions or other compensation, without reimbursement from his employer, may deduct from his gross commissions or other compensation business expenses allowed by the Internal Revenue Service for federal income tax purposes, but only to the extent such expenses are incurred in earning commissions or other compensation subject to the tax.

C. Net profit from a business or profession conducted both within and without the boundaries of the Village of Botkins shall be considered as having a taxable situs in the Village of Botkins for purposes of Village of Botkins 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 the Village of Botkins 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.

(B) Ascertaining the percentage which the gross receipts of the business from sales made and services performed in the Village of Botkins, during the period covered by the return, is of the total gross receipts from all sales and services, wherever made or performed, during such period.

(1) Sales made within the Village of Botkins shall be deemed to include all sales of tangible personal property which is delivered within the Village of Botkins regardless of where title passes if shipped or delivered from a stock of goods within the Village of Botkins.

(2) All sales of tangible personal property which is delivered within the Village of Botkins, regardless of where title passes, even though transported from a point outside the Village of Botkins, if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the Village of Botkins.

(3) All sales of tangible personal property which is shipped from a place within the Village of Botkins to purchasers outside the Village of Botkins, 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.

(C) Ascertaining the percentage which the total qualifying wages and other compensation paid during the period covered by the return, to employees for services performed in the Village of Botkins is of the total qualifying wages, commissions, and other compensation paid, during such period, to all employees within and outside the Village of Botkins.

(D) Adding together the percentage determined in accordance with subsections (C)(1)(A), (B), and (C) above or such of the previously stated percentages as are applicable to the particular taxpayer and dividing the total so obtained by the number of percentages used in deriving such total. A factor is applicable even though it may be allocable entirely in or outside the Village of Botkins.

2. Provided, however, that in the event a just and equitable result cannot be obtained under the formula provided for within this Section, the Board of Review, upon application of the taxpayer or the Tax Commissioner shall under uniform regulations adopted by the Board, have the authority to substitute other factors or methods calculated to effect a fair and proper apportionment.

D. Net Operating Loss Carry Forward.

1. The portion of a net operating loss apportioned to the Village of Botkins in any taxable year ending after January 1, 1976, shall be applied against the portion of the profit of succeeding year(s) apportioned to the Village of Botkins, until exhausted but in no event for more than five (5) taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.

2. The portion of a net operating loss sustained shall be apportioned to the Village of Botkins in the same manner as provided herein for apportioning net profits to the Village of Botkins.

3. The Tax Commissioner shall provide by Rules and Regulations the manner in which such net operating loss carry-forward shall be determined.

4. The new operating loss of a taxpayer that loses its legal identity, by any means such as merger or consolidation, shall not be allowed as a carryforward loss deduction to the surviving or new taxpayer.

5. The new operating loss sustained by a business or profession is not deductible from employee earnings, but may be carried forward as provided in Ordinance 632. If a taxpayer is engaged in two or more taxable business activities to be included in the same return, however, the net loss of one unincorporated business activity (except any portion of a loss reportable for local income tax purposes to another locality) may be used to offset the profits of another for purposes of arriving at overall net profits.

E. Exclusions from Tax. The tax provided for under Ordinance No. 632 shall not be levied on the following:

1. The 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.

2. Poor relief, pensions, unemployment insurance benefits, supplemental unemployment benefits, old age benefits, old age pensions or similar payment received from local, state, or federal governments or from charitable, religious, or educational organizations.

3. Proceeds of insurance, annuities, workers' compensation insurance, permanent disability benefits, compensation for damages for personal injury and similar reimbursements, not including damages for loss of profits and wages, welfare benefits, unemployment insurance benefits, social security benefits, and qualified retirement plans as defined by the Internal Revenue Service.

4. Alimony/ spousal support received.

5. Income, dues, contributions, receipts from casual entertainment, amusements, sports events and health and welfare activities received by religious, fraternal, charitable, scientific, literary, educational institutions or organizations.

6. Any association, organization, corporation, club or trust, which is exempt from federal taxes on income by reason of its charitable, religious, education, literary, scientific, etc. purposes, to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities;

Notwithstanding, any association or organization listed in this 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 from the Village of Botkins income tax.

Moreover, 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 inside and outside the Village of Botkins limits, such association or organization shall calculate its income apportioned to the Village of Botkins under the method or methods provided above.

7. 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).
 8. Earnings and income of all persons under seventeen (17) years of age whether residents or nonresidents.
 9. Compensation paid under Section 3501.28 or 3501.36 of the Revised Code 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;
 10. Parsonage allowance pursuant to Section 107 of the Internal Revenue Code;
 11. Compensation paid to an employee of a transit authority for operating a transit bus in or through the Village of Botkins, unless the bus is operated on a regularly scheduled route, the operator is a resident or domiciled in the Village of Botkins, or the headquarters of the authority or commission is located within the Village of Botkins;
 12. Intangible income;
 13. On and after January 1, 2003, items excluded from federal gross income pursuant to Section 107 of the Internal Revenue Code.
 14. On and after January 1, 2001, compensation paid to a nonresident individual for personal services performed by the individual in the Village of Botkins, 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 local taxing authority that imposes a tax applying to compensation paid to an individual for services paid on those days; and the individual is not liable to that other local taxing authority for tax on the compensation paid for such services.
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(B) The individual is a professional entertainer or professional athlete, the promoter of a professional entertainer or sports event, or an employee of such promoter, all as may reasonably defined by the Village of Botkins.

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 the Village of Botkins may tax the following, subject to Chapter 5745 of the Ohio Revised Code:

(A) The income of an electric company or combined company; or

(B) The income of a telephone company.

As used in this paragraph, "electric company," combined company," and "telephone company" have the same meanings as in Section 5727.01 of the Ohio Revised Code.

16. If exempt for federal income tax purposes, fellowship and scholarship grants are excluded from the Village of Botkins income tax.

17. Generally the above noted items in this Section are the only forms of income not subject to the tax. Any other income, benefits, or other forms of compensation shall be taxable.

Section 3.2 The One Half Percent (½%) Tax

3.2.1 Subject to the provisions of Section 16, an annual tax for the purposes specified in Ordinance 88-16, shall be levied on and after July 1, 1988, at the rate of one half percent (½%) per annum in addition to the one percent (1%) currently levied and collected under Ordinance No. 632, as approved by the requisite majority of the voters in the Primary Election held on May 8, 1988, in the manner as set forth in Section 3.1.

3.2.2 The additional one half percent (½%) tax per annum provided for under Ordinance No. 88-16 shall not be levied on the items set forth in Section 3.1(E).

Section 4 EFFECTIVE DATE

Section 4.1 The One Percent (1%) Tax

The One Percent (1%) Tax levied under Ordinance 632 shall be levied, collected and paid with respect to the qualifying wages, commissions and other compensation earned on and after January 1, 1976, and with respect to the net profits of businesses, professions, or other activities earned on and after January 1, 1976.

Provided, however, that where the fiscal year of the business, profession, or other activity differs from the calendar year, the tax shall be applied to that part of the net profits for the fiscal year as shall be earned on and after January 1, 1976, to the close of the taxpayer's fiscal year. Thereafter, the taxpayer shall report on its fiscal year basis.

Section 4.2 The One Half Percent (½%) Tax

The One Half Percent (½%) tax levied under Ordinance 88-16 shall be levied, collected and paid with respect to the qualifying wages, commissions and other compensation on and after July 1, 1988, and with respect to the net profits of businesses, professions or other activities earned on or after July 1, 1988, in a manner consistent with Section 3.1.

Provided, however, where the fiscal year of the business, profession or other activity differs from the calendar year, the tax shall be applied to that part of the net profits for the fiscal year as shall be earned on or after July 1, 1988, to the close of the taxpayer's fiscal year. Thereafter, the taxpayer shall report on a fiscal basis.

Section 5 RETURN AND PAYMENT OF TAX

A. Each person who engages in business, or whose qualifying wages, commissions, and other compensation are subject to the tax imposed by this Ordinance shall, whether or not a tax be due thereon, make and file on or before April 15 of each year a return with the Village of Botkins on a form or forms furnished or obtained upon request, or an acceptable generic form, setting 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; and

3. Such other pertinent statements, information, returns, or other information returns or information as the Tax Commissioner requires, including a statement of taxable income as determined for federal income tax purposes, adjusted to set forth only such income as is taxable under the provisions of this Ordinance.

B. A taxpayer on a fiscal year accounting basis for federal tax purposes shall, beginning with his first fiscal year any part of which falls within the tax period, pay the tax on the basis of his fiscal year and shall file his annual returns . by the fifteenth (15th) day of the fourth (4th) month following the end of the fiscal year or period.

C. The return shall be filed with the Tax Commissioner on a form or forms furnished by or obtainable upon request from the Tax Commissioner; or on a generic form, if the generic form, when completed and filed, contains all of the information required to be submitted with the Village of Botkins prescribed return and, if the taxpayer or preparer filing the generic form otherwise complies with the Tax Code governing the filing of returns.

D. Any taxpayer that has requested an extension for filing a federal income tax return may request an extension for the filing of the Village of Botkins Income Tax Return by filing a copy of the taxpayer's federal extension request with the Income Tax

Department. Any taxpayer not required to file a federal income tax return may request an extension for filing a Village of Botkins Income Tax Return in writing. The request for extension must be filed on or before the original due date for the annual return. If the request is granted, the extended due date of the Village of Botkins 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. The Tax Commissioner may deny a taxpayer's request for an extension if the taxpayer fails to timely file the request; fails to file a copy of the federal extension request; owes the Village of Botkins any delinquent income tax, penalty, or interest; or has failed to file any required income tax return, report, or other related document for a prior tax period.

E. The taxpayer making such return shall, at the time of the filing thereof, pay to the Village of Botkins, 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 this Ordinance, or where any portion of said tax shall have been paid by the taxpayer, pursuant to the provisions of SECTION 7 of this Ordinance, or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with SECTION 15, 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. Should it then appear that the taxpayer has paid more than the amount of tax to which the Village of Botkins is entitled under the provisions of this Ordinance, such over payment shall be refunded, or at the option of the taxpayer, credited to his next year's tax liability; provided, however, that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded. Within three (3) months from the final determination of any federal tax liability affecting the taxpayer's Botkins tax liability, such taxpayer shall make and file an amended Botkins return showing income subject to the Botkins 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 over payment.

F. The Tax Commissioner is hereby authorized to accept the return of an employer or employers, showing the total amount of tax deducted by said employer or employers from the qualifying wages, commissions or other compensation of employees, and paid by them to the Village of Botkins Income Tax Department as the return required of any employee whose sole income, subject to the tax or taxes under this Ordinance, is such qualifying wages, commissions, or other compensation.

G. Filing of consolidated returns may be permitted, required or denied in accordance with Rules and Regulations prescribed by the Tax Commissioner.

1. A corporation may, at its option, make a consolidated return, if that affiliated group of corporations filed a consolidated return with the Internal Revenue Service pursuant to Section 1501 of the Internal Revenue Code. A consolidated return must include all companies that are so affiliated.

In the case of a corporation that carries on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates, or some other method, the Tax Commissioner shall require such additional information as may be necessary to ascertain whether net profits apportioned to the Village of Botkins are

being distorted by the shifting of income, apportionment of expenses, or other devices available to a common control.

If the Tax Commissioner finds that a corporation's net profits apportioned to the Village of Botkins are distorted by reason of transaction with stockholders or with other corporations related by stock ownership, interlocking directorates, or some other method, the Tax Commissioner shall adjust said transactions so as to produce a fair and proper allocation of net profits to the Village of Botkins. If necessary, the Tax Commissioner may require the filing of a consolidated return.

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. Where necessary an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in SECTIONS 11 and 15. Such amended returns shall be on a form obtainable on request from the Tax Commissioner. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

SECTION 6 COLLECTION AT SOURCE

A. Each employer within or doing business within the Village of Botkins, who employs one or more persons on a salary, wage, commission or other compensation basis shall deduct at the time of the payment of such salary, wage, commission or other compensation the tax as required under this Ordinance of the , qualifying wages, commissions, or other compensation due by said employer to said employee and shall on or before the last day of April, July, October and January of each year, make a return and pay to the Village of Botkins Income Tax Department, the amount of taxes so deducted during the preceding calender quarter. Said return shall be on a form or forms prescribed by or acceptable to the Income Tax Department and shall be subject to the rules and regulations prescribed therefore by the Village of Botkins.

1. The Tax Commissioner is authorized to enter into agreements with employers outside the Village, provided they have the written consent of the employees affected, to collect such taxes at the source in the same manner as provided above.

B. Such employer in collecting said tax shall be deemed to hold the same until payment is made by such employer to the Village of Botkins, as a trustee for the benefit of the Village of Botkins and any such tax collected by such employers shall, until the same is paid to the Village of Botkins, be deemed a trust fund in the hands of such employer.

C. Provided, however, that 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.

SECTION 7. DECLARATIONS OF ESTIMATED TAX

A. Every person who anticipates any taxable income which is not subject to the provisions of SECTION 6 hereof, or who engages to any business shall file a declaration setting forth such estimated income or the estimated profit or loss from such business during the year covered by the declaration, together with the estimated tax due thereon, if any.

B. Each person required to file a declaration shall file such declaration on or before April 15th of each year. In the case of a person starting in business, such declaration shall be filed within four (4) months of the date he starts such business.

C. Such declaration shall be filed upon a form or forms furnished by, or obtainable upon request, from the Income Tax Department, or an acceptable generic form, which form or forms may contain a statement that the figures used in making such declaration are the figures used in making the declaration of the estimate for federal income tax, adjusted to set forth only such income as is taxable under the provisions of this Ordinance.

D. Such declaration of estimated tax to be paid to the Village of Botkins shall be accompanied by a payment of at least Twenty-two and one-half Percent (22 ½ %) of the estimated tax.

Exclusive of taxpayers filing on a fiscal year basis, at least a similar amount shall be paid on or before July 31, October 31, and January 31 of each year. Such estimate may be amended at any time.

A taxpayer reporting on a fiscal year basis shall file, beginning with the taxpayer's first fiscal year any part of which falls within the tax period, a declaration on or before the fifteenth day of the fourth month of the taxpayer's taxable year accompanied by a payment of at least Twenty-two and one-half Percent (22 ½ %) of the estimated tax shown due thereon. At least a similar amount shall be paid on or before the fifteenth day of the sixth month, the fifteenth day of the ninth month, and the fifteenth day of the twelfth month of the taxpayer's taxable year.

E. Taxpayers that are not individuals must remit Twenty-two and one-half Percent (22 ½ %) of the estimated tax liability for the current year on or before the day on which the annual tax return for the prior year is required to be filed disregarding any extension or, in the case of fiscal year taxpayer, the fifteenth day of the fourth month of the taxpayer's taxable year. Exclusive of taxpayers filing on a fiscal year basis, at least a similar amount shall be paid on or before June 15, September 15, and December 15 of each year. Such estimate may be amended at any time.

F. Penalty and interest will not be imposed for the late payment or nonpayment of estimated tax liability if the taxpayer has remitted an amount at least equal to One Hundred Percent (100%) of the taxpayer's tax liability for the preceding year, provided that the return for the preceding year reflected a twelve (12) month period and the taxpayer filed a return for the preceding year; or, if the taxpayer, which is an individual, was not domiciled within the Village of Botkins on the first day of January of the current calendar year.

SECTION 8. DUTIES OF THE TAX COMMISSIONER

A. The Tax Commissioner is hereby charged with the enforcement of provisions of this Ordinance and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and for the administration and enforcement of the provisions of this Ordinance, for the re-examination and correction of returns. The Tax Commissioner is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proven to the Tax Commissioner that due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under the Ordinance. Failure to make any deferred payments when due, shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the applicable provision of the Ordinance shall apply.

B. It shall be the duty of the Tax Commissioner to prescribe the form and method of keeping the accounts and reports to be rendered to his office and shall maintain accurate records showing the amount received from each taxpayer and the date of said receipt. The Tax Commissioner is hereby charged with the internal audit of all accounts and returns including the re-examination and correction of the returns. The Tax Commissioner shall further fix the amount of the tax due from a taxpayer who fails to file a return or when the tax has been established from an audit or examination of the taxpayer's income and shall send to the taxpayer by certified mail a written statement showing the amount of tax so fixed, together with the interest and penalties hereon, if any.

C. The Tax Commissioner shall demand and receive all taxes due the Village of Botkins and shall make a written report to Council at the end of each quarter of all monies collected during the preceding quarter.

D. The Tax Commissioner shall be the administrative head of the Income Tax Division, under the supervision of the Mayor, subject to approval of the Council.

E. Subject to the consent of the Board of Review or pursuant to regulation approved by said Board, the Tax Commissioner shall have the power to compromise any interest or penalty or both as imposed by the Ordinance.

SECTION 9 EXAMINATION OF BOOKS AND RECORDS AND
CONFIDENTIALITY OF INFORMATION

A. The Tax Commissioner and any authorized employee is hereby authorized to examine the books, papers and records of any employer, or of any taxpayer or person subject to the tax, for the purposes of verifying the accuracy of any return made, or if no return was made, to ascertain the tax due. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish to the Tax Commissioner or his duly authorized agent or employee, the means, facilities and opportunity for making such examination and investigation as are hereby authorized.

B. The Tax Commissioner or his duly authorized agent or employee is hereby authorized to examine any person, employer or employee under oath concerning any income which was or should have been returned for taxation and for this purpose 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 such income.

C. The refusal to produce books, papers, records and federal income tax returns or the refusal to submit to such examination by any employer or person subject to tax or required to withhold tax or the failure of any person to comply with the provisions of this section or with any order of subpoena of the Tax Commissioner authorized hereby shall be deemed a violation of this Ordinance punishable as prescribed in SECTION 12.

D. Any information gained as a result of any returns, investigations, hearing or verification required or authorized by this Ordinance shall be confidential and no disclosure thereof shall be made unless ordered by a court of competent jurisdiction or unless disclosure is necessary to the conduct of a hearing before the Board of Review. Any person divulging such information in violation of this Section shall upon conviction thereof be deemed guilty of a misdemeanor and shall be subject to a fine or penalty of not more than five hundred dollars (\$500.00) or imprisoned not more than six (6) months or both. Each disclosure shall constitute a separate offense.

E. Every taxpayer shall retain all records necessary to compute the tax liability under this Ordinance for a period of three (3) years from the date his return is filed, or the withholding taxes are paid.

SECTION 10 INTERESTS AND PENALTIES

A. All taxes imposed and all monies withheld or required to be withheld by employers under the provisions of this Ordinance and remaining unpaid after they become due shall bear interest at the rate of one percent (1%) per month or a fraction thereof.

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

1. The taxpayer upon whom said taxes are imposed and any employer required by this Ordinance to deduct, withhold and pay taxes imposed by this Ordinance, shall be liable in addition hereto to a penalty of five percent (5%) of the amount of the unpaid tax up to the first month after the tax becomes due and ten percent (10%) of the unpaid tax if paid during the second and third months and fifteen percent (15%) thereafter.

C. A penalty shall not be assessed on an additional tax assessment made by the Tax Commissioner when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Tax Commissioner; 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 final determination of the federal tax liability.

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

SECTION 11 COLLECTION OF UNPAID TAXES

A. All taxes imposed by this Ordinance shall be collectible, together with any interest and penalties thereon, by suit as other debts of like amount are recoverable. No additional assessment shall be made after three years from the time of payment of any tax due hereunder 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 percent (25%) of that required to be reported, 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 District Director 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 Commissioner shall be extended three (3) years from the time of the final determination of federal tax liability.

B. All taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the time of payment thereof or within three (3) years after determination of the federal tax liability.

SECTION 12 VIOLATIONS AND PENALTIES

A. Any person who shall:

Fail, neglect or refuse to make any return or declaration required by this Ordinance; or

Shall knowingly make any incomplete, false or fraudulent tax return; or

Fail, neglect or refuse to pay the tax, penalties or interest imposed by this Ordinance; or

Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Tax Commissioner; or

Refuse to permit the Tax Commissioner or any duly authorized agent or employee to examine his books, records, papers and federal income tax returns relating to the income or net profits of a taxpayer; or

Fail to appear before the Tax Commissioner and to produce his books, records, papers or federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Commissioner; or

Refuse to disclose to the Tax Commissioner any information with respect to the income or net profits of a taxpayer; or

Fail to comply with the provisions of the Ordinance or any order or subpoena of the Tax Commissioner authorized hereby; or

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

Fail to use ordinary diligence in maintaining proper records of employee's addresses, total wages paid and Botkins tax withheld or to knowingly give the Commissioner false information; or

Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this Ordinance.

Shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six (6) months or both, for each offense.

Prosecutions for an offense made punishable under this SECTION or any other provisions 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 income required to be reported, prosecutions may be commenced within six (6) years after the commission of the offense.

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

SECTION 13 BOARD OF REVIEW

A. A Board of Review, consisting of a Chairman and two other individuals to be appointed by the Mayor, is hereby created. A majority of the numbers 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 may be conducted privately, and the provisions of SECTION 9 hereto 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 Commissioner under the authority conferred by this Ordinance must be approved by the Board of Review before the same becomes effective. The Board shall hear and pass on appeals from any ruling or decision of the Commissioner, and, at the request of the taxpayer or Commissioner, is empowered to substitute alternate methods of apportionment.

C. Any person dissatisfied with any ruling or decision of the Commissioner which is made under the authority conferred by this Ordinance may appeal therefrom to the Board of Review within thirty (30) days from the announcement of such ruling or decision by the Commissioner, and the Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof.

SECTION 14 APPORTIONMENT OF FUNDS

Section 14.1 The One Percent (1%) Tax

A. The funds collected under the provisions of Ordinance 632 shall be applied for the following purposes, and in the following order:

1. Such part thereof as shall be necessary to defray all cost and expenses of collecting the taxes levied by Ordinance 632 and the cost of administering the enforcing the provisions hereof.

2. That eighty percent (80%) of the remaining revenue, after the cost and expenses of collecting, administering and enforcing the taxes levied under Ordinance 632, shall be paid into the Capital Improvement Fund for the purpose of construction, acquisition, maintenance and operation of capital improvements and the cost incidental thereto.

3. The balance of any such funds collected under the provisions of Ordinance 632 shall be placed in the General Improvement Fund of the Village of Botkins.

Section 14.2 The One Half Percent (½%) Tax

A. The funds collected under the provisions of Ordinance 88-16 shall be applied for the following purposes and in the following order:

1. Such part as shall be necessary to defray all cost and expenses of collecting the taxes levied by Ordinance 88-16 and the cost of administering the enforcing such provisions.

2. That one hundred percent (100%) of the remaining revenue, after the cost and expenses of collecting, administering and enforcing the taxes levied under Ordinance 88-16, shall be paid into the Capital Improvement Fund for the purpose of construction and acquisition of capital improvements and new equipment in the Village of Botkins, and the costs incidental.

SECTION 15 CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES

SECTION 15.1 The One Percent (1%) Tax

Resident individuals of Botkins who are required to pay and do pay tax to a municipality other than Botkins on qualifying wages, commissions, and other compensation for work done or services performed outside Botkins or net profits from businesses, professions or other activities conducted outside Botkins may claim a credit of the amount of the tax paid by them or on their behalf to such other municipality to the extent of the tax imposed by Ordinance 632 on such income, such credit being limited to one percent (1%) of the amount of income tax by both the Village of Botkins and such other municipality. A return must be filed for the purpose of claiming such credit or allowance, together with such evidence of the payment of similar tax to the municipality in which such resident has a source of income as the Tax Commissioner may require.

Section 15.2 The One Half Percent (½%) Tax

Resident individuals of Botkins who are required to pay and do pay tax to a municipality other than Botkins on qualifying wages, commissions, and other compensation for work done or services performed outside Botkins or net profits from businesses, professions or other activities conducted outside Botkins may claim a credit of the amount of the tax paid by them or on their behalf to such other municipality to the extent of the tax imposed by Ordinance 88-16 on such income, such credit being limited to one half percent (½%) of the amount of income tax by both the Village of Botkins and such other municipality. A return must be filed for the purpose of claiming such credit or allowance, together with such evidence of the payment of similar tax to the municipality in which such resident has a source of income as the Tax Commissioner may require.

SECTION 16 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 provided for in this Ordinance. In any sentence, clause, section or part of this Ordinance, or any tax against or exemption 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 for the Village of Botkins that this Ordinance could have been adopted had such unconstitutional, illegal or invalid sentence or part not been included.

SECTION 17 DATE OF ENACTMENT

Section 17.1 The One Percent (1%) Tax

Ordinance 632, upon its passage, shall be effective January 1, 1976, and shall remain in full force and effect until repealed by the Council of the Village of Botkins.

Section 17.2 The One Half Percent (½%) Tax

Ordinance 88-16, upon its passage, shall be effective July 1, 1988, and shall remain in full force and effect until repealed by the Council of the Village of Botkins.

VILLAGE OF BOTKINS, OHIO

AMENDED AND RESTATED INCOME TAX RULES AND REGULATIONS
ORDINANCE NO. 04-08

ADOPTED BY THE COUNCIL OF THE VILLAGE OF BOTKINS JUNE 8, 2004

ARTICLE I PURPOSE

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

ARTICLE II DEFINITIONS

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

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

THE BOARD means the Board of Review provided for under the Ordinance.

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

BUSINESS APPORTIONMENT as used in these regulations, means the portion of net profits to be apportioned to the Village of Botkins as having been made in Botkins under the three factor formula of property, payroll, and sales, provided for in the Ordinance.

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

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 domicile once acquired is presumed to continue until it is shown to have been changed. Intention to change domicile will not effect such a change unless accompanied by actual removal. Where a

change of domicile is alleged, the burden of proving it rests upon the person making the allegation.

EMPLOYEE means one who works for wages, salary, commission or other types of compensation in the service of an employer. Any person upon whom an employer is required to withhold for either federal income or social security or on whose account payments are made under the Ohio Workmen's Compensation law shall prima facie be an employee.

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

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

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

GENERIC FORM means an electronic or paper form designed for reporting 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.

GROSS RECEIPTS means total income from any source whatsoever.

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

INTANGIBLE INCOME means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701. of the Ohio Revised Code, and patents, copyrights, trademarks, trade names, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes,

awards, or other income associated with any lottery winnings or other similar games of chance.

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

LIMITED LIABILITY COMPANY means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.

NON-RESIDENT means an individual domiciled outside of the Village of Botkins.

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

THE or THIS ORDINANCE means Ordinance No. 632 enacted by the Council of Botkins effective January 1, 1976, and Ordinance 88-16, enacted by the Council of Botkins effective July 1, 1988, and any amendments and supplements.

OWNER means a partner of a partnership, a member of a limited liability company, a shareholder of an S corporation, or other person with an ownership interest in a pass-through entity.

OWNER'S PROPORTIONATE SHARE, with respect to each owner of a pass-through entity, means the ratio of (a) the owner's income from the pass-through entity that is subject to taxation by the municipal corporation, to (b) the total income from that entity of all owners whose income from the entity is subject to taxation by that municipal corporation.

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

PERSON includes individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities, and any other entity.

PLACE OF BUSINESS means any BONA FIDE office (other than a more 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.

PRINCIPAL PLACE OF BUSINESS means in the case of an employer having its 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 an employer not having its headquarters activities at a place of business within a taxing municipality, the term means the largest place of business located in a taxing municipality.

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

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

RESIDENT means an individual domiciled in Botkins.

RESIDENT UNINCORPORATED BUSINESS ENTITY means an unincorporated business entity having an office or place of business within Botkins.

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

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

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

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

TAX COMMISSIONER means the Income Tax Commissioner of the Income Tax Department of the Village of Botkins, or the person executing the duties of the aforesaid Commissioner.

TAXABLE INCOME means qualifying wages paid by an employer or employers, compensation for personal services, other income defined by the statute as taxable, and/or adjusted federal taxable income from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of the Ordinance and these regulations.

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

TAXPAYER means an individual, association, corporation or other entity required by the Ordinance to file a return and/or to pay a tax. **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.

VILLAGE means the Village of Botkins.

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

ARTICLE III IMPOSITION OF TAX

Article III.1 The One Percent (1%) Tax

A. Bases

1. Resident Employee:

a. In the case of residents of the Village an annual tax of 1% is imposed on all salaries, wages, commissions, and other compensation earned during the effective period of Ordinance No. 632. For the purpose of determining the tax on the earnings of resident taxpayers taxed under Section 3, the source of the earnings and the place or places in or at which the services were rendered, are immaterial. All such earnings wherever earned or paid are taxable.

b. The following are items which are subject to the tax imposed by Section 3, paragraph A.1.:

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

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

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

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

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

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

board, body, branch, bureau, department, division, sub-division, section or unit, or any other entity.

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

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

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

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

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

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

.5 Payments made to employees by an employer as vacation wages are taxable. Payments made to an employee by an employer under a wage continuation plan during periods of disability or sickness, are taxable.

.6 Sums deducted from gross wages or other compensation for retirement purposes (deferred compensation) are taxable.

.7 If the income appears on a W-2 form and is not shown to be an exception in accordance with paragraph (E) hereof (Exceptions), it shall be considered other compensation and therefore taxable to the individual. This includes, but is not limited to:

.01 Tips, bonuses, fees, gifts in lieu of pay, gratuities.

.02 Supplemental unemployment compensation benefits described in section 3402(o)(2) of the Internal Revenue Code.

.03 Strike pay; grievance pay.

.04 Incentive payments, no matter how described, including, but not limited to payments to induce early retirement.

.05 Severance pay.

.06 Car allowance, personal use of employer-provided vehicle.

.07 Group term life insurance to the extent taxable to the federal government.

.08 Sick pay or disability pay whether paid by the employer to the employee or through a third party.

.09 Contributions by an employee or on behalf of an employee from gross wages, into an employee or third party trust or pension plan as permitted by any provision of the Internal Revenue Code which may be excludable from gross wages for federal income tax purposes (401K plans and similar plans).

.10 The value of employer sponsored plans which permit the participant to reduce his taxable income for federal tax purposes. Such a reduction does not cause the gross wage or salary to lose its character as a gross wage or salary subject to the provisions of section 171.03(a) (cafeteria plans and the like).

.11 The ordinary income portion of a stock option or employee stock purchase plan to the extent that it is shown on the W-2 as ordinary income and is includable on the taxpayer's federal income tax return.

.12 Trusts not made pursuant to employee's retirement.

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 clergy are not to be considered as income.

2. Non-resident Employee:

a. In the case of individuals who are not residents of the Village, there is imposed under Section 3, paragraph A.2., a tax of 1% on all qualifying wages, commissions, other compensation, and taxable income earned or received during the effective period for work done or services performed or rendered within the Village whether such compensation or remuneration is received or earned directly or through an agent and whether paid in cash or in property. The location of the place for which payment is made is immaterial.

b. The items subject to tax under Section 3, paragraph A.2. 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 Village, in cases involving compensation for person services partly within and partly without the Village, see Article VI.A.6.

3. a. 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 Village, there is imposed an annual tax of 1% on the net profits earned, accrued or received during the effective period attributable to the Village, under the formula or separate accounting method provided for in Section 3, derived from sales made, work done or services performed or rendered and business or other activities conducted in the Village.

.2 The tax imposed on resident associations or other unincorporated entities owned by two or more persons is upon the entities rather than the individual members or owners thereof but the tax imposed on an unincorporated resident entity owned by one person is upon the individual owner. (For tax on that part of a resident owner's distributive share of net profits not taxed against the entity, see ARTICLE III.A.3b).

.3 The tax imposed by Section 3, paragraph A.3a is imposed on all resident unincorporated entities having net profits attributable to the Village under the business apportionment percentage formula, regardless of where the owner or owners of such resident unincorporated business entity reside.

.4 Resident unincorporated entities owned by two or more persons all of whom are residents of the Village shall disregard the business apportionment percentage formula, 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.

.5 The tax imposed shall not apply to income derived within the Village by any person from interstate commerce if the only business activities within the State of Ohio by or on behalf of such person are either or both the following:

.01 Solicitation of orders by such person, or his representative, in the State of Ohio for sales of tangible personal property, which orders are sent outside the State of Ohio for approval or rejection, and, if approved, are filled by shipment or delivery from a point outside the State of Ohio; and

.02 The solicitation of orders by such person, or his representative in the State of Ohio, in the name of or for the benefit of a prospective customer of such person, if orders by such customer to such person to enable such customer to fill orders resulting from such solicitations are orders described in subsection a. above; provided, however, that the provisions of this subsection shall not apply to any corporation which is incorporated under the laws of the State of Ohio or any individual who is domiciled in or a resident of the State of Ohio. For the purpose of this subsection a person shall not be considered to have engaged in a business activity within the State of Ohio during any taxable year merely by reason of sales in the State of Ohio, or the solicitation of orders for sales within the State of Ohio, of tangible personal property on behalf of such person by one or more independent contractors or by reason of the maintenance of an office within the State of Ohio by one or more independent contractors whose activities on behalf of such person in the State of Ohio consist solely of making sales or soliciting orders for sales of tangible personal property. For the purpose of this subsection the term "independent contractor" means a commission agent, broker, or other independent contractor who is engaged in selling or soliciting orders for sales of tangible personal property for more than one principal and who holds himself out as such in the regular course of his business activities. For the purpose of this subsection, the term "representative" does not include an independent contractor.

b. Imposition of Tax on Resident's Distributive Share of Profits of a Resident Unincorporated Business Entity, Not Attributable to the Village.

.1 A resident individual who is sole owner of a resident unincorporated entity shall disregard the business apportionment percentage formula and pay the tax on the entire net profits of this resident unincorporated business entity by the Village.

.2 In the case of a resident individual partner or part owner of a resident unincorporated entity, there is imposed an annual tax of 1% on such individual's distributive share of net profits earned, accrued or received during the effective period not attributable to the Village, under the business apportionment percentage formula provided for in Section 3, and not taxed against the entity by the Village.

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

.1 In the case of non-resident unincorporated businesses, professions, enterprises, undertakings, or other activities conducted, operated, engaged in, prosecuted or carried on, there is imposed an annual tax of 1% on the net profits earned, accrued or received during the effective period attributable to the Village, under the business apportionment percentage formula.

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

.3 Non-resident unincorporated entities owned by two or more persons all of whom are residents of the Village may elect to disregard the business apportionment percentage formula and pay the tax on the entire net profits. In such case, the tax paid by the entity shall constitute all tax due from the owners or members of the entity for their distributive share of the net profits; however, a return shall be required from such owner or member having taxable income other than the distributive share of the net profit from the entity. See Article XV for credits.

b. Imposition of Tax on Resident's Share of Profits of a Non-Resident Unincorporated Business Entity Not Attributable to the Village. See Article XV for Credits.

.1 A resident individual who is sole owner of a not resident unincorporated business entity shall disregard the business apportionment percentage formula and pay the tax on the entire net profits of this unincorporated entity.

.2 In the case of a resident individual partner or part owner of a non-resident unincorporated entity there is imposed an annual tax of 1% on such individual's distributive share of net profits earned, accrued or received during the effective period not attributable to the Village under the business apportionment percentage formula provided for in Section 3 of the Ordinance and not taxed against the entity by the Village.

5. Imposition of Tax on Net Profits of Corporations.

a. In the case of corporations, whether domestic or foreign and whether or not such corporations have an office or place of business in the Village, there is imposed an annual tax of 1% on the net profits earned received or accrued during the effective period attributable to the Village under the business apportionment percentage formula .

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

c. Corporations which are required by the provisions Section 5727.38 to 5727.41, inclusive, of the Revised Code of Ohio, to pay an excise tax in any taxable years as defined by Ordinance No. 632, may exclude that part of their gross receipts upon which the excise tax is paid. In such case, expenses incurred in the production of such gross receipts shall not be deducted in computing net profits subject to the tax.

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 means, for a taxpayer other than an individual, the 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.

.2 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:

.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 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;

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

.05 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;

.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;

.001 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

.002 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.

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

b. GROSS RECEIPTS.

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

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

c. EXPENSES.

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

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

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

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

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

.05 Only taxes directly connected with the business may be claimed as a deduction. If for any reason the income from property is not subject to the tax, then taxes on and

other expenses of said property are not deductible. In any event, the following taxes are not deductible from income: (1) the tax under Ordinance No. 632; (2) federal or other taxes based upon income exclusive of the amount of Ohio franchise tax computed on the net worth basis; (3) gift, estate or inheritance taxes; and (4) taxes for local benefits or improvements to property which tend to appreciate the value thereof.

.06 If the taxpayer reports income that is nontaxable under Ordinance No. 632 and such amounts are deducted in order to reconcile the Village return with the taxpayer's federal income tax return, expenses attributable to this nontaxable income shall not be allowed. In the absence of records showing the actual expenses attributable to such nontaxable income, and upon approval of the Commissioner, such amount shall be deemed to equal five percent of such nontaxable income. Non-taxable income given capital gain treatment on the federal return, from which attributable expenses were already deducted, is not subject to the foregoing.

.07 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 allowed by the Internal Revenue Service for federal income tax purposes but only to the extent such 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" and upon the request of the Tax Commissioner, 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 Tax Commissioner shall result in disallowance of the expenses in question.

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

.09 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.

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

.11 With respect to certain tangible personal property used in business, the "federal investment credit" for current year investments, as determined for federal income tax purposes, shall be treated as a deduction from income with respect to new or used property, (subject to federal tax limitations in the case of used property), acquired after December 31, 1961, and the remaining costs shall be depreciated in succeeding years on the same basis used for federal income tax purposes. In the event the "Federal Investment Credit" is required to be adjusted by reason of a sale or other early

disposition affecting the original amount of the "Federal Investment Credit", such adjustment must be reported and treated as taxable income in the year of such sale or other early disposition.

.12 Capital gains and losses from sale, exchange or other disposition of property shall not be taken into consideration in arriving at net profits earned. Any amount received on a sale or other disposition of tangible personal property used in business, in excess of book value, shall be treated as taxable income under Ordinance No. 632 to the extent of depreciation allowable after January 1, 1976. The balance shall be treated as capital gain.

7. Rentals from Real Property.

a. Rentals received by the taxpayer are to be included only if and to the extent that the rental, ownership, management or operation of the real estate from which such rentals are derived (whether so rented, managed or operated by the taxpayer individually or through agents or other representatives) constitutes a business activity of the taxpayer in whole or in part.

b. 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.

c. Rentals received by a taxpayer engaged in the business of buying and selling real estate shall be considered as part of business income.

d. Real property, as the term is used in this regulation, shall include commercial property, residential property, farm property, and any and all other types of real estate.

e. In determining the taxable income from rentals, the deductible expenses shall be of the same nature, extent and amount as are allowed by the Internal Revenue Service for federal income tax purposes.

f. Residents of the Village are subject to taxation upon the net income from rentals (to the extent above specified), regardless of the location of the real property owned.

g. Non-residents of the Village are subject to such taxation only if the real property is situated within the Village.

h. Corporations owning or managing real estate are taxable only on that portion of income derived from property located in the Village.

8. Royalties:

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

9. Gambling Winnings:

a. Gambling winnings as reported on Internal Revenue Service Form W-2G, Form 5754 and or any other forms required by the Internal Revenue Service that reports winnings from gambling.

B. Apportionment of Business Profits.

1. Business Apportionment Percentage Formula.

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

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

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

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

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

b. STEP 2: Ascertain the percentage which the total wages salaries, commissions and other compensation of employees within the Village is of the total wages, salaries, commissions and other compensation of all the taxpayer's employees within and without the Village 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 Village the amount treated as compensation for services performed within the Village shall be deemed to be:

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

.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 Village bears to the value of all his services ; and

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

.04 Provided however, an employee regularly connected with or working out of a place of business maintained by the taxpayer in the Village who performs seventy-five percent (75%) or more of his services within the Village be considered an employee within the Village.

All employees regularly connected with or working out of a place of business maintained by the taxpayer outside the Village who performs twenty-five percent (25%) or less of their services within the Village shall be considered employees outside the Village. The provisions of this subsection are not applicable in determining the tax liability of a nonresident who works in and outside the Village.

c. STEP 3: Ascertain the percentage which the gross receipts of the taxpayer derived from sales made and services rendered in the Village is of the total gross receipts wherever derived during the period covered by the return. All resident corporations, unincorporated businesses, or other entities whose principal place of business is within the Municipality, shall be considered a resident Municipal business and be subject to the following provision:

If the sales apportionment percentage is less than one hundred percent (100%), a statement shall be submitted with the return indicating: (1) other municipalities to which sales are apportioned; (2) percentage of sales apportioned to each municipality; (3)

whether or not a return was filed and tax paid on the sales apportioned to each municipality. Failure to submit this statement (or when the statement indicates no other municipal tax was filed and paid), shall result in all sales being considered as sales of the Village.

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

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

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

.03 All sales of tangible personal property delivered to purchasers within the Village even though transported from a point outside the Village if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the Village 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 Village to purchasers outside the Village if the taxpayer is not, through its own employees regularly engaged in the solicitation or promotion of sales at the places of delivery.

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

.2 In the application of the foregoing subparagraphs a carrier shall be considered the agent of the seller regardless of the FOB point or other conditions of the sale; and the place at which orders are accepted or contracts legally consummated shall be immaterial. Solicitation of customers outside the Village by mail or phone from an office, or place of business within the Village shall not be considered a solicitation of sales outside the Village.

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

e. STEP 5: The business apportionment percentage determined in Step 4 above shall be applied to the entire taxable net profits of the taxpayer wherever derived to determine the net profits apportioned to the Village.

2. Substitute Method:

a. In the event a just and equitable result cannot be obtained under the business apportionment percentage formula, the Board, upon application of the taxpayer or the Commissioner, may substitute other factors in the business percentage formula or prescribe other methods of apportioning net income calculated to effect a fair and proper apportionment.

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

3. In the case of professional people and others furnishing personal services, if their only place of business is within the Village all their net profits shall prima facie be attributable to the Village.

C. Operating Loss Carry Forward.

1. The portion of a net operating loss, based on income taxable under Ordinance No. 632, sustained in any taxable year subsequent to January 1, 1976 apportioned to the Village may be applied against the portion of the profit of succeeding year(s) apportioned to the Village, until exhausted but in no event for more than five (5) taxable years. No portion of a net operating loss shall be carried back against net profits of any prior year.

2. In the event net profits are apportioned both within and without the Village, the portion of a net operating loss sustained shall be apportioned to the Village in the same manner as provided herein for apportioning net profits to the Village. The portion of a net operating loss to be carried forward shall be determined in the year the net operating loss is sustained, on the basis of the apportionment factors applicable to that year. The same method of accounting and apportionment must be used in the year to which an operating loss is carried as was used in the year in which the operating loss was sustained.

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

4. A short fiscal year (a fiscal year of less than twelve (12) months) in cases where there has been a change in accounting period, where a new taxpayer selects a short fiscal year, or where a new taxpayer operates in the Village for less than his full accounting period, shall be considered as a full taxable fiscal year

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

a. Year in which net operating loss was sustained.

b. Method of accounting and apportionment used to determine portion of net operating loss apportioned to the Village.

c. Amount of net operating loss used as a deduction in prior years.

d. Amount of net operating loss claimed as a deduction in current year.

6. The net operating loss of a business which loses its identity through merger, consolidation, etc., shall not be allowed as a carry-forward loss deduction to the surviving business entity.

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

D. Consolidated Returns:

1. Consolidated returns may be filed by a group of corporations who are affiliated through stock ownership. For a subsidiary corporation to be included in a consolidated return, 80% of its stock must be owned by the other members of the affiliated group. A consolidated return must include all companies which are so affiliated in accordance with IRS regulations.

2. Once a consolidated return has been filed for any taxable year, the consolidated group must continue to file consolidated returns in subsequent years unless:

a. Permission in writing is granted by the Commissioner 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 total number of days in the taxable year.

4. In determining the apportionment fraction where a corporation becomes a member of the group or ceases to be a member of the group during the taxable year, the property fraction (Step 1 of the formula) shall be determined on the basis of the average net book value of the property during the period such corporation was a member of the group. The rental portion of the fraction, however, shall be computed at 8 times the annual rent. The gross receipts and wage fractions shall be based on the actual figures.

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

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

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

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

E. Exceptions.

The following shall not be considered taxable.

1. The 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.
2. Poor relief, pensions, unemployment insurance benefits, supplemental unemployment benefits, old age benefits, old age pensions or similar payment received from local, state, or federal governments or from charitable, religious, or educational organizations.
3. Proceeds of insurance, annuities, workers' compensation insurance, permanent disability benefits, compensation for damages for personal injury and similar reimbursements, not including damages for loss of profits and wages, welfare benefits, unemployment insurance benefits, social security benefits, and qualified retirement plans as defined by the Internal Revenue Service.
4. Alimony/spousal support received.
5. Income, dues, contributions, receipts from casual entertainment, amusements, sports events and health and welfare activities received by religious, fraternal, charitable, scientific, literary, educational institutions or organizations.
6. Any association, organization, corporation, club or trust, which is exempt from federal taxes on income by reason of its charitable, religious, education, literary, scientific, etc. purposes, to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities;

Any association or organization falling in the category listed in this 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 from the Village of Botkins income tax and is required to file declarations and final returns and remit taxes levied under this Ordinance.

Where such non-profit association or organization receives taxable income as provided in the preceding paragraph from real or personal property ownership or conducts income producing business both within and without the corporate limits, it shall calculate its profits apportioned to the Village under the method or methods provided above.

7. 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).
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8. Earnings and income of all persons under seventeen (17) years of age whether residents or nonresidents.
9. Ministers' Housing Allowance.
10. Pay received for work performed at an election precinct for amounts less than One Thousand Dollars (\$1,000) during a calendar year.
11. Compensation paid to an employee of a transit authority for operating a transit bus in or through the Village of Botkins, unless the bus is operated on a regularly scheduled route, the operator is a resident or domiciled in the Village of Botkins, or the headquarters of the authority or commission is located within the Village of Botkins;
12. Intangible income;
13. Interest and dividends from intangible income;
14. Compensation for damage to property by way of insurance or otherwise.
15. On and after January 1, 2003, items excluded from federal gross income pursuant to Section 107 of the Internal Revenue Code.
16. On and after January 1, 2001, compensation paid to a nonresident individual for personal services performed by the individual in the Village of Botkins, 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 local taxing authority that imposes a tax applying to compensation paid to an individual for services paid on those days; and the individual is not liable to that other local taxing authority for tax on the compensation paid for such services.
 - b. The individual is a professional entertainer or professional athlete, the promoter of a professional entertainer or sports event, or an employee of such promoter, all as may reasonably defined by the Village of Botkins.
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 the Village of Botkins may tax the following, subject to Chapter 5745 of the Ohio Revised Code:
 - a. The income of an electric company or combined company; or
 - b. The income of a telephone company.

As used in this paragraph, "electric company," "combined company," and "telephone company" have the same meanings as in Section 5727.01 of the Ohio Revised Code.

18. If exempt for federal income tax purposes, fellowship and scholarship grants are excluded from the Village of Botkins income tax.

19. Generally the above noted items in this Section are the only forms of income not subject to the tax. Any other income, benefits, or other forms of compensation shall be taxable.

Article III.2 The One Half Percent (½%) Tax

The one half percent (½%) annual tax for the purposes specified in Ordinance 88-16, shall be levied and collected in the manner as set forth in Article III.1, and not levied on the items set forth in Article III.1.(E).

ARTICLE IV EFFECTIVE PERIOD OF TAX

Article IV.1 The One Percent (1%) Tax

A. The tax imposed by Section 3.1, paragraphs A.1. and A.2. of Ordinance No. 632, shall be levied, collected and paid with respect to qualifying wages, bonuses, incentive payments, commissions, fees, and other compensation earned on or received and after January 1, 1976.

B. The tax imposed by Section 3.1, paragraphs A.3., A.4., and A.5. of the Ordinance, with respect to net profits of trades, businesses, professions, enterprises, undertakings and other activities is on the net profits earned on or received and after January 1, 1976.

Article IV.2 The One Half Percent (½%) Tax

A. The tax imposed by Section 3.2 of Ordinance No. 88-16 shall be levied, collected and paid with respect to qualifying wages, bonuses, incentive payments, commissions, fees, and other compensation and earned on and after July 1, 1988.

B. The tax imposed by Section 3.2 of Ordinance No. 88-16 with respect to net profits of trades, businesses, professions, enterprises, undertakings and other activities is on the net profits earned on and after July 1, 1988.

ARTICLE V RETURN AND PAYMENT OF TAX

A. Date and Requirement For Filing.

1. On or before April 15th of the year following the effective date and each year thereafter, every person subject to the provisions of Section 3, paragraphs A.1. to A.5.,

inclusive, shall, except as hereinafter provided, make and file with the Commissioner, a return on a form prescribed by and obtainable upon request from the Commissioner, or a generic form which must contain all of the information requested on the tax form as provided by the tax commissioner, whether or not a tax be due.

2. If the return is made for a fiscal year or any period less than a year, said return shall be made within four (4) months from the end of each fiscal year or other period.

3. Every person subject to the provisions of Section 3 shall, except as hereinafter provided, file a return setting forth the aggregate amount of qualifying wages, commissions, other compensation, and other taxable income, 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 Commissioner may require.

4. Where an employee's entire earnings for the tax period are paid by a resident employer or resident employers, and the proper 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 resident employer of such employee has filed a report or return in which such employee's entire and only earnings are reported to the Commissioner, and where such employee has no taxable income other than such earnings and the tax so withheld has been paid to the Commissioner, such employee need not file a return.

5. An employee who is permitted to deduct business expenses from qualifying wages, commissions, or other taxable income, must file a return in order to claim such deductions even though all or part of such qualifying wages, commissions, or other taxable income are subject to withholding.

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

7. Any taxpayer having income, wages, or other compensation for which a return must be filed, and also having net profits from a business covering the same or a different period, is required to file only one return.

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

9. Except as provided for herein, the tax is on the partnership or association as an entity whether resident or non-resident and a return is required disclosing the net profits apportioned to the Village and the tax paid thereon. However, any resident partner or resident member of the unincorporated entity is required to make a return and pay the tax in accordance with Article III.1.A.3.b..2. of these regulations.

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

11. Operating losses from business or professional activities, the profits of which would be taxable under the Ordinance, may be offset against salaries, wages, commissions and other-personal service compensation or against not profits from other business or professional activities. To the extent that such losses are offset they shall not be allowable as an operating loss carry forward under Section 3.1.D. of the Ordinance of Article III.1.C of the regulations.

12. Executors and administrators are liable for the payment of any taxes due by a deceased from an estate of such deceased.

13. An employer shall withhold the tax on the full amount of any advances made to an employee on account of commissions.

B. Information Required and Reconciliation With Federal Returns

1. In returns filed hereunder, there shall be set forth the aggregate amount of salaries, wages, bonuses; incentive payments, commissions, fees and other compensation less reasonable allowable expenses incurred subject to the tax earned from each employer, taxable net profits and other pertinent information as the Commissioner may require.

2. Where figures of total income, total deductions, and net profits are included, as shown by a federal return, any items of income as are not subject to the Village's tax and unallowable expenses shall be eliminated in determining net income subject to the Village's tax. In the absence of records showing the actual unallowable expenses, such expenses shall be determined in accordance with Article III.1.A-6.c. of these regulations. The fact that any taxpayer is not required to file a federal tax return does not relieve him from filing the Village'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 Village, a report of such change shall be filed by the taxpayer within three (3) months after receipt of the final notice from the Federal Internal Revenue Service or final Court decision.

4. If a change in federal income tax liability results in a reduction of taxes owed and paid to the Village a claim for refund shall be filed with the Commissioner as prescribed in Section 11 of the Ordinance and Article XI.B. of these regulations.

C. Extensions.

1. Upon written request of the taxpayer, or upon the receipt of a copy of the taxpayer's federal extension, postmarked on or before the date for filing the return, and for good cause shown, the Commissioner may extend the time for filing such return for a period equal to that allowed or allowable, or granted by the Federal Internal Revenue Service. Whenever he deems such necessary, the Commissioner may require a tentative return

accompanied by payment of the estimated tax. No penalty will be assessed in those cases in which the return is filed and the final tax paid within the period as extended provided an estimated tax, equal to or greater than 90% of the taxpayer's previous year's liability, is paid on or before the original filing date of the return. Interest will be assessed on any remaining balance found to be due upon receipt of the extended tax return and that all other filing and payment requirements of the Ordinance have been met.

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

D. Payment With Return.

1. The taxpayer making a return shall, at the time of the filing thereof, pay to the Commissioner 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 Village is entitled under the provisions of the Ordinance may have such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such overpayment (or part thereof) shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded.

E. Amended Returns.

1. Where necessary an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Section 11 and 12. Such amended return shall be on a form obtainable on request from the Commissioner. 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 (Village) tax liability; such taxpayer shall make and file an amended (Village) return showing income subject to the Village's tax based upon such final determination of federal tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment.

ARTICLE VI COLLECTION OF TAX AT THE SOURCE

A. Duty of Withholding.

1. Except as otherwise provided herein, it is the duty of each employer within or doing business within the Village, who employs one or more persons whether as an employee, officer, director or otherwise, to deduct each time any compensation is paid the tax as required under this Ordinance from:
 - a. The gross amount of all salaries, wages, bonuses, incentive payments, fees, commissions or other forms of compensation paid to residents of the Village regardless of the place where the services are rendered; and
 - b. All compensation paid non-residents for services rendered, work performed or other activities engaged in within the Village.
 - 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 Village 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 Village, were performed outside the Village.
 3. Employers who do not maintain a permanent office or place of business in the Village, but who are subject to tax on net profits attributable to the Village, under the method of business apportionment percentage formula provided for in the Ordinance, are considered to be employers within the Village and subject to the requirement of withholding.
 4. The mere fact that the tax is not withheld will not relieve the employee of the responsibility of filing a return and paying the tax on the compensation paid. If the employer has withheld the tax and failed to pay the tax withheld to the Commissioner, the employee is not liable for the tax so withheld.
 5. Commissions and fees paid to professionals, 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 the regulations.
 6. Where a non-resident receives compensation for personal services rendered or performed partly within and partly without the Village, the withholding employer shall deduct, withhold and remit the tax on that portion of the compensation which is earned within the Village in accordance with the following rules of apportionment:
 - a. If the non-resident is in sales, an agent or other employee whose compensation depends directly on the volume of business transacted or chiefly effected by him, the deducting and withholding shall attach to the portion of the entire compensation which
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the volume of business transacted or chiefly effected by the employee within the Village bears to the total volume of business transacted by him within and outside the Village.

b. The deducting and withholding of personal service compensation of other non-resident employees, including officers of corporations, shall attach to the proportion of the personal service compensation of such employee which the total number of his working hours within the Village is of the total number of working hours.

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

d. The occasional entry into the Village of a non-resident employee who performs the duties for which he is employed primarily outside the city, shall not be deemed to take such employee out of the class of those rendering their services entirely outside the Village.

e. Wage continuation plans paid by the employer or third party agent on behalf of the employer for purpose of health, rest, recuperation or other reward are deemed to have the same tax situs as the primary job assignment or job location of the employee and are taxable on the same ratio as the normal earnings of such employee for this primary job assignment.

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 non-resident of the Village and has no knowledge to the contrary, shall be relieved of the responsibility of withholding the tax on personal service compensation paid to such employee for services rendered or work done outside the Village by such employee, provided, however, that such employer must withhold the tax on all personal service compensation paid such employee after the Commissioner notifies said employer in writing that such employee is a resident of the Village. All employees are required to notify the employer of any change of residence and the date thereof.

10. A Village employer required to withhold the tax from a Village 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 Village tax from such Village resident, except where the rate of tax for such other municipality is less than the rate of tax imposed by this Ordinance. In such case, the employer shall withhold and remit the difference to the Village.

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

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

1. The deductions from salaries, 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 earning or net profits) shall, on or before the last day of the month next following each quarterly period, make a return and pay to the Commissioner the full amount of the tax so deducted or withheld with respect to compensation paid all of his employees subject to the tax under the Ordinance. Provided, however, the Commissioner may require an employer to remit withholding taxes at more frequent intervals.

The return required to be filed under this article shall be made on a form furnished by or obtainable on request from the Commissioner.

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 Commissioner, 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 period the employer shall make the necessary adjustment directly with the employee and the amount to be reported on the return as withheld shall be the corrected amount;

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

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

b. Former employees:

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

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

c. Non-Residents Employed Outside the City:

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

d. Insufficient Withholding:

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

3. Every employer is deemed to be a trustee for the Village in collecting and holding the tax required under the Ordinance to be withheld and the funds so collected by such withholding are deemed to be trust funds.

4. Every such employer required to deduct and withhold the tax at the source is liable directly to the Village for payment of such tax whether actually collected from such employee or not.

5. On or before the last day of February, following any calendar year in which such deductions have been made by any employer, such employer shall file with the Commissioner, in the form prescribed by the Commissioner, an information return for each employee from whom the Village's income tax has been withheld, showing the name, address and social security number of the employee, the total amount of compensation paid during the year and the amount of the Village's income tax withheld from such employee.

6. For the convenience of employers, the information return may be made in one of three ways at the election each employer, as follows:

a. Those employers using Form W-2 furnished, commercially, may submit a copy of such commercial Form W-2, providing the copy furnished the Village clearly shows the information required in paragraph 5 immediately preceding..

b. Those employers not using Form W-2 furnished commercially may obtain forms upon request from the Commissioner.

c. Where the furnishing of this information as above indicated will create a distinct hardship the employer, upon written request to the Commissioner may be permitted to furnish a list of all employees subject to the tax, which list shall show the employee's full name, last known address, social security number, gross amount of compensation paid during the year and the amount of Village income tax withheld. Such list may be compiled on any mechanical equipment presently used by the employer, but provision must be made for spacing equal to at least three lines between each name. The employer's name must be indicated on each sheet, each sheet must be numbered and the total number of sheets comprising the complete report indicated on the first page.

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

7. In addition to such information returns, and at the time the same are filed, such employer shall file with the Commissioner a form to enable the Commissioner to reconcile the sum total of compensation paid and taxes withheld as disclosed by information return W-2, or list of employees, and prior returns and remittances made pursuant to the Ordinance.

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

ARTICLE VII DECLARATIONS

A. Requirement of Filing.

1. A declaration of estimated tax shall be filed by every taxpayer who may reasonably be expected to have taxable income, the tax on which is not or will not be withheld by an employer or employers. Where required such declaration shall be filed within four (4) months after the beginning of the taxable year.

2. A taxpayer's final return for the preceding year may be used as the basis for computing his declaration of estimated tax for the current year. In the event a taxpayer has not previously been required to file a return, a declaration of estimated tax on anticipated income shall be filed in good faith.

B. Date of Filing.

1. A person or other entity conducting a business not previously subject to the tax, or whose employer does not withhold the tax, shall file a declaration within four (4) months after the date he becomes subject to the tax.

2. Those taxpayers having a fiscal year or period differing from the calendar year shall file a declaration within four (4) months after the start of each fiscal year or period.

C. Form for Filing.

1. Such declaration shall be filed upon a form or forms furnished by, or obtainable from the Commissioner. Provided, however, credit shall be taken for the Village's tax to be withheld from any portion of such income. In accordance with the provisions of Section 15 of the Ordinance, credit may be taken for tax to be withheld and remitted to another taxing municipality.

2. The original estimate of tax liability or any subsequent amendment thereof may be increased or decreased by filing an amended declaration on or before any quarterly payment date as set forth in Article VII-D.1. Such amendment shall be made on the regular declaration form.

D. Dates of Payments.

1. The estimated tax may be paid in full with the declaration or in equal installments on or before the last day of the fourth, seventh, tenth and thirteenth month after the beginning of the taxable year. Corporations, partnerships, or other like business entities must remit the estimated tax on the fifteenth day of the fourth month of the taxpayer's taxable year and the fifteenth day of the sixth month, the fifteenth day of the ninth month, and the fifteenth day of the twelfth month of the taxpayer's taxable year. A grace period of fifteen (15) days will be granted for the filing of the declaration and payment of the estimated tax as imposed on all taxpayers whose estimated tax liability is due on the fifteenth day of any calendar month.

2. The declaration must be accompanied by at least 22.5% of the estimated tax shown due thereon.

3. In the event an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments over the remaining payment dates.

E. Final Returns Required.

1. The filing of a declaration does not relieve the taxpayer of the necessity of filing a final return even though there is no change in the declared tax liability. A final return must be filed to obtain a refund of any overpayment of over one dollar (\$1.00).

ARTICLE VIII

DUTIES OF THE TAX COMMISSIONER

A. Collection of Tax and Retention of Records.

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

B. Enforcement Provisions.

1. The Tax Commissioner 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 or any amendment thereof relating to any matter or thing pertaining to the administration and enforcement of the Ordinance. The Tax Commissioner has the authority to correct or adjust any return submitted, when a correction or adjustment is necessary to accomplish the intent of the Ordinance.
2. Any taxpayer or employer desiring a special ruling on any matter pertaining to the Ordinance or these rules and regulations, should submit to the Tax Commissioner in writing all the facts involved and the ruling sought.
3. These regulations, together with all amendments and supplements hereto and all changes herein, will be on file at the office of the Tax Commissioner, and will be open to public inspection during regular office hours.
4. The Tax Commissioner is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proved to the Tax Commissioner that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under the Ordinance.
5. Failure to make any deferred payment when due, shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Section 11 and 12 of the Ordinance shall apply.

C. Estimation of Tax by Tax Commissioner.

Whenever the Commissioner has been unable to secure information from the taxpayer as to his taxable income for any year, he may determine the amount of tax appearing to be due and assess the taxpayer upon the basis of such

determination, together with the interest and penalties as prescribed in Section 10 of the Ordinance.

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

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

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

A. Investigations by Commissioner.

1. The Tax Commissioner, 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 Tax Commissioner believes is subject to the provisions of the Ordinance, for the purpose of verifying the accuracy of any return made; or, if no return was made, to ascertain the tax due under the Ordinance.

2. An employer or taxpayer shall furnish, within ten (10) days following a written request by the Tax Commissioner, 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 Tax Commissioner, 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 Commissioner 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 Tax Commissioner's order to examine any document mentioned in the preceding paragraph shall state whether the examination is to be at the office of the taxpayer or at the office of the Tax Commissioner.

3. The Tax Commissioner 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 Tax Commissioner is specifically authorized to order the appearance of the local manager or representative of any taxpayer.

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

5. The notice shall be served by the Tax Commissioner, or his duly authorized agent, by delivering it to the person named personally, or by leaving the notice at his usual place of business or residence, or by mailing it to the person by registered mail, return receipt requested, addressed to his usual place of business or residence.

C. Penalty for Non-Compliance.

Refusal by any employer, supposed employer, taxpayer, or supposed taxpayer, or the refusal of any such person to appear before the Tax Commissioner 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 Tax Commissioner, required by the Ordinance or authorized by these rules and regulations shall be confidential and no disclosure thereof shall be made except for official purposes or as ordered by a court of competent jurisdiction. Any person divulging such information shall be guilty of a misdemeanor punishable by a maximum fine of Five Hundred Dollars (\$500.00) or imprisonment for not more than six (6) months, or both.

In addition to the above penalty, any employee of the Village or any employee of the collection agency 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.

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

B. Penalties.

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

1. The taxpayer upon whom said taxes are imposed and any employer required by this Ordinance to deduct, withhold and pay taxes imposed by this Ordinance, shall be liable in addition hereto to a penalty of five percent (5%) of the amount of the unpaid tax up to the first month after the tax becomes due and ten percent (10%) of the unpaid tax if paid during the second and third months and fifteen percent (15%) thereafter.

C. Exceptions.

1. No penalty shall be assessed on additional taxes found on audit to be due when a return was timely filed in good faith and the tax paid thereon within the prescribed time.

2. In the absence of fraud neither penalty nor interest shall be assessed on any additional taxes resulting from a federal audit for federal income tax purposes provided an amended return is filed and the additional tax paid within three (3) months after final determination of the federal tax liability.

D. Appeal from Assessment.

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

ARTICLE XI COLLECTION OF UNPAID TAXES AND REFUND OF OVERPAYMENTS

A. Unpaid Sums - Civil Suit.

1. All taxes imposed by the Ordinance and not paid when due become, together with interest and penalties thereon, a debt due the Village from the taxpayer and are recoverable as are other debts by civil suits. Employers who are required, under Section 6 of the Ordinance, to withhold and remit the taxes required to be withheld at the

source, and who fail to withhold and/or remit, become liable to the Village in a civil suit to enforce the payment of the deficiency created by such failure.

2. No additional assessment shall be made by the Commissioner after three (3) years from the time the return was due or filed, whichever is later. Provided, however, there shall be no period of limitation on such additional assessments in the case of a return that omits a substantial portion of income, or filing a false or fraudulent return to evade payment of the tax, or failure to file a return. Failure to report 25% or more of income required to be reported shall be considered a substantial omission.

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

B. Refunds and Overpayments.

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

2. No refund shall be made to any taxpayer until he has complied with all provisions of the Ordinance and has furnished all information required by the Commissioner, and has paid all taxes, penalties, and interest from any given year shown to be due.

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

- a. To taxes owed for any previous years in the order in which such taxes become due.
- b. To his current estimated tax liability.

C. Limitation.

1. Where the total amount due or refund claimed for a tax year is less than One Dollar (\$1.00), such amount shall not be collected or refunded.

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

3. An adjustment to a tax return by the department of taxation, after the return has been filed in good faith by the taxpayer, will not be made by the department if the result of the adjustment is equal to or less than Five Dollars (\$5.00) as an underpayment of an overpayment of tax.

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 any incomplete, false or fraudulent returns or
3. Willfully fail, neglect or refuse to pay the tax, penalties or interest imposed by this Ordinance; or
4. Willfully fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Tax Commissioner; or
5. Refuse to permit the Tax Commissioner or any duly authorized agent or employee to examine his books, records, papers and federal income tax returns relating to the income or net profits- of a taxpayer; or
6. Fail to appear before the Tax Commissioner and to produce his books, records, papers or federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Commissioner; or
7. Refuse to disclose to the Tax Commissioner any information with respect to the income or net profits of a taxpayer; or
8. Fail to comply with the provisions of the Ordinance or any order or subpoena of the Tax Commissioner authorized hereby; or
9. Give to an employer false information as to his true name, correct social security number and residence address, or fail to promptly notify an employer of any change in residence address and date thereof; or
10. Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and this Village's income tax withheld, or to knowingly give the Tax Commissioner false information; or
11. Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by the Ordinance.

Shall be guilty of a misdemeanor and shall be fined not more than Five Hundred Dollars (\$500.00) or imprisoned not more than six (6) months or both, for each offense.

B. Prosecutions.

Prosecutions for an offense made punishable under this Section or any other provision of this Ordinance shall be commenced within three (3) years after the commission of the

offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five percent (25%) or more of income required to be reported, prosecutions may be commenced within six (6) years after the commission of the offense.

C. Failure to Receive Forms - Not a Defense.

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

ARTICLE XIII BOARD OF REVIEW OR APPELLATE AUTHORITY

A. Composition.

A Board of Review, consisting of a chairman and two other individuals to be appointed by the Mayor of the Village is hereby created. 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 may be conducted privately and the provisions of Section 9 hereof 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 of Review.

B. Duties.

All rules and regulations and amendments or changes thereto, which are adopted by the Commissioner under the authority conferred by the Ordinance, must be approved by the Board of Review before the same become effective. The Board shall hear and pass on appeals from any ruling or decision of the Commissioner, and, at the request of the taxpayer or Commissioner, is empowered to substitute alternate methods of apportionment.

C. Appeals.

1. An appeal from a ruling of the Commissioner by a taxpayer or employer is effected by filing a notice of appeal with the Board within thirty (30) days after the announcement of the Commissioner's ruling or decision from which the appeal is taken. A copy of such notice of appeal must be filed with the Commissioner.

2. The Board, by a majority vote, may affirm, modify or reverse, in whole or in part any such ruling or decision of the Commissioner.

3. Hearings before the Board shall be private unless the taxpayer requests a public hearing.

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

Article XV.1 The One Percent (1%) Tax

A. Limitation.

1. Where a resident of the Village is subject to a municipal tax, on or measured by income, in another municipality either located within or without the state of Ohio, he shall not pay a total municipal tax on the same income greater than the tax imposed at the higher rate.

B. Credits to Residents.

1. Resident individuals of the Village who are required to pay and do pay tax to another municipality on qualifying wages, commissions, other compensation, and other taxable income for work done or services performed in such other municipality or on net profits from businesses, professions or other activities conducted in such other municipality, may claim a credit of the amount of tax paid by them or on their behalf to such other municipality but only to the extent of one percent (1%) tax imposed by the Ordinance on such compensation or net profits.

C. Method of Applying for Credit.

1. No credit will be given unless the taxpayer claims such on his final return or other form prescribed by the Commissioner, and presents such evidence of the payment of a similar tax to another municipality, as the Commissioner may require.

Article XV.2 The One Half Percent (½%) Tax

A. Limitation.

1. Where a resident of the Village is subject to a municipal tax, on or measured by income, in another municipality either located within or without the state of Ohio, he shall not pay a total municipal tax on the same income greater than the tax imposed at the higher rate.

B. Credits to Residents.

1. Resident individuals of the Village who are required to pay and do pay tax to another municipality on qualifying wages, commissions, other compensation, and other taxable income for work done or services performed in such other municipality or on net profits

from businesses, professions or other activities conducted in such other municipality, may claim a credit of the amount of tax paid by them or on their behalf to such other municipality but only to the extent of one half percent (½%) tax imposed by the Ordinance on such compensation or net profits.

C. Method of Applying for Credit.

1. No credit will be given unless the taxpayer claims such on his final return or other form prescribed by the Commissioner, and presents such evidence of the payment of a similar tax to another municipality, as the Commissioner may require.

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.

Although the tax imposed by the Ordinance will expire when the Ordinance is repealed, the Ordinance remains in full force and effect for purpose of collection and payment of taxes due and payable beyond that date; subject, however, to the provisions of Section 11 of the Ordinance with respect to the limitation of time within which an additional assessment may be made.

B. Payment of Taxes.

1. Taxes due and unpaid on account of compensation paid or received and on account of profits earned in the last effective year of the Ordinance or any part thereof which remains unpaid, are payable in full on or before the dates specified in Sections 5 and 6 of 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 Tax Commissioner.

2. For purposes of collection of delinquent or unpaid taxes, actions or proceedings for such collection and/or the collection of interest and penalties thereon, or enforcing any provisions of the Ordinance (including prosecutions under the criminal sections of the Ordinance and including appeals before the Board of Review), the Ordinance remains in full force and effect until such time as all taxes accruing during the term of the Ordinance shall have been fully paid, and all actions, suits, prosecutions, appeals and other judicial or administrative proceedings relative to the collection or payment of such taxes, have been finally terminated.

ARTICLE XVIII

A. From time to time amendments and supplements to these regulations may be issued by the Tax Commissioner, subject to approval by the Board of Review as provided in Section 13 of the Ordinance.

EXHIBIT B
Village of Botkins, Ohio, Income Tax Code
Effective January 1, 2016
For taxable years beginning with taxable year 2016

Section 1 AUTHORITY TO LEVY TAX

(A) The tax on income and the withholding tax established by this Income Tax Code of the Village of Botkins ("Code") are authorized by Article XVIII, Section 3 of the Ohio Constitution. The tax on income and the withholding tax established by this Code are deemed to be levied in accordance with, and to be consistent with, the provisions and limitations of Ohio Revised Code 718 (ORC 718). This Code is deemed to incorporate the provisions of ORC 718.

(B) The tax is an annual tax levied on the income of every person residing in or earning or receiving income in the municipal corporation, and shall be measured by municipal taxable income. The Municipality shall tax income at a uniform rate. The tax is levied on Municipal Taxable Income, as defined herein.

Section 2. PURPOSES OF TAX; RATE

A. The One Percent (1 %) Tax

The initial One Percent (1 %) of tax passed pursuant to Ordinance No. 632 shall be used to provide funds for the purposes of construction, maintaining, operating and acquiring of capital improvements and for general municipal operations in the Village of Botkins, Ohio, and there shall be and hereby is levied a tax on, qualifying wages, commissions and other compensation and on net profits and other taxable income as hereinafter provided.

B. The One Half Percent (1/2%) Tax

The additional one half percent (1/2%) tax passed pursuant to Ordinance No. 88-16 shall be used to provide funds for the construction and acquisition of capital improvements and new equipment in the Village of Botkins.

EXHIBIT A
Village of Botkins, Ohio, Income Tax Code
Effective January 1, 2016
For taxable years beginning with taxable year 2016

Section 1 AUTHORITY TO LEVY TAX

(A) The tax on income and the withholding tax established by this Income Tax Code of the Village of Botkins ("Code") are authorized by Article XVIII, Section 3 of the Ohio Constitution. The tax on income and the withholding tax established by this Code are deemed to be levied in accordance with, and to be consistent with, the provisions and limitations of Ohio Revised Code 718 (ORC 718). This Code is deemed to incorporate the provisions of ORC 718.

(B) The tax is an annual tax levied on the income of every person residing in or earning or receiving income in the municipal corporation, and shall be measured by municipal taxable income. The Municipality shall tax income at a uniform rate. The tax is levied on Municipal Taxable Income, as defined herein.

Section 2. PURPOSES OF TAX; RATE

A. The One Percent (1 %) Tax

The initial One Percent (1 %) of tax passed pursuant to Ordinance No. 632 shall be used to provide funds for the purposes of construction, maintaining, operating and acquiring of capital improvements and for general municipal operations in the Village of Botkins, Ohio, and there shall be and hereby is levied a tax on, qualifying wages, commissions and other compensation and on net profits and other taxable income as hereinafter provided.

B. The One Half Percent (1/2%) Tax

The additional one half percent (1/2%) tax passed pursuant to Ordinance No. 88-16 shall be used to provide funds for the construction and acquisition of capital improvements and new equipment in the Village of Botkins.

Section 3 VILLAGE OF BOTKINS SPECIFIC DEFINITIONS

As used in this Code, 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. The singular shall include the plural and the masculine shall include the feminine and the neuter:

1. "ASSOCIATION" - A partnership, limited partnership, or any other form of unincorporated enterprise, owned by two or more persons.
2. "BUSINESS" - An enterprise, activity, profession, or undertaking of any nature conducted for profit or ordinarily conducted for profit whether by an individual, partnership, association, corporation, or any other activity, including but not limited to the renting or leasing of property, real, personal, or mixed.
3. "BUSINESS ALLOCATION APPORTIONMENT" - The portion of net profits to be allocated to the Village of Botkins as having been made within the Village of Botkins pursuant to Section 3 of Ordinance 632.
4. "CORPORATION" - A corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory or foreign country or dependency.
5. "EMPLOYEE" - One who works for wages, salary, commission, or other types of compensation in the service of an employer. Any person upon whom an employer is required to withhold for either federal income or social security, or on whose account payments are made under the Workers' Compensation Law, shall prima facie be an employee.
6. "EMPLOYER" - An individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission, or other compensation basis.
7. "FISCAL YEAR" - An accounting period of twelve months ending on any day other than December 31.
8. "GROSS RECEIPTS" - Total income from any source whatsoever excepting from intangible and capital gains from the sale of property used in the trade or business as defined in Section 1231(b) of the Internal Revenue Code.
9. "INCOME FROM A PASS-THROUGH ENTITY" - Partnership income of partners, membership interest 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.

10. "NET PROFITS" - The profit required to be reported on Schedule C, Schedule E, or Schedule F, other than amounts described in section 3 E, for a taxpayer who is an individual, and adjusted federal taxable income for a taxpayer who is other than an individual.
11. "NONRESIDENT UNINCORPORATED BUSINESS" - An unincorporated business not having an office or place of business within the Village of Botkins.
12. THE or THIS ORDINANCE means Ordinance No. 632 enacted by the Council of Botkins effective January 1, 1976, and Ordinance 88-16, enacted by the Council of Botkins effective July 1, 1988, and any amendments and supplements.
13. "OTHER ENTITY" - A person or unincorporated body not previously named or defined, including but not limited to fiduciaries.
14. "OWNER" - A partner of a partnership, a member of a limited liability company, a shareholder of an S corporation or other person with an ownership interest in a pass-through entity.
15. "PLACE OF BUSINESS" - 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 employees regularly in attendance.

A taxpayer does not have a regular place of business outside Botkins solely by consigning goods to an independent factory or other contractor outside of the Village for sale.
16. "PRINCIPAL PLACE OF BUSINESS" - In the case of an employer having headquarters' activities at a place of business within the Village of Botkins, the place of business at which the headquarters is situated. In the case of any employer not having its headquarters' activities at a place of business within the Village of Botkins, the largest place of business located in the Village of Botkins.
17. "QUALIFIED RETIREMENT PLAN" - A retirement plan satisfying the requirements under section 401 of the Internal Revenue Code as amended.
18. "TAX COMMISSIONER" - The Income Tax Commissioner of the Income Tax Department of the Village of Botkins, or the person executing the duties of the aforesaid Commissioner.
19. "TAXABLE INCOME" - Qualifying wages paid by an employer or employers, compensation for personal services, other income defined by statute as taxable, and/or adjusted federal taxable income from the operation of a business,

profession, or other enterprise or activity adjusted in accordance with the provisions of this Code.

20. "TAXABLE YEAR" - The calendar year, or the fiscal year ending during such calendar year, upon the basis of which the net profits are to be computed under this Code and, in the case of a return for a fractional part of a year, the period for which such return is made. Unless approved by the Tax Commissioner, the taxable year of an individual shall be a calendar year.

21. "TAXPAYER" - An association, business, corporation, employer, person, or other entity required by this Code to file a return on earnings or net profits or to pay a tax upon such earnings or net profits.

Section 4. STATEMENT OF PROCEDURAL HISTORY; STATE MANDATED CHANGES TO MUNICIPAL INCOME TAX

(A) Significant and wide-ranging amendments to ORC 718 were enacted by Am Sub HB 5, passed by the 130th General Assembly, and signed by Governor Kasich on December 19, 2014, and H.B. 5 required municipal corporations to conform to and adopt the provisions of ORC 718 in order to have the authority to impose, enforce, administer and collect a municipal income tax.

(B) As mandated by H.B. 5, municipal income tax Ordinance 15-_____, effective January 1, 2016, comprehensively amends Code in accordance with the provisions of ORC 718 to allow the Municipality to continue the income tax and withholding tax administration and collection efforts on behalf of the Municipality.

Section 5. EFFECTIVE DATE

(A) Ordinance 15-_____ effective January 1, 2016, and corresponding changes to ORC 718, apply to municipal taxable years beginning on or after January 1, 2016. All provisions of this Code apply to taxable years beginning 2016 and succeeding taxable years.

(B) Ordinance 15-_____ does not repeal the existing sections of Code for any taxable year prior to 2016, but rather amends it to become on effective January 1, 2016. For municipal taxable years beginning before January 1, 2016, the Municipality shall continue to administer, audit, and enforce the income tax of the Municipality under ORC 718 and ordinances and resolutions of the Municipality as that chapter and those ordinances and resolutions existed before January 1, 2016. If there are any conflicting terms and to such extent the Code shall prevail.

Section 6. GENERAL DEFINITIONS

Any term used in this Code that is not otherwise defined in this Code has the same meaning as when used in a comparable context in laws of the United States relating to federal income taxation or in Title LVII of the Ohio Revised Code, unless a different meaning is clearly required. If a term used in this Code that is not otherwise defined in this Code is used in a

comparable context in both the laws of the United States relating to federal income tax and in Title LVII of the Ohio Revised Code and the use is not consistent, then the use of the term in the laws of the United States relating to federal income tax shall control over the use of the term in Title LVII of the Ohio Revised Code.

For purposes of this section, the singular shall include the plural, and the masculine shall include the feminine and the gender-neutral.

As used in this Code:

(1) **"ADJUSTED FEDERAL TAXABLE INCOME,"** for a person required to file as a C corporation, or for a person that has elected to be taxed as a C corporation under division 23(D) of this section, 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 per cent of intangible income deducted under division (1)(A) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code;

(C) Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;

(D) (i) Except as provided in division (1)(D)(ii) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;

(ii) Division (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 or 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) Deduct, to the extent not otherwise deducted or excluded in computing federal taxable income, any income derived from a transfer agreement or from the enterprise transferred under that agreement under section 4313.02 of the Ohio Revised Code;

(H) (i) Except as limited by divisions (1)(H)(ii), (iii) and (iv) of this section, deduct any net operating loss incurred by the person in a taxable year beginning on or after January 1, 2017. The amount of such net operating loss shall be deducted from net profit that is reduced by exempt income to the extent necessary to reduce municipal taxable income to zero, with any remaining unused portion of the net operating loss carried forward to not more than five consecutive taxable years following the taxable year in which the loss was incurred, but in no case for more years than necessary for the deduction to be fully utilized.

(ii) No person shall use the deduction allowed by division (1)(H) of this section to offset qualifying wages.

(iii) (a) For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, a person may not deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, more than fifty per cent of the amount of the deduction otherwise allowed by division (1)(H)(i) of this section.

(b) For taxable years beginning in 2023 or thereafter, a person may deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, the full amount allowed by division (1)(H)(i) of this section.

(iv) Any pre-2017 net operating loss carryforward deduction that is available must be utilized before a taxpayer may deduct any amount pursuant to division (1)(H) of this section.

(v) Nothing in division (1)(H)(iii)(a) of this section precludes a person from carrying forward, for use with respect to any return filed for a taxable year beginning after 2018, any amount of net operating loss that was not fully utilized by operation of division (1)(H)(iii)(a) of this section. To the extent that an amount of net operating loss that was not fully utilized in one or more taxable years by operation of division (1)(H)(iii)(a) of this section is carried forward for use with respect to a return filed for a taxable year beginning in 2019, 2020, 2021, or 2022, the limitation described in division (1)(H)(iii)(a) of this section shall apply to the amount carried forward.

(I) Deduct any net profit of a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that net profit in the group's federal taxable income in accordance with this Code.

(J) Add any loss incurred by a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that loss in the group's federal taxable income in accordance with this Code.

If the taxpayer is not a C corporation, is not a disregarded entity that has made the election described in division (47)(B) of this section, is not a publicly traded partnership that has made the election described in division (23)(D) of this section, and is not an individual, the taxpayer shall compute adjusted federal taxable income under this section as if the taxpayer were a C

corporation, except guaranteed payments and other similar amounts paid or accrued to a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deductible expense unless such payments are in consideration for the use of capital and treated as payment of interest under section 469 of the Internal Revenue Code or United States treasury regulations. Amounts paid or accrued to a qualified self-employed retirement plan with respect to a partner, former partner, shareholder, former shareholder, member, or former member of the taxpayer, amounts paid or accrued to or for health insurance for a partner, former partner, shareholder, former shareholder, member, or former member, and amounts paid or accrued to or for life insurance for a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deduction.

Nothing in division (1) of this section shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.

(2) (A) **"ASSESSMENT"** means any of the following:

(i) A written finding by the Tax Administrator that a person has underpaid municipal income tax, or owes penalty and interest, or any combination of tax, penalty, or interest, to the municipal corporation;

(ii) A full or partial denial of a refund request issued under this Code;

(iii) A Tax Administrator's denial of a taxpayer's request for use of an alternative apportionment method, issued under this Code; or

(iv) A Tax Administrator's requirement for a taxpayer to use an alternative apportionment method, issued under this Code.

(v) For purposes of division (2)(A)(i), (ii), (iii) and (iv) of this section, an assessment shall commence the person's time limitation for making an appeal to the Local Board of Tax Review pursuant to this Code, and shall have **"ASSESSMENT"** written in all capital letters at the top of such finding.

(3) **"ASSESSMENT"** does not include notice(s) denying a request for refund issued under this Code, a billing statement notifying a taxpayer of current or past-due balances owed to the municipal corporation, a Tax Administrator's request for additional information, a notification to the taxpayer of mathematical errors, or a Tax Administrator's other written correspondence to a person or taxpayer that does not meet the criteria prescribed by division (2)(A) of this section.

(4) **"AUDIT"** means the examination of a person or the inspection of the books, records, memoranda, or accounts of a person, ordered to appear before the Tax Administrator, for the purpose of determining liability for a municipal income tax

(5) **"BOARD OF REVIEW"** has same meaning as "Local Board of Tax Review".

(6) **"CALENDAR QUARTER"** means the three-month period ending on the last day of March, June, September, or December.

(7) **"CASINO OPERATOR"** and **"CASINO FACILITY"** have the same meanings as in section 3772.01 of the Ohio Revised Code.

(8) **"CERTIFIED MAIL," "EXPRESS MAIL," "UNITED STATES MAIL," "POSTAL SERVICE,"** and similar terms include any delivery service authorized pursuant to section 5703.056 of the Ohio Revised Code.

(9) **"COMPENSATION"** means any form of remuneration paid to an employee for personal services.

(10) **"DISREGARDED ENTITY"** means a single member limited liability company, a qualifying subchapter S subsidiary, or another entity if the company, subsidiary, or entity is a disregarded entity for federal income tax purposes.

(11) **"DOMICILE"** means the true, fixed and permanent home of the taxpayer to which, whenever absent, the taxpayer intends to return.

(12) **"EXEMPT INCOME"** means all of the following:

(A) The military pay or allowances of members of the armed forces of the United States or members of their reserve components, including the national guard of any state;

(B) (i) Except as provided in division (11)(B)(ii) of this section, intangible income;

(ii) A municipal corporation that taxed any type of intangible income on March 29, 1988, pursuant to Section 3 of S.B. 238 of the 116th general assembly, may continue to tax that type of income if a majority of the electors of the municipal corporation voting on the question of whether to permit the taxation of that type of intangible income after 1988 voted in favor thereof at an election held on November 8, 1988.

(C) Social security benefits, railroad retirement benefits, unemployment compensation, pensions, retirement benefit payments, payments from annuities, and similar payments made to an employee or to the beneficiary of an employee under a retirement program or plan, disability payments received from private industry or local, state, or federal governments or from charitable, religious or educational organizations, and the proceeds of sickness, accident, or liability insurance policies. As used in division (11)(C) of this section, "unemployment compensation" does not include supplemental unemployment compensation described in section 3402(o)(2) of the Internal Revenue Code.

(D) The income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.

(E) Compensation paid under section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct election official to the extent that such compensation does not exceed one thousand dollars for the taxable year. Such compensation in excess of one thousand dollars for the taxable year may be subject to taxation by a municipal corporation. A municipal

corporation shall not require the payer of such compensation to withhold any tax from that compensation.

(F) Dues, contributions, and similar payments received by charitable, religious, educational, or literary organizations or labor unions, lodges, and similar organizations;

(G) Alimony and child support received;

(H) Awards for personal injuries or for damages to property from insurance proceeds or otherwise, excluding compensation paid for lost salaries or wages or awards for punitive damages;

(I) 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. Division (11)(I) of this section does not apply for purposes of Chapter 5745. of the Ohio Revised Code.

(J) Gains from involuntary conversions, interest on federal obligations, items of income subject to a tax levied by the state and that a municipal corporation is specifically prohibited by law from taxing, and income of a decedent's estate during the period of administration except such income from the operation of a trade or business;

(K) Compensation or allowances excluded from federal gross income under section 107 of the Internal Revenue Code;

(L) Employee compensation that is not qualifying wages as defined in division (34) of this section;

(M) Compensation paid to a person employed within the boundaries of a United States air force base under the jurisdiction of the United States air force that is used for the housing of members of the United States air force and is a center for air force operations, unless the person is subject to taxation because of residence or domicile. If the compensation is subject to taxation because of residence or domicile, tax on such income shall be payable only to the municipal corporation of residence or domicile.

(N) An S corporation shareholder's distributive share of net profits of the S corporation, other than any part of the distributive share of net profits that represents wages as defined in section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in section 1402(a) of the Internal Revenue Code.

(O) A portion of the municipal taxable income earned by individuals or a class of individuals under eighteen years of age, specifically exempting individuals seventeen (17) years of age and under.

(P) (i) Except as provided in divisions (11)(P)(ii), (iii), and (iv) of this section, qualifying wages described in this Code to the extent the qualifying wages are not subject to withholding for the Municipality under either of those divisions.

(ii) The exemption provided in division (11)(P)(i) of this section does not apply with respect to the municipal corporation in which the employee resided at the time the employee earned the qualifying wages.

(iii) The exemption provided in division (11)(P)(i) of this section does not apply to qualifying wages that an employer elects to withhold under division (D)(2) of this Code.

(iv) The exemption provided in division (11)(P)(i) of this section does not apply to qualifying wages if both of the following conditions apply:

(a) For qualifying wages described in this Code, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employee's principal place of work is situated, or, for qualifying wages described in this Code, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employer's fixed location is located;

(b) The employee receives a refund of the tax described in division (11)(P)(iv)(a) of this section on the basis of the employee not performing services in that municipal corporation.

(Q) (i) Except as provided in division (11)(Q)(ii) or (iii) of this section, compensation that is not qualifying wages paid to a nonresident individual for personal services performed in the Municipality on not more than twenty days in a taxable year.

(ii) The exemption provided in division (11)(Q)(i) of this section does not apply under either of the following circumstances:

(a) The individual's base of operation is located in the Municipality.

(b) The individual is a professional athlete, professional entertainer, or public figure, and the compensation is paid for the performance of services in the individual's capacity as a professional athlete, professional entertainer, or public figure. For purposes of division (11)(Q)(ii)(b) of this section, "professional athlete," "professional entertainer," and "public figure" have the same meanings as in this Code.

(iii) Compensation to which division (11)(Q) of this section applies shall be treated as earned or received at the individual's base of operation. If the individual does not have a base of operation, the compensation shall be treated as earned or received where the individual is domiciled.

(iv) For purposes of division (11)(Q) of this section, "base of operation" means the location where an individual owns or rents an office, storefront, or similar facility to which the individual regularly reports and at which the individual regularly performs personal services for compensation.

(R) Compensation paid to a person for personal services performed for a political subdivision on property owned by the political subdivision, regardless of whether the compensation is received by an employee of the subdivision or another person performing services for the subdivision under a contract with the subdivision, if the property on which services are performed is annexed to a municipal corporation pursuant to section 709.023 of the Ohio Revised Code on or after March 27, 2013, unless the person is subject to such taxation because of residence. If the compensation is subject to taxation because of residence, municipal income tax shall be payable only to the municipal corporation of residence.

(S) Income the taxation of which is prohibited by the constitution or laws of the United States. Any item of income that is exempt income of a pass-through entity under division (11) of this section is exempt income of each owner of the pass-through entity to the extent of that owner's distributive or proportionate share of that item of the entity's income.

(13) **"FORM 2106"** means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.

(14) **"GENERIC FORM"** means an electronic or paper form that is not prescribed by a particular municipal corporation and that is designed for reporting taxes withheld by an employer, agent of an employer, or other payer, estimated municipal income taxes, or annual municipal income tax liability, including a request for refund.

(15) **"INCOME"** means the following:

(A) (i) For residents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the resident, including the resident's distributive share of the net profit of pass-through entities owned directly or indirectly by the resident and any net profit of the resident, except as provided in division (23)(D) of this section.

(ii) For the purposes of division (15)(A)(i) of this section:

(a) Any net operating loss of the resident incurred in the taxable year and the resident's distributive share of any net operating loss generated in the same taxable year and attributable to the resident's ownership interest in a pass-through entity shall be allowed as a deduction, for that taxable year and the following five taxable years, against any other net profit of the resident or the resident's distributive share of any net profit attributable to the resident's ownership interest in a pass-through entity until fully utilized, subject to division (15)(A)(iv) of this section;

(b) The resident's distributive share of the net profit of each pass-through directly or indirectly by the resident shall be calculated without regard to any net operating loss that is carried forward by that entity from a prior taxable year and applied to reduce the entity's net profit for the current taxable year.

(iii) Division (15)(A)(ii) of this section does not apply with respect to any net profit or net operating loss attributable to an ownership interest in an S

corporation unless shareholders' distributive shares of net profits from S corporations are subject to tax in the municipal corporation as provided in division 11(N) or division 14(E) of this section.

(iv) Any amount of a net operating loss used to reduce a taxpayer's net profit for a taxable year shall reduce the amount of net operating loss that may be carried forward to any subsequent year for use by that taxpayer. In no event shall the cumulative deductions for all taxable years with respect to a taxpayer's net operating loss exceed the original amount of that net operating loss available to that taxpayer.

(B) In the case of nonresidents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the nonresident for work done, services performed or rendered, or activities conducted in the Municipality, including any net profit of the nonresident, but excluding the nonresident's distributive share of the net profit or loss of only pass-through entities owned directly or indirectly by the nonresident.

(C) For taxpayers that are not individuals, net profit of the taxpayer;

(D) Lottery, sweepstakes, gambling and sports winnings, winnings from games of chance, and prizes and awards. If the taxpayer is a professional gambler for federal income tax purposes, the taxpayer may deduct related wagering losses and expenses to the extent authorized under the Internal Revenue Code and claimed against such winnings. Credit for tax withheld or paid to another municipal corporation on such winnings paid to the municipal corporation where winnings occur is limited to the credit as specified in this Code.

(E) For residents, an S corporation shareholder's distributive share of net profits of the S corporation to the extent the distributive share would be allocated or apportioned to this state under divisions (B)(1) and (2) of section 5733.05 of the Ohio Revised Code if the S corporation were a corporation subject to taxes imposed under Chapter 5733. of the Ohio Revised Code, and the tax shall apply to the distributive share of a shareholder of an S corporation in the hands of the shareholder of the S corporation.

(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, gambling winnings, or other similar games of chance.

(17) **"INTERNAL REVENUE CODE"** means the "Internal Revenue Code of 1986," 100 Sta. 2085, 26 U.S.C.A. 1, as amended.

(18) **"LIMITED LIABILITY COMPANY"** means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.

(19) **"LOCAL BOARD OF TAX REVIEW"** and **"BOARD OF TAX REVIEW"** means the entity created under this Code.

(20) **"MUNICIPAL CORPORATION"** means, in general terms, a status conferred upon a local government unit, by state law giving the unit certain autonomous operating authority such as the power of taxation, power of eminent domain, police power and regulatory power, and includes a joint economic development district or joint economic development zone that levies an income tax under section 718.691, 715.70, 715.71, or 715.74 of the Ohio Revised Code.

(R) (A) **"MUNICIPAL TAXABLE INCOME"** means the following:

(i) For a person other than an individual, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or situated to the Municipality under this Code, and further reduced by any pre-2017 net operating loss carryforward available to the person for the Municipality.

(ii) (a) For an individual who is a resident of a Municipality other than a qualified municipal corporation, income reduced by exempt income to the extent otherwise included in income, then reduced as provided in division (20)(B) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the Municipality.

(b) For an individual who is a resident of a qualified municipal corporation, Ohio adjusted gross income reduced by income exempted, and increased by deductions excluded, by the qualified municipal corporation from the qualified municipal corporation's tax on or before December 31, 2013. If a qualified municipal corporation, on or before December 31, 2013, exempts income earned by individuals who are not residents of the qualified municipal corporation and net profit of persons that are not wholly located within the qualified municipal corporation, such individual or person shall have no municipal taxable income for the purposes of the tax levied by the qualified municipal corporation and may be exempted by the qualified municipal corporation from the requirements of section 718.03 of the Ohio Revised Code.

(iii) For an individual who is a nonresident of the Municipality, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or situated to the Municipality under this Code, then reduced as provided in division (20)(B) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the Municipality.

(B) In computing the municipal taxable income of a taxpayer who is an individual, the taxpayer may subtract, as provided in division (20)(A)(ii)(a) or (iii) of this section, the amount of the individual's employee business expenses reported on the individual's form 2106 that the individual deducted for federal income tax purposes for the taxable year, subject to the limitation imposed by section 67 of the Internal Revenue Code. For the municipal corporation in which the taxpayer is a resident, the taxpayer may deduct all

such expenses allowed for federal income tax purposes. For a municipal corporation in which the taxpayer is not a resident, the taxpayer may deduct such expenses only to the extent the expenses are related to the taxpayer's performance of personal services in that nonresident municipal corporation.

(21) **"MUNICIPALITY"** means the Village of Botkins.

(22) **"NET OPERATING LOSS"** means a loss incurred by a person in the operation of a trade or business. "Net operating loss" does not include unutilized losses resulting from basis limitations, at-risk limitations, or passive activity loss limitations.

(23) (A) **"NET PROFIT"** for a person other than an individual means adjusted federal taxable income.

(B) **"NET PROFIT"** for a person who is an individual means the individual's net profit required to be reported on schedule C, schedule E, or schedule F reduced by any net operating loss carried forward. For the purposes of division (23)(A) of this section, the net operating loss carried forward shall be calculated and deducted in the same manner as provided in division (1)(H) of this section.

(C) For the purposes of this Code, and notwithstanding division (23)(A) of this section, net profit of a disregarded entity shall not be taxable as against that disregarded entity, but shall instead be included in the net profit of the owner of the disregarded entity.

(D) (i) For purposes of this Code, "publicly traded partnership" means any partnership, an interest in which is regularly traded on an established securities market. A "publicly traded partnership" may have any number of partners.

(ii) For the purposes of this Code, and notwithstanding any other provision of this Code, the net profit of a publicly traded partnership that makes the election described in division (23)(D) of this section shall be taxed as if the partnership were a C corporation, and shall not be treated as the net profit or income of any owner of the partnership.

(iii) A publicly traded partnership that is treated as a partnership for federal income tax purposes and that is subject to tax on its net profits in one or more municipal corporations in this state may elect to be treated as a C corporation for municipal income tax purposes. The publicly traded partnership shall make the election in every municipal corporation in which the partnership is subject to taxation on its net profits. The election shall be made on the annual tax return filed in each such municipal corporation. Once the election is made, the election is binding for a five-year period beginning with the first taxable year of the initial election. The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing municipal income tax returns as a C corporation for municipal purposes under division (D)(iv) of this section.

(iv) An election to discontinue filing as a C corporation must be made in the first year following the last year of a five-year election period in effect under division (D)(iii) of this section. The election to discontinue filing as a C corporation is binding for a five-year period beginning with the first taxable year of the election and continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing municipal income tax returns as a partnership for municipal purposes. An election to discontinue filing as a partnership must be made in the first year following the last year of a five-year election period.

(v) The publicly traded partnership shall not be required to file the election with any municipal corporation in which the partnership is not subject to taxation on its net profits, but division (D) of this section applies to all municipal corporations in which an individual owner of the partnership resides.

(vi) The individual owners of the partnership not filing as a C Corporation shall be required to file with their municipal corporation of residence, and report partnership distribution of net profit.

(24) **"NONRESIDENT"** means an individual that is not a resident of the Municipality.

(25) **"OHIO BUSINESS GATEWAY"** means the online computer network system, created under section 125.30 of the Ohio Revised Code, that allows persons to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system.

(26) **"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. "Other payer" includes casino operators and video lottery terminal sales agents.

(27) **"PASS-THROUGH ENTITY"** means a partnership not treated as an association taxable as a C corporation for federal income tax purposes, a limited liability company not treated as an association taxable as a C corporation for federal income tax purposes, an S corporation, or any other class of entity from which the income or profits of the entity are given pass-through treatment for federal income tax purposes. "Pass-through entity" does not include a trust, estate, grantor of a grantor trust, or disregarded entity.

(28) **"PENSION"** means any amount paid to an employee or former employee that is reported to the recipient on an IRS form 1099-R, or successor form. Pension does not include deferred compensation, or amounts attributable to nonqualified deferred compensation plans, reported as FICA/Medicare wages on an IRS form W-2, Wage and Tax Statement, or successor form.

(29) **"PERSON"** includes individuals, firms, companies, joint stock companies, business trusts, estates, trusts, partnerships, limited liability partnerships, limited liability companies, associations, C corporations, S corporations, governmental entities, and any other entity.

(30) **"POSTAL SERVICE"** means the United States postal service, or private delivery service delivering documents and packages within an agreed upon delivery schedule, or any other carrier service delivering the item.

(31) **"POSTMARK DATE," "DATE OF POSTMARK,"** and similar terms include the date recorded and marked by a delivery service and recorded electronically to a database kept in the regular course of its business and marked on the cover in which the payment or document is enclosed, the date on which the payment or document was given to the delivery service for delivery

(32) (A) **"PRE-2017 NET OPERATING LOSS CARRYFORWARD"** means any net operating loss incurred in a taxable year beginning before January 1, 2017, to the extent such loss was permitted, by a resolution or ordinance of the Municipality that was adopted by the Municipality before January 1, 2016, to be carried forward and utilized to offset income or net profit generated in such Municipality in future taxable years.

(B) For the purpose of calculating municipal taxable income, any pre-2017 net operating loss carryforward may be carried forward to any taxable year, including taxable years beginning in 2017 or thereafter, for the number of taxable years provided in the resolution or ordinance or until fully utilized, whichever is earlier.

(33) **"QUALIFIED MUNICIPAL CORPORATION"** means a municipal corporation that, by resolution or ordinance adopted on or before December 31, 2011, adopted Ohio adjusted gross income, as defined by section 5747.01 of the Ohio Revised Code, as the income subject to tax for the purposes of imposing a municipal income tax.

(34) **"QUALIFYING WAGES"** means wages, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:

(A) Deduct the following amounts:

(i) Any amount included in wages if the amount constitutes compensation attributable to a plan or program described in section 125 of the Internal Revenue Code.

(ii) Any amount included in wages if the amount constitutes payment on account of a disability related to sickness or an accident paid by a party unrelated to the employer, agent of an employer, or other payer.

(iii): Intentionally left blank.

(iv) Intentionally left blank.

(v) Any amount included in wages that is exempt income.

(B) Add the following amounts:

(i) Any amount not included in wages solely because the employee was employed by the employer before April 1, 1986.

(ii) Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option. Division (34)(B)(ii) of this section applies only to those amounts constituting ordinary income.

(iii) Any amount not included in wages if the amount is an amount described in section 401(k), 403(b), or 457 of the Internal Revenue Code. Division (34)(B)(iii) of this section applies only to employee contributions and employee deferrals.

(iv) Any amount that is supplemental unemployment compensation benefits described in section 3402(o)(2) of the Internal Revenue Code and not included in wages.

(v) Any amount received that is treated as self-employment income for federal tax purposes in accordance with section 1402(a)(8) of the Internal Revenue Code.

(vi) Any amount not included in wages if all of the following apply:

(a) For the taxable year the amount is employee compensation that is earned outside of the United States and that either is included in the taxpayer's gross income for federal income tax purposes or would have been included in the taxpayer's gross income for such purposes if the taxpayer did not elect to exclude the income under section 911 of the Internal Revenue Code;

(b) For no preceding taxable year did the amount constitute wages as defined in section 3121(a) of the Internal Revenue Code;

(c) For no succeeding taxable year will the amount constitute wages; and

(d) For any taxable year the amount has not otherwise been added to wages pursuant to either division (34)(B) of this section or section 718.03 of the Ohio Revised Code, as that section existed before the effective date of H.B. 5 of the 130th general assembly, March 23, 2015.

(35) **"RELATED ENTITY"** means any of the following:

(A) An individual stockholder, or a member of the stockholder's family enumerated in section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;

(B) A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, estates, trusts, or corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;

(C) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under division (35)(D) of this section, provided the taxpayer owns directly, indirectly, beneficially, or constructively, at least fifty per cent of the value of the corporation's outstanding stock;

(D) The attribution rules described in section 318 of the Internal Revenue Code apply for the purpose of determining whether the ownership requirements in divisions (35)(A) to (C) of this section have been met.

(36) **"RELATED MEMBER"** means a person that, with respect to the taxpayer during all or any portion of the taxable year, is either a related entity, a component member as defined in section 1563(b) of the Internal Revenue Code, or a person to or from whom there is attribution of stock ownership in accordance with section 1563(e) of the Internal Revenue Code except, for purposes of determining whether a person is a related member under this division, "twenty per cent" shall be substituted for "5 percent" wherever "5 percent" appears in section 1563(e) of the Internal Revenue Code.

(37) **"RESIDENT"** means an individual who is domiciled in the Municipality as determined under this Code.

(38) **"S CORPORATION"** means a person that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.

(39) **"SCHEDULE C"** means internal revenue service schedule C (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(40) **"SCHEDULE E"** means internal revenue service schedule E (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(41) **"SCHEDULE F"** means internal revenue service schedule F (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(42) **"SINGLE MEMBER LIMITED LIABILITY COMPANY"** means a limited liability company that has one direct member.

(43) **"SMALL EMPLOYER"** means any employer that had total revenue of less than five hundred thousand dollars during the preceding taxable year. For purposes of this division, "total revenue" means receipts of any type or kind, including, but not limited to, sales receipts; payments; rents; profits; gains, dividends, and other investment income; commissions; premiums; money; property; grants; contributions; donations; gifts; program service revenue; patient service revenue; premiums; fees, including premium fees and service fees; tuition payments; unrelated business revenue; reimbursements; any type of payment from a

governmental unit, including grants and other allocations; and any other similar receipts reported for federal income tax purposes or under generally accepted accounting principles. "Small employer" does not include the federal government; any state government, including any state agency or instrumentality; any political subdivision; or any entity treated as a government for financial accounting and reporting purposes.

(44) **"TAX ADMINISTRATOR"** means the individual charged with direct responsibility for administration of an income tax levied by a municipal corporation in accordance with this Code, and also includes the following:

(A) A municipal corporation acting as the agent of another municipal corporation;

(B) A person retained by a municipal corporation to administer a tax levied by the municipal corporation, but only if the municipal corporation does not compensate the person in whole or in part on a contingency basis;

(C) The Central Collection Agency (CCA) or the Regional Income Tax Agency (RITA) or their successors in interest, or another entity organized to perform functions similar to those performed by the Central Collection Agency and the Regional Income Tax Agency.

(45) **"TAX RETURN PREPARER"** means any individual described in section 7701(a)(36) of the Internal Revenue CODE AND 26 C.F.R. 301.7701-15.

(46) **"TAXABLE YEAR"** means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.

(47) (A) **"TAXPAYER"** means a person subject to a tax levied on income by a municipal corporation in accordance with this Code. "Taxpayer" does not include a grantor trust or, except as provided in division (47)(B)(i) of this section, a disregarded entity.

(B) (i) A single member limited liability company that is a disregarded entity for federal tax purposes may be a separate taxpayer from its single member in all Ohio municipal corporations in which it either filed as a separate taxpayer or did not file for its taxable year ending in 2003, if all of the following conditions are met:

(a) The limited liability company's single member is also a limited liability company.

(b) The limited liability company and its single member were formed and doing business in one or more Ohio municipal corporations for at least five years before January 1, 2004.

(c) Not later than December 31, 2004, the limited liability company and its single member each made an election to be treated as a separate taxpayer under division (L) of section 718.01 of the Ohio Revised Code as this section existed on December 31, 2004.

(d) The limited liability company was not formed for the purpose of evading or reducing Ohio municipal corporation income tax liability of the limited liability company or its single member.

(e) The Ohio municipal corporation that was the primary place of business of the sole member of the limited liability company consented to the election.

(ii) For purposes of division (47)(B)(i)(e) of this section, a municipal corporation was the primary place of business of a limited liability company if, for the limited liability company's taxable year ending in 2003, its income tax liability was greater in that municipal corporation than in any other municipal corporation in Ohio, and that tax liability to that municipal corporation for its taxable year ending in 2003 was at least four hundred thousand dollars.

(48) **"TAXPAYERS' RIGHTS AND RESPONSIBILITIES"** means the rights provided to taxpayers in sections 718.11 , 718.12 , 718.19, 718.23, 718.36, 718.37, 718.38, 5717.011 , and 5717.03 of the Ohio Revised Code and any corresponding ordinances of the Municipality, and the responsibilities of taxpayers to file, report, withhold, remit, and pay municipal income tax and otherwise comply with Chapter 718. of the Ohio Revised Code and resolutions, ordinances, and rules adopted by a municipal corporation for the imposition and administration of a municipal income tax.

(49) **"VIDEO LOTTERY TERMINAL"** has the same meaning as in section 3770.21 of the Ohio Revised Code.

(50) **"VIDEO LOTTERY TERMINAL SALES AGENT"** means a lottery sales agent licensed under Chapter 3770. of the Ohio Revised Code to conduct video lottery terminals on behalf of the state pursuant to section 3770.21 of the Ohio Revised Code.

Section 7. DETERMINING MUNICIPAL TAXABLE INCOME FOR INDIVIDUALS

(A) "Municipal Taxable Income" for a resident of the Municipality is calculated as follows:

(1) "Income" reduced by "Exempt Income" to the extent such exempt income is otherwise included in income, reduced by allowable employee business expense deduction as found in division (20)(B) of section 6 of this Code, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".

(a) "Income" is defined in section 6(15) of this Code.

(i) "Qualifying Wages" is defined in section 6(34).

(ii) "Net profit" is included in "income", and is defined in section 6 (23) of this Code. This section also provides that the net operating loss carryforward shall be calculated and deducted in the same manner as

provided in division (1)(H) of section 6. Treatment of net profits received by an individual taxpayer from rental real estate is provided in section 6.

(iii) Section 6 provides the following: offsetting and net operating loss carryforward treatment in (14)(A)(ii)(a); resident's distributive share of net profit from pass through entity treatment in (14)(A)(ii)(b); treatment of S Corporation distributive share of net profit in the hands of the shareholder in (14)(A)(iii); restriction of amount of loss permitted to be carried forward for use by taxpayer in a subsequent taxable year in (14)(A)(iv).

(iv) "Pass Through Entity" is defined in section 6(27).

(b) "Exempt Income" is defined in 6 (12) of this Code.

(c) Allowable employee business expense deduction is described in (20)(B) of section 6 of this Code, and is subject to the limitations provided in that section.

(d) "Pre-2017 Net Operating Loss Carryforward" is defined in section 6 (32) of this Code.

(B) "Municipal Taxable Income" for a nonresident of the Municipality is calculated as follows:

(1) "Income" reduced by "Exempt Income" to the extent such exempt income is otherwise included in income, as applicable, apportioned or situated to the Municipality as provided in section 6 of this Code, reduced by allowable employee business expense deduction as found in (20)(B) of section 6 of this Code, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".

(a) "Income" is defined in section 6 (15) of this Code.

(i) "Qualifying Wages" is defined in section 6 (34) of this Code.

(ii) "Net profit" is included in "income", and is defined in section 6 (23) of this Code. This section also provides that the net operating loss carryforward shall be calculated and deducted in the same manner as provided in section 6 (1)(H) of this Code. "Net profit" for a nonresident individual includes any net profit of the nonresident, but excludes the distributive share of net profit or loss of only pass through entity owned directly or indirectly by the nonresident.

(iii) "Pass Through Entity" is defined in section 6 (27) of this Code.

(b) "Exempt Income" is defined in section 6 (12) of this Code.

(c) "Apportioned or situated to the Municipality as provided in section 6 of this Code" includes the apportionment of net profit income attributable to work

done or services performed in the Municipality. Treatment of net profits received by an individual taxpayer from rental real estate is provided in section 6 (E) of this Code.

(d) "Allowable employee business expense deduction" as described in (20)(B) of section 6 of this Code, is subject to the limitations provided in that section. For a nonresident of the Municipality, the deduction is limited to the extent the expenses are related to the performance of personal services by the nonresident in the Municipality.

(e) "Pre-2017 Net Operating Loss Carryforward" is defined in section 6 (32) of this Code

Section 8. DOMICILE

(A) As used in this section:

(1) "Domicile" means the true, fixed and permanent home of the taxpayer to which whenever absent, the taxpayer intends to return.

(2) An individual is presumed to be domiciled in the Municipality for all or part of a taxable year if the individual was domiciled in the Municipality on the last day of the immediately preceding taxable year or if the tax administrator reasonably concludes that the individual is domiciled in the Municipality for all or part of the taxable year.

(3) An individual may rebut the presumption of domicile described in division (A)(1) of this section if the individual establishes by a preponderance of the evidence that the individual was not domiciled in the Municipality for all or part of the taxable year.

(B) For the purpose of determining whether an individual is domiciled in the Municipality for all or part of a taxable year, factors that may be considered include, but are not limited to, the following:

(1) The individual's domicile in other taxable years;

(2) The location at which the individual is registered to vote;

(3) The address on the individual's driver's license;

(4) The location of real estate for which the individual claimed a property tax exemption or reduction allowed on the basis of the individual's residence or domicile;

(4) The location and value of abodes owned or leased by the individual;

(6) Declarations, written or oral, made by the individual regarding the individual's residency;

(7) The primary location at which the individual is employed.

(8) The location of educational institutions attended by the individual's dependents as defined in section 152 of the Internal Revenue Code, to the extent that tuition paid to such educational institution is based on the residency of the individual or the individual's spouse in the municipal corporation or state where the educational institution is located;

(9) The number of contact periods the individual has with the Municipality. For the purposes of this division, an individual has one "contact period" with the Municipality if the individual is away overnight from the individual's abode located outside of the Municipality and while away overnight from that abode spends at least some portion, however minimal, of each of two consecutive days in the Municipality. For purposes of this section, the State's contact period test or bright-line test and resulting determination have no bearing on municipal residency or domicile.

(C) All applicable factors are provided in Ohio Revised Code Section 718.012.

Section 9. EXEMPTION FOR MEMBER OR EMPLOYEE OF GENERAL ASSEMBLY AND CERTAIN JUDGES

(A) Only the municipal corporation of residence shall be permitted to levy a tax on the income of any member or employee of the Ohio General Assembly, including the Lieutenant Governor, whose income is received as a result of services rendered as such member or employee and is paid from appropriated funds of this state.

(B) Only the municipal corporation of residence and the city of Columbus shall levy a tax on the income of the Chief Justice or a Justice of the Supreme Court received as a result of services rendered as the Chief Justice or Justice. Only the municipal corporation of residence shall levy a tax on the income of a judge sitting by assignment of the Chief Justice or on the income of a district court of appeals judge sitting in multiple locations within the district, received as a result of services rendered as a judge.

Section 10. COLLECTION AT SOURCE

(A) (1) Each employer, agent of an employer, or other payer located or doing business in the Municipality shall withhold from each employee an amount equal to the qualifying wages of the employee earned by the employee in the Municipality multiplied by the applicable rate of the Municipality's income tax, except for qualifying wages for which withholding is not required under section 6 of this Code or division (D) or (F) of this section. An employer, agent of an employer, or other payer shall deduct and withhold the tax from qualifying wages on the date that the employer, agent, or other payer directly, indirectly, or constructively pays the qualifying wages to, or credits the qualifying wages to the benefit of, the employee.

(2) In addition to withholding the amounts required under division (A)(1) of this section, an employer, agent of an employer, or other payer may also deduct and withhold, on the request of an employee, taxes for the municipal corporation in which the employee is a resident.

(B) (1) An employer, agent of an employer, or other payer shall remit to the Tax Administrator of the Municipality the greater of the income taxes deducted and withheld or the income taxes required to be deducted and withheld by the employer, agent, or other payer, along with any report required by the Tax Administrator to accompany such payment, according to the following schedule:

(a) Any employer, agent of an employer, or other payer not required to make payments under division (B)(1)(b) or (B)(1)(c) of this section of taxes required to be deducted and withheld shall make quarterly payments to the Tax Administrator not later than the fifteenth day of the month following the end of each calendar quarter.

(b) Taxes required to be deducted and withheld shall be remitted monthly to the Tax Administrator if the total taxes deducted and withheld or required to be deducted and withheld by the employer, agent, or other payer on behalf of the municipal corporation in the preceding calendar year exceeded two thousand three hundred ninety-nine dollars, or if the total amount of taxes deducted and withheld or required to be deducted and withheld on behalf of the Municipality in any month of the preceding calendar quarter exceeded two hundred dollars. Payment under division (B)(1)(b) of this section shall be made so that the payment is received by the Tax Administrator not later than fifteen days after the last day of each month.

(C) An employer, agent of an employer, or other payer shall make and file a return showing the amount of tax withheld by the employer, agent, or other payer from the qualifying wages of each employee and remitted to the Tax Administrator. A return filed by an employer, agent, or other payer under this division shall be accepted by the Municipality as the return required of an employee whose sole income subject to the tax under this Code is the qualifying wages reported by the employee's employer, agent of an employer, or other payer, unless the Municipality requires all resident individual taxpayers to file a tax return this Code.

(D) An employer, agent of an employer, or other payer is not required to withhold municipal income tax 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 either the corporation with respect to whose stock the option has been issued or of such corporation's successor entity.

(E) (1) An employee is not relieved from liability for a tax by the failure of the employer, agent of an employer, or other payer to withhold the tax as required under this Code or by the employer's, agent's, or other payer's exemption from the requirement to withhold the tax.

- (2) The failure of an employer, agent of an employer, or other payer to remit to the Municipality the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer, agent, or other payer in connection with the failure to remit the tax withheld.

(F) Compensation deferred before June 26, 2003, is not subject to any municipal corporation income tax or municipal income tax withholding requirement to the extent the deferred compensation does not constitute qualifying wages at the time the deferred compensation is paid or distributed.

(G) Each employer, agent of an employer, or other payer required to withhold taxes is liable for the payment of that amount required to be withheld, whether or not such taxes have been withheld, and such amount shall be deemed to be held in trust for

(H) On or before the last day of February of each year, an employer shall file a Withholding Reconciliation Return with the Tax Administrator listing the names, addresses, and social security numbers of all employees from whose qualifying wages tax was withheld or should have been withheld for the Municipality during the preceding calendar year, the amount of tax withheld, if any, from each such employee's qualifying wage, the total amount of qualifying wages paid to such employee during the preceding calendar year, the name of every other municipal corporation for which tax was withheld or should have been withheld from such employee during the preceding calendar year, any other information required for federal income tax reporting purposes on Internal Revenue Service form W-2 or its equivalent form with respect to such employee, and other information as may be required by the Tax Administrator.

(I) The officer or the employee of the employer, agent of an employer, or other payer with control or direct supervision of or charged with the responsibility for withholding the tax or filing the reports and making payments as required by this section, shall be personally liable for a failure to file a report or pay the tax due as required by this section. The dissolution of an employer, agent of an employer, or other payer does not discharge the officer's or employee's liability for a failure of the employer, agent of an employer, or other payer to file returns or pay any tax due.

(J) An employer is required to deduct and withhold municipal income tax on tips and gratuities received by the employer's employees and constituting qualifying wages only to the extent that the tips and gratuities are under the employer's control. For the purposes of this division, a tip or gratuity is under the employer's control if the tip or gratuity is paid by the customer to the employer for subsequent remittance to the employee, or if the customer pays the tip or gratuity by credit card, debit card, or other electronic means.

(K) A Tax Administrator shall consider any tax withheld by an employer at the request of an employee when such tax is not otherwise required to be withheld by this Code to be tax required to be withheld and remitted for the purposes of this section.

Section 11. COLLECTION AT SOURCE; OCCASIONAL ENTRANT

(A) The following terms as used in this section:

- (1) "Employer" includes a person that is a related member to or of an employer.
- (2) "Professional athlete" means an athlete who performs services in a professional athletic event for wages or other remuneration.
- (3) "Professional entertainer" means a person who performs services in the professional performing arts for wages or other remuneration on a per-event basis.
- (4) "Public figure" means a person of prominence who performs services at discrete events, such as speeches, public appearances, or similar events, for wages or other remuneration on a per-event basis.
- (5) "Fixed location" means a permanent place of doing business in this state, such as an office, warehouse, storefront, or similar location owned or controlled by an employer.
- (6) "Worksite location" means a construction site or other temporary worksite in this state at which the employer provides services for more than twenty days during the calendar year. "Worksite location" does not include the home of an employee.
- (7) "Principal place of work" means the fixed location to which an employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location, "principal place of work" means the worksite location in this state to which the employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location or worksite location, "principal place of work" means the location in this state at which the employee spends the greatest number of days in a calendar year performing services for or on behalf of the employee's employer.

If there is not a single municipal corporation in which the employee spent the "greatest number of days in a calendar year" performing services for or on behalf of the employer, but instead there are two or more municipal corporations in which the employee spent an identical number of days that is greater than the number of days the employee spent in any other municipal corporation, the employer shall allocate any of the employee's qualifying wages subject to division (B)(1)(a) of this section among those two or more municipal corporations. The allocation shall be made using any fair and reasonable method, including, but not limited to, an equal allocation among such municipal corporations or an allocation based upon the time spent or sales made by the employee in each such municipal corporation. A municipal corporation to which qualifying wages are allocated under this division shall be the employee's "principal place of work" with respect to those qualifying wages for the purposes of this section.

For the purposes of this division, the location at which an employee spends a

particular day shall be deemed in accordance with division (B)(2) of this section, except that "location" shall be substituted for "municipal corporation" wherever "municipal corporation" appears in that division.

- (B) (1) Subject to divisions (C), (E), (F), and (G) of this section, an employer is not required to withhold municipal income tax on qualifying wages paid to an employee for the performance of personal services in a municipal corporation that imposes such a tax if the employee performed such services in the municipal corporation on twenty or fewer days in a calendar year, unless one of the following conditions applies:

(a) The employee's principal place of work is located in the Municipality.

(b) The employee performed services at one or more presumed worksite locations in the Municipality. For the purposes of this division, "presumed worksite location" means a construction site or other temporary worksite in this state at which the employer provides services that can reasonably be expected by the employer to last more than twenty days in a calendar year. Services can "reasonably be expected by the employer to last more than twenty days" if either of the following applies at the time the services commence:

(i) The nature of the services is such that it will require more than twenty days of actual services to complete the services;

(ii) The agreement between the employer and its customer to perform services at a location requires the employer to perform actual services at the location for more than twenty days.

(c) The employee is a resident of the Municipality and has requested that the employer withhold tax from the employee's qualifying wages as provided in of this Code.

(d) The employee is a professional athlete, professional entertainer, or public figure, and the qualifying wages are paid for the performance of services in the employee's capacity as a professional athlete, professional entertainer, or public figure within the Municipality.

(2) For the purposes of division (B)(1) of this section, an employee shall be considered to have spent a day performing services in a municipal corporation only if the employee spent more time performing services for or on behalf of the employer in that municipal corporation than in any other municipal corporation on that day. For the purposes of determining the amount of time an employee spent in a particular location, the time spent performing one or more of the following activities shall be considered to have been spent at the employee's principal place of work:

(a) Traveling to the location at which the employee will first perform services for the employer for the day;

(b) Traveling from a location at which the employee was performing services for the employer to any other location;

(c) Traveling from any location to another location in order to pick up or load, for the purpose of transportation or delivery, property that has been purchased, sold, assembled, fabricated, repaired, refurbished, processed, remanufactured, or improved by the employee's employer;

(d) Transporting or delivering property described in division (B)(2)(c) of this section, provided that, upon delivery of the property, the employee does not temporarily or permanently affix the property to real estate owned, used, or controlled by a person other than the employee's employer;

(e) Traveling from the location at which the employee makes the employee's final delivery or pick-up for the day to either the employee's principal place of work or a location at which the employee will not perform services for the employer.

(C) If the principal place of work of an employee is located in a municipal corporation that imposes an income tax in accordance with this Code the exception from withholding requirements described in division (B)(1) of this section shall apply only if, with respect to the employee's qualifying wages described in that division, the employer withholds and remits tax on such qualifying wages to the municipal corporation in which the employee's principal place of work is located.

(D) (1) Except as provided in division (D)(2) of this section, if, during a calendar year, the number of days an employee spends performing personal services in a municipal corporation exceeds the twenty-day threshold described in division (B)(1) of this section, the employer shall withhold and remit tax to that municipal corporation for any subsequent days in that calendar year on which the employer pays qualifying wages to the employee for personal services performed in that municipal corporation.

(2) An employer required to begin withholding tax for a municipal corporation under division (D)(1) of this section may elect to withhold tax for that municipal corporation for the first twenty days on which the employer paid qualifying wages to the employee for personal services performed in that municipal corporation.

(3) If an employer makes the election described in division (D)(2) of this section, the taxes withheld and paid by such an employer during those first twenty days to the municipal corporation in which the employee's principal place of work is located are refundable to the employee.

(E) Without regard to the number of days in a calendar year on which an employee performs personal services in any municipal corporation, an employer shall withhold municipal income tax on all of the employee's qualifying wages for a taxable year and remit that tax only to the municipal corporation in which the employer's fixed location is located if the employer qualifies as a small employer as defined in section 6 of this Code. To determine whether an employer qualifies as a small employer for a taxable year, a Tax Administrator may require the employer to provide the Tax Administrator with the employer's federal income tax return for the preceding taxable year.

(F) Divisions (B)(1) and (D) of this section shall not apply to the extent that a Tax Administrator and an employer enter into an agreement regarding the manner in which the employer shall comply with the requirements of this Code.

Section 12. COLLECTION AT SOURCE; CASINO AND VLT

(A) The Municipality shall require a casino facility or a casino operator, as defined in section 6(C)(9) of Article XV, Ohio Constitution, and section 3772.01 of the Ohio Revised Code, respectively, or a lottery sales agent conducting video lottery terminals sales on behalf of the state to withhold and remit municipal income tax with respect to amounts other than qualifying wages as provided in this section.

(B) If a person's winnings at a casino facility are an amount for which reporting to the internal revenue service of the amount is required by section 6041 of the Internal Revenue Code, as amended, the casino operator shall deduct and withhold municipal income tax from the person's winnings at the rate of the tax imposed by the municipal corporation in which the casino facility is located.

(C) Amounts deducted and withheld by a casino operator are held in trust for the benefit of the municipal corporation to which the tax is owed.

(1) On or before the tenth day of each month, the casino operator shall file a return electronically with the Tax Administrator of the Municipality, providing the name, address, and social security number of the person from whose winnings amounts were deducted and withheld, the amount of each such deduction and withholding during the preceding calendar month, the amount of the winnings from which each such amount was withheld, the type of casino gaming that resulted in such winnings, and any other information required by the Tax Administrator. With this return, the casino operator shall remit electronically to the Municipality all amounts deducted and withheld during the preceding month.

(2) Annually, on or before the thirty-first day of January, a casino operator shall file an annual return electronically with the Tax Administrator of the municipal corporation in which the casino facility is located, indicating the total amount deducted and withheld during the preceding calendar year. The casino operator shall remit electronically with the annual return any amount that was deducted and withheld and that was not previously remitted. If the name, address, or social security number of a person or the amount deducted and withheld with respect to that person was omitted on a monthly return for that reporting period that information shall be indicated on the annual return.

(3) Annually, on or before the thirty-first day of January, a casino operator shall issue an information return to each person with respect to whom an amount has been deducted and withheld during the preceding calendar year. The information return shall show the total amount of municipal income tax deducted from the person's winnings during the preceding year. The casino operator shall provide to the Tax Administrator a copy of each information return issued under this division. The administrator may require that such copies be transmitted electronically.

(4) A casino operator that fails to file a return and remit the amounts deducted and withheld shall be personally liable for the amount withheld and not remitted. Such personal liability extends to any penalty and interest imposed for the late filing of a return or the late payment of tax deducted and withheld.

(5) If a casino operator sells the casino facility or otherwise quits the casino business, the amounts deducted and withheld along with any penalties and interest thereon are immediately due and payable. The successor shall withhold an amount of the purchase money that is sufficient to cover the amounts deducted and withheld along with any penalties and interest thereon until the predecessor casino operator produces either of the following:

(a) A receipt from the Tax Administrator showing that the amounts deducted and withheld and penalties and interest thereon have been paid;

(b) A certificate from the Tax Administrator indicating that no amounts are due. If the successor fails to withhold purchase money, the successor is personally liable for the payment of the amounts deducted and withheld and penalties and interest thereon.

(6) The failure of a casino operator to deduct and withhold the required amount from a person's winnings does not relieve that person from liability for the municipal income tax with respect to those winnings.

(D) If a person's prize award from a video lottery terminal is an amount for which reporting to the internal revenue service is required by section 6041 of the Internal Revenue Code, as amended, the video lottery sales agent shall deduct and withhold municipal income tax from the person's prize award at the rate of the tax imposed by the municipal corporation in which the video lottery terminal facility is located.

(E) Amounts deducted and withheld by a video lottery sales agent are held in trust for the benefit of the municipal corporation to which the tax is owed.

(1) The video lottery sales agent shall issue to a person from whose prize award an amount has been deducted and withheld a receipt for the amount deducted and withheld, and shall obtain from the person receiving a prize award the person's name, address, and social security number in order to facilitate the preparation of returns required by this section.

(2) On or before the tenth day of each month, the video lottery sales agent shall file a return electronically with the Tax Administrator of the Municipality providing the names, addresses, and social security numbers of the persons from whose prize awards amounts were deducted and withheld, the amount of each such deduction and withholding during the preceding calendar month, the amount of the prize award from which each such amount was withheld, and any other information required by the Tax Administrator. With the return, the video lottery sales agent shall remit electronically to the Tax Administrator all amounts deducted and withheld during the preceding month.

(3) A video lottery sales agent shall maintain a record of all receipts issued under division (E) of this section and shall make those records available to the Tax

Administrator upon request. Such records shall be maintained in accordance with section 5747.17 of the Ohio Revised Code and any rules adopted pursuant thereto.

(4) Annually, on or before the thirty-first day of January, each video lottery terminal sales agent shall file an annual return electronically with the Tax Administrator of the municipal corporation in which the facility is located indicating the total amount deducted and withheld during the preceding calendar year. The video lottery sales agent shall remit electronically with the annual return any amount that was deducted and withheld and that was not previously remitted. If the name, address, or social security number of a person or the amount deducted and withheld with respect to that person was omitted on a monthly return for that reporting period, that information shall be indicated on the annual return.

(5) Annually, on or before the thirty-first day of January, a video lottery sales agent shall issue an information return to each person with respect to whom an amount has been deducted and withheld during the preceding calendar year. The information return shall show the total amount of municipal income tax deducted and withheld from the person's prize award by the video lottery sales agent during the preceding year. A video lottery sales agent shall provide to the Tax Administrator of the municipal corporation a copy of each information return issued under this division. The Tax Administrator may require that such copies be transmitted electronically.

(6) A video lottery sales agent who fails to file a return and remit the amounts deducted and withheld is personally liable for the amount deducted and withheld and not remitted. Such personal liability extends to any penalty and interest imposed for the late filing of a return or the late payment of tax deducted and withheld.

(F) If a video lottery sales agent ceases to operate video lottery terminals, the amounts deducted and withheld along with any penalties and interest thereon are immediately due and payable. The successor of the video lottery sales agent that purchases the video lottery terminals from the agent shall withhold an amount from the purchase money that is sufficient to cover the amounts deducted and withheld and any penalties and interest thereon until the predecessor video lottery sales agent operator produces either of the following:

(1) A receipt from the Tax Administrator showing that the amounts deducted and withheld and penalties and interest thereon have been paid;

(2) A certificate from the Tax Administrator indicating that no amounts are due. If the successor fails to withhold purchase money, the successor is personally liable for the payment of the amounts deducted and withheld and penalties and interest thereon.

(G) The failure of a video lottery sales agent to deduct and withhold the required amount from a person's prize award does not relieve that person from liability for the municipal income tax with respect to that prize award.

(H) If a casino operator or lottery sales agent files a return late, fails to file a return, remits amounts deducted and withheld late, or fails to remit amounts deducted and withheld as required under this section, the Tax Administrator of a municipal corporation may impose the following applicable penalty:

(1) For the late remittance of, or failure to remit, tax deducted and withheld under this section, a penalty equal to fifty per cent of the tax deducted and withheld;

(2) For the failure to file, or the late filing of, a monthly or annual return, a penalty of five hundred dollars for each return not filed or filed late. Interest shall accrue on past due amounts deducted and withheld at the rate prescribed in section 5703.47 of the Ohio Revised Code.

(I) Amounts deducted and withheld on behalf of a municipal corporation shall be allowed as a credit against payment of the tax imposed by the municipal corporation and shall be treated as taxes paid for purposes of this Code. This division applies only to the person for whom the amount is deducted and withheld.

(J) The Tax Administrator shall prescribe the forms of the receipts and returns required under this section.

Section 13. INCOME SUBJECT TO NET PROFIT TAX

A. DETERMINING MUNICIPAL TAXABLE INCOME FOR TAXPAYERS WHO ARE NOT INDIVIDUALS

“Municipal Taxable Income” for a taxpayer who is not an individual for the Municipality is calculated as follows:

(A) “Income” reduced by “Exempt Income” to the extent otherwise included in income, multiplied by apportionment, further reduced by any “Pre-2017 Net Operating Loss Carryforward” equals “Municipal Taxable Income”.

(1) “Income” for a taxpayer that is not an individual means the “Net Profit” of the taxpayer.

(2) “Net Profit” for a person other than an individual is defined in section 6 (12) of this Code.

(3) “Adjusted Federal Taxable Income” is defined in section 6(1) of this Code.

(4) “Exempt Income” is defined in section 6 (11) of this Code.

(5) “Apportionment” means the apportionment as determined by section 6 of this Code.

(6) “Pre-2017 Net Operating Loss Carryforward” is defined in section 6 (32) of this Code.

Section 14. NET PROFIT; INCOME SUBJECT TO NET PROFIT TAX; ALTERNATIVE APPORTIONMENT

This section applies to any taxpayer engaged in a business or profession in the Municipality unless the taxpayer is an individual who resides in the Municipality or the taxpayer is an electric company, combined company, or telephone company that is subject to and required to file reports under Chapter 5745 of the Ohio Revised Code.

(A) Net profit from a business or profession conducted both within and without the boundaries of the Municipality shall be considered as having a taxable situs in the Municipality for purposes of municipal income taxation in the same proportion as the average ratio of the following:

(1) The average original cost of the real property and tangible personal property owned or used by the taxpayer in the business or profession in the Municipality 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, tangible personal or 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;

(2) Wages, salaries, and other compensation paid during the taxable period to individuals employed in the business or profession for services performed in the Municipality to wages, salaries, and other compensation paid during the same period to individuals employed in the business or profession, wherever the individual's services are performed, excluding compensation from which taxes are not required to be withheld under this Code;

(3) Total gross receipts of the business or profession from sales and rentals made and services performed during the taxable period in the Municipality to total gross receipts of the business or profession during the same period from sales, rentals, and services, wherever made or performed.

(B) (1) If the apportionment factors described in division (A) of this section do not fairly represent the extent of a taxpayer's business activity in the Municipality, the taxpayer may request, or the Tax Administrator of the Municipality may require, that the taxpayer use, with respect to all or any portion of the income of the taxpayer, an alternative apportionment method involving one or more of the following:

(a) Separate accounting;
(b) The exclusion of one or more of the factors;
(c) The inclusion of one or more additional factors that would provide for a more fair apportionment of the income of the taxpayer to the Municipality;

(d) A modification of one or more of the factors.

(2) A taxpayer request to use an alternative apportionment method shall be in writing and shall accompany a tax return, timely filed appeal of an assessment, or timely filed amended tax return. The taxpayer may use the requested alternative method unless the Tax Administrator denies the request in an assessment issued within the period prescribed by this Code.

(3) A Tax Administrator may require a taxpayer to use an alternative apportionment method as described in division (B)(1) of this section only by issuing an assessment to the taxpayer within the period prescribed by this Code.

(4) Nothing in division (B) of this section nullifies or otherwise affects any alternative apportionment arrangement approved by a Tax Administrator or otherwise agreed upon by both the Tax Administrator and taxpayer before January 1, 2016.

(C) As used in division (A)(2) of this section, "wages, salaries, and other compensation" includes only wages, salaries, or other compensation paid to an employee for services performed at any of the following locations:

(1) A location that is owned, controlled, or used by, rented to, or under the possession of one of the following:

(a) The employer;

(b) A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient;

(c) A vendor, customer, client, or patient of a person described in division (C)(1)(b) of this section, or a related member of such a vendor, customer, client, or patient.

(2) Any location at which a trial, appeal, hearing, investigation, inquiry, review, court-martial, or similar administrative, judicial, or legislative matter or proceeding is being conducted, provided that the compensation is paid for services performed for, or on behalf of, the employer or that the employee's presence at the location directly or indirectly benefits the employer;

(3) Any other location, if the Tax Administrator determines that the employer directed the employee to perform the services at the other location in lieu of a location described in division (C)(1) or (2) of this section solely in order to avoid or reduce the employer's municipal income tax liability. If a Tax Administrator makes such a determination, the employer may dispute the determination by establishing, by a preponderance of the evidence, that the Tax Administrator's determination was unreasonable.

(D) For the purposes of division (A)(3) of this section, receipts from sales and rentals made and services performed shall be situated to a municipal corporation as follows:

(1) Gross receipts from the sale of tangible personal property shall be situated to the municipal corporation in which the sale originated. For the purposes of this division, a sale of property originates in a municipal corporation if, regardless of where title passes, the property meets any of the following criteria:

(a) The property is shipped to or delivered within the municipal corporation from a stock of goods located within the municipal corporation.

(b) The property is delivered within the municipal corporation from a location outside the municipal corporation, provided 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.

(c) The property is shipped from a place within the municipal corporation to purchasers outside the municipal corporation, provided that the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

(2) Gross receipts from the sale of services shall be situated to the municipal corporation to the extent that such services are performed in the municipal corporation.

(3) To the extent included in income, gross receipts from the sale of real property located in the municipal corporation shall be situated to the municipal corporation.

(4) To the extent included in income, gross receipts from rents and royalties from real property located in the municipal corporation shall be situated to the municipal corporation.

(5) Gross receipts from rents and royalties from tangible personal property shall be situated to the municipal corporation based upon the extent to which the tangible personal property is used in the municipal corporation.

(E) The net profit received by an individual taxpayer from the rental of real estate owned directly by the individual or by a disregarded entity owned by the individual shall be subject to tax only by the municipal corporation in which the property generating the net profit is located and the municipal corporation in which the individual taxpayer that receives the net profit resides.

A municipal corporation shall allow such taxpayers to elect to use separate accounting for the purpose of calculating net profit situated under this division to the municipal corporation in which the property is located.

(F) (1) Except as provided in division (F)(2) of this section, commissions received by a real estate agent or broker relating to the sale, purchase, or lease of real estate shall be situated to the municipal corporation in which the real estate is located. Net profit reported by the real estate agent or broker shall be allocated to a municipal corporation based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease of real estate located in the municipal corporation to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.

(2) An individual who is a resident of a municipal corporation that imposes a municipal income tax shall report the individual's net profit from all real estate activity on the individual's annual tax return for that municipal corporation. The individual may claim a credit for taxes the individual paid on such net profit to another municipal corporation to the extent that such credit is allowed under this Code.

(G) If, in computing a taxpayer's adjusted federal taxable income, the taxpayer deducted any amount with respect to a stock option granted to an employee, and if the employee is not required to include in the employee's income any such amount or a portion thereof because it is exempted from taxation under divisions (12)(L) of section 6 of this Code, by a municipal corporation to which the taxpayer has apportioned a portion of its net profit, the taxpayer shall add the amount that is exempt from taxation to the taxpayer's net profit that was apportioned to that municipal corporation. In no case shall a taxpayer be required to add to its net profit that was apportioned to that municipal corporation any amount other than the amount upon which the employee would be required to pay tax were the amount related to the stock option not exempted from taxation. This division applies solely for the purpose of making an adjustment to the amount of a taxpayer's net profit that was apportioned to a municipal corporation under this section.

(H) When calculating the ratios described in division (A) of this section for the purposes of that division or division (B) of this section, the owner of a disregarded entity shall include in the owner's ratios the property, payroll, and gross receipts of such disregarded entity.

Section 15. CONSOLIDATED FEDERAL INCOME TAX RETURN

(A) As used in this section:

(1) "Affiliated group of corporations" means an affiliated group as defined in section 1504 of the Internal Revenue Code, except that, if such a group includes at least one incumbent local exchange carrier that is primarily engaged in the business of providing local exchange telephone service in this state, the affiliated group shall not include any incumbent local exchange carrier that would otherwise be included in the group.

(2) "Consolidated federal income tax return" means a consolidated return filed for federal income tax purposes pursuant to section 1501 of the Internal Revenue Code.

(3) "Consolidated federal taxable income" means the consolidated taxable income of an affiliated group of corporations, as computed for the purposes of filing a consolidated federal income tax return, before consideration of net operating losses or special deductions. "Consolidated federal taxable income" does not include income or loss of an incumbent local exchange carrier that is excluded from the affiliated group under division (A)(1) of this section.

(4) "Incumbent local exchange carrier" has the same meaning as in section 4927.01 of the Revised Code.

(5) "Local exchange telephone service" has the same meaning as in section 5727.01 of the Revised Code.

(B) (1) For taxable years beginning on or after January 1, 2016, a taxpayer that is a member of an affiliated group of corporations may elect to file a consolidated municipal income tax return for a taxable year if at least one member of the affiliated group of corporations is subject to the municipal income tax in that taxable year and if the affiliated group of corporations filed a consolidated federal

income tax return with respect to that taxable year.

(a) The election is binding for a five-year period beginning with the first taxable year of the initial election unless a change in the reporting method is required under federal law.

(b) The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing consolidated municipal income tax returns under division (B)(2) of this section; or

(c) A taxpayer receives permission from the Tax Administrator. The Tax Administrator shall approve such a request for good cause shown.

(2) An election to discontinue filing consolidated municipal income tax returns under this section must be made in the first year following the last year of a five-year consolidated municipal income tax return election period in effect under division (B)(1) of this section. The election to discontinue filing a consolidated municipal income tax return is binding for a five-year period beginning with the first taxable year of the election.

(3) An election made under division (B)(1) or (2) of this section is binding on all members of the affiliated group of corporations subject to a municipal income tax.

(C) A taxpayer that is a member of an affiliated group of corporations that filed a consolidated federal income tax return for a taxable year shall file a consolidated municipal income tax return for that taxable year if the Tax Administrator determines, by a preponderance of the evidence, that intercompany transactions have not been conducted at arm's length and that there has been a distortive shifting of income or expenses with regard to allocation of net profits to the municipal corporation. A taxpayer that is required to file a consolidated municipal income tax return for a taxable year shall file a consolidated municipal income tax return for all subsequent taxable years unless the taxpayer requests and receives written permission from the Tax Administrator to file a separate return or a taxpayer has experienced a change in circumstances.

(D) A taxpayer shall prepare a consolidated municipal income tax return in the same manner as is required under the United States Department of Treasury regulations that prescribe procedures for the preparation of the consolidated federal income tax return required to be filed by the common parent of the affiliated group of which the taxpayer is a member.

(E) (1) Except as otherwise provided in divisions (E)(2), (3), and (4) of this section, corporations that file a consolidated municipal income tax return shall compute adjusted federal taxable income, as defined in section 6 (1) of this Code, by substituting "consolidated federal taxable income" for "federal taxable income" wherever "federal taxable income" appears in that division and by substituting "an affiliated group of corporation's" for "a C corporation's" wherever "a C corporation's" appears in that division.

(2) No corporation filing a consolidated municipal income tax return shall make any adjustment otherwise required under division (1) of section 6 of this Code to the extent

that the item of income or deduction otherwise subject to the adjustment has been eliminated or consolidated in the computation of consolidated federal taxable income.

(3) If the net profit or loss of a pass-through entity having at least eighty per cent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, the corporation filing a consolidated municipal income tax return shall do one of the following with respect to that pass-through entity's net profit or loss for that taxable year:

(a) Exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in this Code, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation. If the entity's net profit or loss is so excluded, the entity shall be subject to taxation as a separate taxpayer on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(b) Include the pass-through entity's net profit or loss in the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in this Code, include the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation. If the entity's net profit or loss is so included, the entity shall not be subject to taxation as a separate taxpayer on the basis of the entity's net profits that are included in the consolidated federal taxable income of the affiliated group.

(4) If the net profit or loss of a pass-through entity having less than eighty per cent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, all of the following shall apply:

(a) The corporation filing the consolidated municipal income tax return shall exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purposes of making the computations required in this Code, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation;

(b) The pass-through entity shall be subject to municipal income taxation as a separate taxpayer in accordance with this Code on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(F) Corporations filing a consolidated municipal income tax return shall make the computations required under this Code by substituting "consolidated federal taxable income attributable to" for "net profit from" wherever "net profit from" appears in that section and by substituting "affiliated group of corporations" for "taxpayer" wherever "taxpayer" appears in that section.

(G) Each corporation filing a consolidated municipal income tax return is jointly and severally liable for any tax, interest, penalties, fines, charges, or other amounts imposed by a municipal corporation in accordance with this Code on the corporation, an affiliated group of which the corporation is a member for any portion of the taxable year, or any one or more members of such an affiliated group.

(H) Corporations and their affiliates that made an election or entered into an agreement with a municipal corporation before January 1, 2016, to file a consolidated or combined tax return with such municipal corporation may continue to file consolidated or combined tax returns in accordance with such election or agreement for taxable years beginning on and after January 1, 2016.

Section 16. TAX CREDIT FOR BUSINESSES THAT FOSTER NEW JOBS IN OHIO

The Municipality, by Ordinance, may grant a refundable or nonrefundable credit against its tax on income to a taxpayer to foster job creation in the Municipality. If a credit is granted under this section, it shall be measured as a percentage of the new income tax revenue the Municipality derives from new employees of the taxpayer and shall be for a term not exceeding fifteen years. Before the Municipality passes an ordinance granting a credit, the Municipality and the taxpayer shall enter into an agreement specifying all the conditions of the credit.

Section 17. TAX CREDITS TO FOSTER JOB RETENTION

The Municipality, by Ordinance, may grant a refundable or nonrefundable credit against its tax on income to a taxpayer for the purpose of fostering job retention in the Municipality. If a credit is granted under this section, it shall be measured as a percentage of the income tax revenue the Municipality derives from the retained employees of the taxpayer, and shall be for a term not exceeding fifteen years. Before the Municipality passes an ordinance allowing such a credit, the Municipality and the taxpayer shall enter into an agreement specifying all the conditions of the credit.

Section 18. DECLARATION OF ESTIMATED TAX

(A) As used in this section:

(1) "Estimated taxes" means the amount that the taxpayer reasonably estimates to be the taxpayer's tax liability for a municipal corporation's income tax for the current taxable year.

(2) "Tax liability" means the total taxes due to a municipal corporation for the taxable year, after allowing any credit to which the taxpayer is entitled, and after applying any estimated tax payment, withholding payment, or credit from another taxable year.

(B) (1) Every taxpayer shall make a declaration of estimated taxes for the current taxable year, on the form prescribed by the Tax Administrator, if the amount payable as estimated taxes is at least two hundred dollars. For the purposes of this section:

(a) Taxes withheld from qualifying wages shall be considered as paid to the municipal corporation for which the taxes were withheld in equal amounts on each payment date. If the taxpayer establishes the dates on which all amounts were actually withheld, the amounts withheld shall be considered as paid on the dates on which the amounts were actually withheld.

(b) An overpayment of tax applied as a credit to a subsequent taxable year is deemed to be paid on the date of the postmark stamped on the cover in which the payment is mailed or, if the payment is made by electronic funds transfer, the date the payment is submitted. As used in this division, "date of the postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.

(c) A taxpayer having a taxable year of less than twelve months shall make a declaration under rules prescribed by the Tax Administrator.

(d) Taxes withheld by a casino operator or by a lottery sales agent under section 718.031 of the Ohio Revised Code are deemed to be paid to the municipal corporation for which the taxes were withheld on the date the taxes are withheld from the taxpayer's winnings.

(2) Taxpayers filing joint returns shall file joint declarations of estimated taxes.

(3) The declaration of estimated taxes shall be filed on or before the date prescribed for the filing of municipal income tax returns under this Code or on or before the fifteenth day of the fourth month of the first taxable year after the taxpayer becomes subject to tax for the first time.

(4) Taxpayers reporting on a fiscal year basis shall file a declaration on or before the fifteenth day of the fourth month after the beginning of each fiscal year or period.

(5) The original declaration or any subsequent amendment may be increased or decreased on or before any subsequent quarterly payment day as provided in this section.

(C) (1) The required portion of the tax liability for the taxable year that shall be paid through estimated taxes made payable to the Municipality or Tax Administrator, including the application of tax refunds to estimated taxes and withholding on or before the applicable payment date, shall be as follows:

(a) On or before the fifteenth day of the fourth month after the beginning of the taxable year, twenty-two and one-half per cent of the tax liability for the

taxable year;

(b) On or before the fifteenth day of the sixth month after the beginning of the taxable year, forty-five per cent of the tax liability for the taxable year;

(c) On or before the fifteenth day of the ninth month after the beginning of the taxable year, sixty-seven and one-half per cent of the tax liability for the taxable year;

(d) On or before the fifteenth day of the twelfth month of the taxable year, ninety per cent of the tax liability for the taxable year.

(2) A taxpayer may amend a declaration under rules prescribed by the Tax Administrator. When an amended declaration has been filed, the unpaid balance shown due on the amended declaration shall be paid in equal installments on or before the remaining payment dates. The amended declaration must be filed on the next applicable due date as outlined in (C)(1)(a) through (d) of this section.

(3) On or before the fifteenth day of the fourth month of the year following that for which the declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due shall be paid with the return in accordance with this Code.

(a) For taxpayers who are individuals, or who are not individuals and are reporting and filing on a calendar year basis, the annual tax return is due on the same date as the filing of the federal tax return, unless extended pursuant to division (G) of section 5747.08 of the Revised Code.

(b) For taxpayers who are not individuals, and are reporting and filing on a fiscal year basis or any period other than a calendar year, the annual return is due on the fifteenth day of the fourth month following the end of the taxable year or period.

(4) An amended declaration is required whenever the taxpayer's estimated tax liability changes during the taxable year. A change in estimated tax liability may either increase or decrease the estimated tax liability for the taxable year.

(D) (1) In the case of any underpayment of any portion of a tax liability, penalty and interest may be imposed pursuant to this Code upon the amount of underpayment for the period of underpayment, unless the underpayment is due to reasonable cause as described in division (E) of this section. The amount of the underpayment shall be determined as follows:

(a) For the first payment of estimated taxes each year, twenty-two and one-half per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

(b) For the second payment of estimated taxes each year, forty-five per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

(c) For the third payment of estimated taxes each year, sixty-seven and one-half per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

(d) For the fourth payment of estimated taxes each year, ninety per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment.

(2) The period of the underpayment shall run from the day the estimated payment was required to be made to the date on which the payment is made. For purposes of this section, a payment of estimated taxes on or before any payment date shall be considered a payment of any previous underpayment only to the extent the payment of estimated taxes exceeds the amount of the payment presently required to be paid to avoid any penalty.

(E) An underpayment of any portion of tax liability determined under division (D) of this section shall be due to reasonable cause and the penalty imposed by this section shall not be added to the taxes for the taxable year if any of the following apply:

(1) The amount of estimated taxes that were paid equals at least ninety per cent of the tax liability for the current taxable year, determined by annualizing the income received during the year up to the end of the month immediately preceding the month in which the payment is due.

(2) The amount of estimated taxes that were paid equals at least one hundred per cent of the tax liability shown on the return of the taxpayer for the preceding taxable year, provided that the immediately preceding taxable year reflected a period of twelve months and the taxpayer filed a return with the municipal corporation under this Code for that year.

(3) The taxpayer is an individual who resides in the Municipality but was not domiciled there on the first day of January of the calendar year that includes the first day of the taxable year.

(F) A Tax Administrator may waive the requirement for filing a declaration of estimated taxes for any class of taxpayers after finding that the waiver is reasonable and proper in view of administrative costs and other factors.

Section 19 CREDIT FOR TAX PAID

1. Where a resident of the Village is subject to a municipal tax, on or measured by income, in another municipality either located within or without the state of Ohio, he shall not pay a total municipal tax on the same income greater than the tax imposed at the higher rate.

A. Credits to Residents.

1. Resident individuals of the Village who are required to pay and do pay tax to another municipality on qualifying wages, commissions, other compensation, and

other taxable income for work done or services performed in such other municipality or on net profits from businesses, professions or other activities conducted in such other municipality, may claim a credit of the amount of tax paid by them or on their behalf to such other municipality but only to the extent of one and one-half percent (1-1/2%) tax imposed by the Code on such compensation or net profits.

B. Method of Applying for Credit.

1. No credit will be given unless the taxpayer claims such on his final return or other form prescribed by the Commissioner, and presents such evidence of the payment of a similar tax to another municipality, as the Commissioner may require.

Section 20. REFUNDABLE CREDIT FOR QUALIFYING LOSS

(A) As used in this section:

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

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

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

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

(3) "Qualifying tax rate" means the applicable tax rate for the taxable year for the which the taxpayer paid income tax to a municipal corporation with respect to any

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

- (B)
 - (1) Except as provided in division (D) of this section, a refundable credit shall be allowed against the income tax imposed by a municipal corporation for each qualifying loss sustained by a taxpayer during the taxable year. The amount of the credit shall be equal to the product of the qualifying loss and the qualifying tax rate.
 - (2) A taxpayer shall claim the credit allowed under this section from each municipal corporation to which the taxpayer paid municipal income tax with respect to the nonqualified deferred compensation plan in one or more taxable years.
 - (3) If a taxpayer has paid tax to more than one municipal corporation with respect to the nonqualified deferred compensation plan, the amount of the credit that a taxpayer may claim from each municipal corporation shall be calculated on the basis of each municipal corporation's proportionate share of the total municipal corporation income tax paid by the taxpayer to all municipal corporations with respect to the nonqualified deferred compensation plan.
 - (4) In no case shall the amount of the credit allowed under this section exceed the cumulative income tax that a taxpayer has paid to a municipal corporation for all taxable years with respect to the nonqualified deferred compensation plan.
- (C)
 - (1) For purposes of this section, municipal corporation income tax that has been withheld with respect to a nonqualified deferred compensation plan shall be considered to have been paid by the taxpayer with respect to the nonqualified deferred compensation plan.
 - (2) Any municipal income tax that has been refunded or otherwise credited for the benefit of the taxpayer with respect to a nonqualified deferred compensation plan shall not be considered to have been paid to the municipal corporation by the taxpayer.
- (D) The credit allowed under this section is allowed only to the extent the taxpayer's qualifying loss is attributable to:
 - (1) The insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan; or
 - (2) The employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation.

Section 21. CREDIT FOR TAX BEYOND STATUTE FOR OBTAINING REFUND

- (A) Income tax that has been deposited or paid to the Municipality, but should have been deposited or paid to another municipal corporation, is allowable by the Municipality as a refund, but is subject to the three-year limitation on refunds as provided in this Code.
- (B) Income tax that should have been deposited or paid to the Municipality, but was deposited or paid to another municipal corporation, shall be subject to collection and recovery by the Municipality. To the extent a refund of such tax or withholding is barred by the limitation on refunds as provided in this Code, the Municipality will allow a non-refundable credit equal to the tax or withholding paid to the other municipality against the income tax the Municipality claims is due. If the Municipality's tax rate is higher, the tax representing the net difference of the tax rates is also subject to collection by the Municipality, along with any penalty and interest accruing during the period of nonpayment.
- (C) No carryforward of credit will be permitted when the overpayment is beyond the three-year limitation for refunding of same as provided in this Code.
- (D) Nothing in this section requires a Municipality to allow credit for tax paid to another municipal corporation if the Municipality has reduced credit for tax paid to another municipal corporation this Code regarding any limitation on credit shall prevail.

Section 22. ANNUAL RETURN

A. RETURN AND PAYMENT OF TAX

- (A) (1) An annual return with respect to the income tax levied on Municipal Taxable Income by the Municipality shall be completed and filed by every taxpayer for any taxable year for which the taxpayer is subject to the tax, regardless of whether or not income tax is due.
- (2) The Tax Administrator shall accept on behalf of all nonresident individual taxpayers a return filed by an employer, agent of an employer, or other payer located in the Municipality under this Code when the nonresident individual taxpayer's sole income subject to the tax is the qualifying wages reported by the employer, agent of an employer, or other payer, and no additional tax is due to the Municipality.
- (3) All resident individual taxpayers, more than seventeen (17) years of age and older, shall file an annual municipal income tax return with the Municipality, regardless of income or liability.
- (B) If an individual is deceased, any return or notice required of that individual shall be completed and filed by that decedent's executor, administrator, or other person charged with the property of that decedent.

(C) If an individual is unable to complete and file a return or notice required by the Municipality in accordance with this Code, the return or notice required of that individual shall be completed and filed by the individual's duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual. Such duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual shall provide, with the filing of the return, appropriate documentation to support that they are authorized to file a return or notice on behalf of the taxpayer. This notice shall include any legally binding authorizations, and contact information including name, address, and phone number of the duly authorized agent, guardian, conservator, fiduciary, or other person.

(D) Returns or notices required of an estate or a trust shall be completed and filed by the fiduciary of the estate or trust. Such fiduciary shall provide, with the filing of the return, appropriate documentation to support that they are authorized to file a return or notice on behalf of the taxpayer. This notice shall include any legally binding authorizations, and contact information including name, address, and phone number of the fiduciary.

(E) No municipal corporation shall deny spouses the ability to file a joint return.

(F) (1) Each return required to be filed under this section shall contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer, and shall include the taxpayer's social security number or taxpayer identification number. Each return shall be verified by a declaration under penalty of perjury.

(2) A taxpayer who is an individual is required to include, with each annual return, amended return, or request for refund required under this section, copies of only the following documents: all of the taxpayer's Internal Revenue Service form W-2, "Wage and Tax Statements," including all information reported on the taxpayer's federal W-2, as well as taxable wages reported or withheld for any municipal corporation; the taxpayer's Internal Revenue Service form 1040 or, in the case of a return or request required by a qualified municipal corporation, Ohio IT 1040; and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return. An individual taxpayer who files the annual return required by this section electronically is not required to provide paper copies of any of the foregoing to the Tax Administrator unless the Tax Administrator requests such copies after the return has been filed.

(3) A taxpayer that is not an individual is required to include, with each annual net profit return, amended net profit return, or request for refund required under this section, copies of only the following documents: the taxpayer's Internal Revenue Service form 1041, form 1065, form 1120, form 1120-REIT, form 1120F, or form 1120S, and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return.

(4) A taxpayer that is not an individual and that files an annual net profit return electronically through the Ohio business gateway or in some other manner shall either mail the documents required under this division to the Tax Administrator at the time of

filing or, if electronic submission is available, submit the documents electronically through the Ohio business gateway or a portal provided by Municipality. The department of taxation shall publish a method of electronically submitting the documents required under this division through the Ohio business gateway on or before January 1, 2016. The department shall transmit all documents submitted electronically under this division to the appropriate Tax Administrator.

(5) After a taxpayer files a tax return, the Tax Administrator shall request, and the taxpayer shall provide, any information, statements, or documents required by the Municipality to determine and verify the taxpayer's municipal income tax liability. The requirements imposed under division (F) of this section apply regardless of whether the taxpayer files on a generic form or on a form prescribed by the Tax Administrator.

(6) Any other documentation, including schedules, other municipal income tax returns, or other supporting documentation necessary to verify credits, income, losses, or other pertinent factors on the return shall also be included to avoid delay in processing, or disallowance by the Tax Administrator of undocumented credits or losses.

(G) (1) (a) Except as otherwise provided in this Code, each individual income tax return required to be filed under this section shall be completed and filed as required by the Tax Administrator on or before the date prescribed for the filing of state individual income tax returns under division (G) of section 5747.08 of the Ohio Revised Code. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the Municipality or Tax Administrator.

(b) Except as otherwise provided in this Code, each annual net profit income tax return required to be filed under this section by a taxpayer that is not an individual shall be completed and filed as required by the tax administrator on or before the fifteenth day of the fourth month following the end of the taxpayer's taxable year or period. The taxpayer shall complete and file the return or notice on forms prescribed by the tax administrator or on generic forms, together with remittance made payable to the Municipality or Tax Administrator.

(c) In the case of individual income tax return required to be filed by an individual, and net profit income tax return required to be filed by a taxpayer who is not an individual, no remittance is required if the amount shown to be due is ten dollars or less.

(2) If the Tax Administrator considers it necessary in order to ensure the payment of the tax imposed by the Municipality in accordance with this Code, the Tax Administrator may require taxpayers to file returns and make payments otherwise than as provided in this section, including taxpayers not otherwise required to file annual returns.

(3) With respect to taxpayers to whom this Code applies, to the extent that any provision in this division conflicts with any provision in this Code, the provision in this Code prevails.

- (H) (1) For taxable years beginning after 2015, the Municipality shall not require a taxpayer to remit tax with respect to net profits if the amount due is ten dollars or less.
- (2) Any taxpayer not required to remit tax to the Municipality for a taxable year pursuant to division (H)(1) of this section shall file with the Municipality an annual net profit return under division (F)(3) and (4) of this section.
- (I) This division shall not apply to payments required to be made under this Code.
- (1) If any report, claim, statement, or other document required to be filed, or any payment required to be made, within a prescribed period or on or before a prescribed date under this Code is delivered after that period or that to the Tax Administrator or other municipal official with which the report, claim, statement, or other document is required to be filed, or to which the payment is required to be made, the date of the postmark stamped on the cover in which the report, claim, statement, or other document, or payment is mailed shall be deemed to be the date of delivery or the date of payment. "The date of postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.
- (2) If a payment is required to be made by electronic funds transfer, the payment is considered to be made when the payment is credited to an account designated by the Tax Administrator for the receipt of tax payments, except that, when a payment made by electronic funds transfer is delayed due to circumstances not under the control of the taxpayer, the payment is considered to be made when the taxpayer submitted the payment. For purposes of this section, "submitted the payment" means the date which the taxpayer has designated for the delivery of payment, which may or may not be the same date as the date the payment was initiated by the taxpayer.
- (J) The amounts withheld for the Municipality by an employer, the agent of an employer, or other payer as described in this Code shall be allowed to the recipient of the compensation as credits against payment of the tax imposed on the recipient unless the amounts withheld were not remitted to the Municipality and the recipient colluded with the employer, agent, or other payer in connection with the failure to remit the amounts withheld.
- (K) Each return required by the Municipality to be filed in accordance with this section shall include a box that the taxpayer may check to authorize another person, including a tax return preparer who prepared the return, to communicate with the Tax Administrator about matters pertaining to the return. The return or instructions accompanying the return shall indicate that by checking the box the taxpayer authorizes the Tax Administrator to contact the preparer or other person concerning questions that arise during the examination or other review of the return and authorizes the preparer or other person only to provide the Tax Administrator with information that is missing from the return, to contact the Tax Administrator for information about the examination or other review of the return or the status of the taxpayer's refund or payments, and to respond to notices about mathematical errors, offsets, or return preparation that the taxpayer has received from the Tax Administrator and has shown to the preparer or other person. Authorization by the taxpayer of another person to communicate with the Tax Administrator about matters pertaining to the return does not preclude the Tax Administrator from contacting the taxpayer regarding such matters.

(L) The Tax Administrator of the Municipality shall accept for filing a generic form of any income tax return, report, or document required by the Municipality in accordance with this Code, provided that the generic form, once completed and filed, contains all of the information required by ordinances, resolutions, or rules adopted by the Municipality or Tax Administrator, and provided that the taxpayer or tax return preparer filing the generic form otherwise complies with the provisions of this Code and of the Municipality's Ordinance or resolution governing the filing of returns, reports, or documents.

(M) When income tax returns, reports, or other documents require the signature of a tax return preparer, the Tax Administrator shall accept a facsimile of such a signature in lieu of a manual signature.

(N) (1) As used in this division, "worksite location" has the same meaning as in this Code.

(2) A person may notify a tax administrator that the person does not expect to be a taxpayer with respect to the municipal corporation for a taxable year if both of the following conditions apply:

(a) The person was required to file a tax return with the municipal corporation for the immediately preceding taxable year because the person performed services at a worksite location within the municipal corporation, and the person has filed all appropriate and required returns and remitted all applicable income tax and withholding payments as provided by this Code. The tax administrator is not required to accept an affidavit from a taxpayer who has not complied with the provisions of this Code.

The person no longer provides services in the municipal corporation, and does not expect to be subject to the municipal corporation's income tax for the taxable year.

The person shall provide the notice in a signed affidavit that briefly explains the person's circumstances, including the location of the previous worksite location and the last date on which the person performed services or made any sales within the municipal corporation. The affidavit also shall include the following statement: "The affiant has no plans to perform any services within the municipal corporation, make any sales in the municipal corporation, or otherwise become subject to the tax levied by the municipal corporation during the taxable year. If the affiant does become subject to the tax levied by the municipal corporation for the taxable year, the affiant agrees to be considered a taxpayer and to properly register as a taxpayer with the municipal corporation, if such a registration is required by the municipal corporation's resolutions, ordinances, or rules." The person shall sign the affidavit under penalty of perjury.

(c) If a person submits an affidavit described in division (N)(2) of this section, the tax administrator shall not require the person to file any tax return for the taxable year unless the tax administrator possesses information that conflicts with

the affidavit or if the circumstances described in the affidavit change, or the taxpayer has engaged in activity which results in work being performed, services provided, sales made, or other activity that results in municipal taxable income reportable to the Municipality in the taxable year. It shall be the responsibility of the taxpayer to comply with the provisions of this Code relating to the reporting and filing of municipal taxable income on an annual municipal income tax return, even if an affidavit has been filed with the tax administrator for the taxable year. Nothing in division (N) of this section prohibits the tax administrator from performing an audit of the person.

Section 23. RETURN AND PAYMENT OF TAX; INDIVIDUALS SERVING IN COMBAT ZONE

(A) Each member of the national guard of any state and each member of a reserve component of the armed forces of the United States called to active duty pursuant to an executive order issued by the President of the United States or an act of the Congress of the United States, and each civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces, may apply to the Tax Administrator of the Municipality for both an extension of time for filing of the return and an extension of time for payment of taxes required by the Municipality in accordance with this Code during the period of the member's or civilian's duty service and for one hundred eighty days thereafter. The application shall be filed on or before the one hundred eightieth day after the member's or civilian's duty terminates. An applicant shall provide such evidence as the Tax Administrator considers necessary to demonstrate eligibility for the extension.

(B) (1) If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the Tax Administrator shall enter into a contract with the applicant for the payment of the tax in installments that begin on the one hundred eighty-first day after the applicant's active duty or service terminates. Except as provided in division (B)(3) of this section, the Tax Administrator may prescribe such contract terms as the Tax Administrator considers appropriate.

(2) If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the applicant shall neither be required to file any return, report, or other tax document nor be required to pay any tax otherwise due to the Municipality before the one hundred eighty-first day after the applicant's active duty or service terminates.

(3) Taxes paid pursuant to a contract entered into under division (B)(1) of this section are not delinquent. The Tax Administrator shall not require any payments of penalties or interest in connection with those taxes for the extension period.

(C) (1) Nothing in this division denies to any person described in this division the application of divisions (A) and (B) of this section.

(2) (a) A qualifying taxpayer who is eligible for an extension under the Internal Revenue Code shall receive both an extension of time in which to file any return, report, or other tax document and an extension of time in which to make any payment of taxes required by the Municipality in accordance with this Code. The

length of any extension granted under division (C)(2)(a) of this section shall be equal to the length of the corresponding extension that the taxpayer receives under the Internal Revenue Code. As used in this section, "qualifying taxpayer" means a member of the national guard or a member of a reserve component of the armed forces of the United States called to active duty pursuant to either an executive order issued by the President of the United States or an act of the Congress of the United States, or a civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces.

(b) Taxes the payment of which is extended in accordance with division (C)(2)(a) of this section are not delinquent during the extension period. Such taxes become delinquent on the first day after the expiration of the extension period if the taxes are not paid prior to that date. The Tax Administrator shall not require any payment of penalties or interest in connection with those taxes for the extension period. The Tax Administrator shall not include any period of extension granted under division (C)(2)(a) of this section in calculating the penalty or interest due on any unpaid tax.

(D) For each taxable year to which division (A), (B), or (C) of this section applies to a taxpayer, the provisions of divisions (B)(2) and (3) or (C) of this section, as applicable, apply to the spouse of that taxpayer if the filing status of the spouse and the taxpayer is married filing jointly for that year.

Section 24. USE OF OHIO BUSINESS GATEWAY; TYPES OF FILINGS AUTHORIZED

(A) Any taxpayer subject to municipal income taxation with respect to the taxpayer's net profit from a business or profession may file any municipal income tax return or, estimated municipal income tax return, or extension for filing a municipal income tax return, and may make payment of amounts shown to be due on such returns, by using the Ohio Business Gateway.

(B) Any employer, agent of an employer, or other payer may report the amount of municipal income tax withheld from qualifying wages, and may make remittance of such amounts, by using the Ohio Business Gateway.

(C) Nothing in this section affects the due dates for filing employer withholding tax returns or deposit of any required tax.

(D) The use of the Ohio Business Gateway by municipal corporations, taxpayers, or other persons does not affect the legal rights of municipalities or taxpayers as otherwise permitted by law. The State of Ohio shall not be a party to the administration of municipal income taxes or to an appeal of a municipal income tax matter, except as otherwise specifically provided by law.

(E) Nothing in this section shall be construed as limiting or removing the authority of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax.

Section 25. EXTENSION OF TIME TO FILE

(A) Any taxpayer that has duly requested an automatic six-month extension for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the fifteenth day of the tenth month after the last day of the taxable year to which the return relates.

(B) Any taxpayer that qualifies for an automatic federal extension for a period other than six-months for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the same as that of the extended federal income tax return.

(C) A taxpayer that has not requested or received a six-month extension for filing the taxpayer's federal income tax return may request that the tax administrator grant the taxpayer a six-month extension of the date for filing the taxpayer's municipal income tax return. If the request is received by the tax administrator on or before the date the municipal income tax return is due, the tax administrator shall grant the taxpayer's requested extension.

(D) An extension of time to file under this Code is not an extension of the time to pay any tax due unless the Tax Administrator grants an extension of that date.

(E) If the State Tax Commissioner extends for all taxpayers the date for filing state income tax returns under division (G) of section 5747.08 of the Ohio Revised Code, a taxpayer shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the same as the extended due date of the state income tax return.

Section 26. AMENDED RETURNS

(A) (1) A taxpayer shall file an amended return with the Tax Administrator in such form as the Tax Administrator requires if any of the facts, figures, computations, or attachments required in the taxpayer's annual return to determine the tax due levied by the Municipality in accordance with this Code must be altered.

(2) Within sixty days after the final determination of any federal or state tax liability affecting the taxpayer's municipal tax liability, that taxpayer shall make and file an amended municipal return showing income subject to the municipal income tax based upon such final determination of federal or state tax liability, and pay any additional municipal income tax shown due thereon or make a claim for refund of any overpayment, unless the tax or overpayment is ten dollars or less.

(3) If a taxpayer intends to file an amended consolidated municipal income tax return, or to amend its type of return from a separate return to a consolidated return, based on the taxpayer's consolidated federal income tax return, the taxpayer shall notify the Tax Administrator before filing the amended return.

(B) (1) In the case of an underpayment, the amended return shall be accompanied by payment of any combined additional tax due together with any penalty and interest

thereon. If the combined tax shown to be due is ten dollars or less, such amount need not accompany the amended return. Except as provided under division (B)(2) of this section, the amended return shall not reopen those facts, figures, computations, or attachments from a previously filed return that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return unless the applicable statute of limitations for civil actions or prosecutions under this Code has not expired for a previously filed return.

(2) The additional tax to be paid shall not exceed the amount of tax that would be due if all facts, figures, computations, and attachments were reopened.

- (C) (1) In the case of an overpayment, a request for refund may be filed under this division within the period prescribed by this Code for filing the amended return even if it is filed beyond the period prescribed in that division if it otherwise conforms to the requirements of that division. If the amount of the refund is ten dollars or less, no refund need be paid by the Municipality to the taxpayer. Except as set forth in division (C)(2) of this section, a request filed under this division shall claim refund of overpayments resulting from alterations to only those facts, figures, computations, or attachments required in the taxpayer's annual return that are affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return unless it is also filed within the time prescribed in this Code. Except as set forth in division (C)(2) of this section, the request shall not reopen those facts, figures, computations, or attachments that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return.

(2) The amount to be refunded shall not exceed the amount of refund that would be due if all facts, figures, computations, and attachments were reopened.

Section 27. REFUNDS

(A) Upon receipt of a request for a refund, the Tax Administrator of the Municipality, in accordance with this section, shall refund to employers, agents of employers, other payers, or taxpayers, with respect to any income or withholding tax levied by the Municipality:

- (1) Overpayments of more than ten dollars;
- (2) Amounts paid erroneously if the refund requested exceeds ten dollars.

- (B) (1) Except as otherwise provided in this Code, returns setting forth a request for refund shall be filed with the Tax Administrator, within three years after the tax was due or paid, whichever is later. Any documentation that substantiates the taxpayer's claim for a refund must be included with the return filing. Failure to remit all documentation, including schedules, other municipal income tax returns, or other supporting documentation necessary to verify credits, income, losses or other pertinent factors on the return will cause delay in processing, and / or disallowance of undocumented credits or losses.

(2) On filing of the refund request, the Tax Administrator shall determine the amount

of refund due and certify such amount to the appropriate municipal corporation official for payment. Except as provided in division (B)(3) of this section, the administrator shall issue an assessment to any taxpayer whose request for refund is fully or partially denied. The assessment shall state the amount of the refund that was denied, the reasons for the denial, and instructions for appealing the assessment.

(3) If a Tax Administrator denies in whole or in part a refund request included within the taxpayer's originally filed annual income tax return, the Tax Administrator shall notify the taxpayer, in writing, of the amount of the refund that was denied, the reasons for the denial, and instructions for requesting an assessment that may be appealed under this Code.

(C) A request for a refund that is received after the last day for filing specified in division (B) of this section shall be considered to have been filed in a timely manner if any of the following situations exist:

(1) The request is delivered by the postal service, and the earliest postal service postmark on the cover in which the request is enclosed is not later than the last day for filing the request.

(2) The request is delivered by the postal service, the only postmark on the cover in which the request is enclosed was affixed by a private postal meter, the date of that postmark is not later than the last day for filing the request, and the request is received within seven days of such last day.

(3) The request is delivered by the postal service, no postmark date was affixed to the cover in which the request is enclosed or the date of the postmark so affixed is not legible, and the request is received within seven days of the last day for making the request.

(D) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment until the date of the refund of the overpayment, except that if any overpayment is refunded within ninety days after the final filing date of the annual return or ninety days after the completed return is filed, whichever is later, no interest shall be allowed on the refund. For the purpose of computing the payment of interest on amounts overpaid, no amount of tax for any taxable year shall be considered to have been paid before the date on which the return on which the tax is reported is due, without regard to any extension of time for filing that return. Interest shall be paid at the interest rate described in this Code.

Section 28. PENALTY, INTEREST, FEES, AND CHARGES

(A) As used in this section:

(1) "Applicable law" means this Code, the resolutions, ordinances, codes, directives, instructions, and rules adopted by the Municipality provided such resolutions, ordinances, codes, directives, instructions, and rules impose or directly or indirectly address the levy, payment, remittance, or filing requirements of a municipal income tax.

(2) "Federal short-term rate" means the rate of the average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of three years or less, as determined under section 1274 of the Internal Revenue Code, for July of the current year.

(3) "Income tax," "estimated income tax," and "withholding tax" mean any income tax, estimated income tax, and withholding tax imposed by a municipal corporation pursuant to applicable law, including at any time before January 1, 2016.

(4) "Interest rate as described in division (A) of this section" means the federal short-term rate, rounded to the nearest whole number per cent, plus five per cent. The rate shall apply for the calendar year next following the July of the year in which the federal short-term rate is determined in accordance with division (A)(2) of this section.

(5) "Return" includes any tax return, report, reconciliation, schedule, and other document required to be filed with a Tax Administrator or municipal corporation by a taxpayer, employer, any agent of the employer, or any other payer pursuant to applicable law, including at any time before January 1, 2016.

(6) "Unpaid estimated income tax" means estimated income tax due but not paid by the date the tax is required to be paid under applicable law.

(7) "Unpaid income tax" means income tax due but not paid by the date the income tax is required to be paid under applicable law.

(8) "Unpaid withholding tax" means withholding tax due but not paid by the date the withholding tax is required to be paid under applicable law.

(9) "Withholding tax" includes amounts an employer, any agent of an employer, or any other payer did not withhold in whole or in part from an employee's qualifying wages, but that, under applicable law, the employer, agent, or other payer is required to withhold from an employee's qualifying wages.

(B) (1) This section shall apply to the following:

(a) Any return required to be filed under applicable law for taxable years beginning on or after January 1, 2016;

(b) Income tax, estimated income tax, and withholding tax required to be paid or remitted to the Municipality on or after January 1, 2016 for taxable years beginning on or after January 1, 2016

(2) This section does not apply to returns required to be filed or payments required to be made before January 1, 2016, regardless of the filing or payment date. Returns required to be filed or payments required to be made before January 1, 2016, but filed or paid after that date shall be subject to the ordinances or rules, as adopted from time to time before January 1, 2016 of this Municipality.

(C) The Municipality shall impose on a taxpayer, employer, any agent of the employer, and any other payer, and will attempt to collect, the interest amounts and penalties prescribed in this section when the taxpayer, employer, any agent of the employer, or any other payer for any reason fails, in whole or in part, to make to the Municipality timely and full payment or remittance of income tax, estimated income tax, or withholding tax or to file timely with the Municipality any return required to be filed.

(1) Interest shall be imposed at the rate defined as "interest rate as described in division (A) of this section", per annum, on all unpaid income tax, unpaid estimated income tax, and unpaid withholding tax. This imposition of interest shall be assessed per month, or fraction of a month.

(2) With respect to unpaid income tax and unpaid estimated income tax, a penalty equal to fifteen percent of the amount not timely paid shall be imposed.

(3) With respect to any unpaid withholding tax, a penalty equal to fifty percent of the amount not timely paid shall be imposed.

(4) With respect to returns other than estimated income tax returns, the Municipality shall impose a monthly penalty of twenty-five dollars for each failure to timely file each return, regardless of the liability shown thereon for each month, or any fraction thereof, during which the return remains unfiled regardless of the liability shown thereon. The penalty shall not exceed a total of one hundred fifty dollars in assessed penalty for each failure to timely file a return.

(D) With respect to income taxes, estimated income taxes, withholding taxes, and returns, the Municipality shall not impose, seek to collect, or collect any penalty, amount of interest, charges or additional fees not described in this section.

(E) With respect to income taxes, estimated income taxes, withholding taxes, and returns, the Municipality shall not refund or credit any penalty, amount of interest, charges, or additional fees that were properly imposed or collected before January 1, 2016.

(F) The Tax Administrator may, in the Tax Administrator's sole discretion, abate or partially abate penalties or interest imposed under this section when the Tax Administrator deems such abatement or partial abatement to be appropriate. Such abatement or partial abatement shall be properly documented and maintained on the record of the taxpayer who received benefit of such abatement or partial abatement.

(G) The Municipality may impose on the taxpayer, employer, any agent of the employer, or any other payer the Municipality's post-judgment collection costs and fees, including attorney's fees.

Section 29. AUDIT

(A) At or before the commencement of an audit, as defined in this Code, the Tax Administrator shall provide to the taxpayer a written description of the roles of the Tax Administrator and of the taxpayer during an audit and a statement of the taxpayer's rights, including any right to obtain a refund of an overpayment of tax. At or before the commencement of an audit, the Tax Administrator shall inform the taxpayer when the audit is considered to have commenced.

(B) Except in cases involving suspected criminal activity, the Tax Administrator shall conduct an audit of a taxpayer during regular business hours and after providing reasonable notice to the taxpayer. A taxpayer who is unable to comply with a proposed time for an audit on the grounds that the proposed time would cause inconvenience or hardship must offer reasonable alternative dates for the audit.

(C) At all stages of an audit by the Tax Administrator, a taxpayer is entitled to be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner. The Tax Administrator shall prescribe a form by which a taxpayer may designate such a person to assist or represent the taxpayer in the conduct of any proceedings resulting from actions by the Tax Administrator. If a taxpayer has not submitted such a form, the Tax Administrator may accept other evidence, as the Tax Administrator considers appropriate, that a person is the authorized representative of a taxpayer.

A taxpayer may refuse to answer any questions asked by the person conducting an audit until the taxpayer has an opportunity to consult with the taxpayer's attorney, accountant, bookkeeper, or other tax practitioner. This division does not authorize the practice of law by a person who is not an attorney.

(D) A taxpayer may record, electronically or otherwise, the audit examination.

(E) The failure of the Tax Administrator to comply with a provision of this section shall neither excuse a taxpayer from payment of any taxes owed by the taxpayer nor cure any procedural defect in a taxpayer's case.

(F) If the Tax Administrator fails to substantially comply with the provisions of this section, the Tax Administrator, upon application by the taxpayer, shall excuse the taxpayer from penalties and interest arising from the audit.

Section 30. ROUNDING

A person may round to the nearest whole dollar all amounts the person is required to enter on any return, report, voucher, or other document required under this Code. Any fractional part of a dollar that equals or exceeds fifty cents shall be rounded to the next whole dollar, and any fractional part of a dollar that is less than fifty cents shall be dropped, rounding down to the nearest whole dollar. If a person chooses to round amounts entered on a document, the person shall round all amounts entered on the document.

Section 31. AUTHORITY AND POWERS OF THE TAX ADMINISTRATOR

AUTHORITY OF TAX ADMINISTRATOR; ADMINISTRATIVE POWERS OF THE TAX ADMINISTRATOR

The Tax Administrator has the authority to perform all duties and functions necessary and appropriate to implement the provisions of this Code, including without limitation:

- (A) Exercise all powers whatsoever of an inquisitorial nature as provided by law, including, the right to inspect books, accounts, records, memorandums, and federal and state income tax returns, to examine persons under oath, to issue orders or subpoenas for the production of books, accounts, papers, records, documents, and testimony, to take depositions, to apply to a court for attachment proceedings as for contempt, to approve vouchers for the fees of officers and witnesses, and to administer oaths; provided that the powers referred to in this division of this section shall be exercised by the Tax Administrator only in connection with the performance of the duties respectively assigned to the Tax Administrator under a municipal corporation income tax ordinance or resolution adopted in accordance with this Code;
- (B) Appoint agents and prescribe their powers and duties;
- (C) Confer and meet with officers of other municipal corporations and states and officers of the United States on any matters pertaining to their respective official duties as provided by law;
- (D) Exercise the authority provided by law, including orders from bankruptcy courts, relative to remitting or refunding taxes, including penalties and interest thereon, illegally or erroneously imposed or collected, or for any other reason overpaid, and, in addition, the Tax Administrator may investigate any claim of overpayment and make a written statement of the Tax Administrator's findings, and, if the Tax Administrator finds that there has been an overpayment, approve and issue a refund payable to the taxpayer, the taxpayer's assigns, or legal representative as provided in this Code;
- (E) Exercise the authority provided by law relative to consenting to the compromise and settlement of tax claims;
- (F) Exercise the authority provided by law relative to the use of alternative apportionment methods by taxpayers in accordance with this Code;
- (G) Make all tax findings, determinations, computations, assessments and orders the Tax Administrator is by law authorized and required to make and, pursuant to time limitations provided by law, on the Tax Administrator's own motion, review, re-determine, or correct any tax findings, determinations, computations, assessments or orders the Tax Administrator has made, but the Tax Administrator shall not review, re-determine, or correct any tax finding, determination, computation, assessment or order which the Tax Administrator has made for which an appeal has been filed with the Local Board of Tax Review or other appropriate tribunal, unless such appeal or application is withdrawn by the appellant or applicant, is dismissed, or is otherwise final;

- (H) Destroy any or all returns or other tax documents in the manner authorized by law;
- (I) Enter into an agreement with a taxpayer to simplify the withholding obligations described in Code.

Section 32. AUTHORITY OF TAX ADMINISTRATOR; COMPROMISE OF CLAIM AND PAYMENT OVER TIME

- (A) As used in this section, "claim" means a claim for an amount payable to the Municipality that arises pursuant to the municipal income tax imposed in accordance with this Code.
- (B) The Tax Administrator may do either of the following if such action is in the best interests of the Municipality:
 - (1) Compromise a claim;
 - (2) Extend for a reasonable period the time for payment of a claim by agreeing to accept monthly or other periodic payments, upon such terms and conditions as the Tax Administrator may require.
- (C) The Tax Administrator's rejection of a compromise or payment-over-time agreement proposed by a person with respect to a claim shall not be appealable.
- (D) A compromise or payment-over-time agreement with respect to a claim shall be binding upon and shall inure to the benefit of only the parties to the compromise or agreement, and shall not extinguish or otherwise affect the liability of any other person.
- (E)
 - (1) A compromise or payment-over-time agreement with respect to a claim shall be void if the taxpayer defaults under the compromise or agreement or if the compromise or agreement was obtained by fraud or by misrepresentation of a material fact. Any amount that was due before the compromise or agreement and that is unpaid shall remain due, and any penalties or interest that would have accrued in the absence of the compromise or agreement shall continue to accrue and be due.
 - (2) The Tax Administrator shall have sole discretion to determine whether or not penalty, interest, charges or applicable fees will be assessed through the duration of any compromise or payment-over-time agreement.
- (F) The Tax Administrator may require that the taxpayer provide detailed financial documentation and information, in order to determine whether or not a payment-over-time agreement will be authorized. The taxpayer's failure to provide the necessary and required information by the Tax Administrator shall preclude consideration of a payment-over-time agreement.

Section 33. AUTHORITY OF TAX ADMINISTRATOR; RIGHT TO EXAMINE

(A) The Tax Administrator, or any authorized agent or employee thereof may examine the books, papers, records, and federal and state income tax returns of any employer, taxpayer, or other person that is subject to, or that the Tax Administrator believes is subject to, the provisions of this Code for the purpose of verifying the accuracy of any return made or, if no return was filed, to ascertain the tax due under this Code. Upon written request by the Tax Administrator or a duly authorized agent or employee thereof, every employer, taxpayer, or other person subject to this section is required to furnish the opportunity for the Tax Administrator, authorized agent, or employee to investigate and examine such books, papers, records, and federal and state income tax returns at a reasonable time and place designated in the request.

(B) The records and other documents of any taxpayer, employer, or other person that is subject to, or that a Tax Administrator believes is subject to, the provisions of this Code shall be open to the Tax Administrator's inspection during business hours and shall be preserved for a period of six years following the end of the taxable year to which the records or documents relate, unless the Tax Administrator, in writing, consents to their destruction within that period, or by order requires that they be kept longer. The Tax Administrator of a municipal corporation may require any person, by notice served on that person, to keep such records as the Tax Administrator determines necessary to show whether or not that person is liable, and the extent of such liability, for the income tax levied by the Municipality or for the withholding of such tax.

(C) The Tax Administrator may examine under oath any person that the Tax Administrator reasonably believes has knowledge concerning any income that was or would have been returned for taxation or any transaction tending to affect such income. The Tax Administrator may, for this purpose, compel any such person to attend a hearing or examination and to produce any books, papers, records, and federal and state income tax returns in such person's possession or control. The person may be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner at any such hearing or examination. This division does not authorize the practice of law by a person who is not an attorney.

(D) No person issued written notice by the Tax Administrator compelling attendance at a hearing or examination or the production of books, papers, records, or federal and state income tax returns under this section shall fail to comply.

Section 34. AUTHORITY OF TAX ADMINISTRATOR; REQUIRING IDENTIFYING INFORMATION

(A) The Tax Administrator may require any person filing a tax document with the Tax Administrator to provide identifying information, which may include the person's social security number, federal employer identification number, or other identification number requested by the Tax Administrator. A person required by the Tax Administrator to provide identifying information that has experienced any change with respect to that information shall notify the Tax

Administrator of the change before, or upon, filing the next tax document requiring the identifying information.

(B) (1) If the Tax Administrator makes a request for identifying information and the Tax Administrator does not receive valid identifying information within thirty days of making the request, nothing in this Code prohibits the Tax Administrator from imposing a penalty upon the person to whom the request was directed pursuant to this Code, in addition to any applicable penalty described in this Code.

(2) If a person required by the Tax Administrator to provide identifying information does not notify the Tax Administrator of a change with respect to that information as required under division (A) of this section within thirty days after filing the next tax document requiring such identifying information, nothing in this Code prohibits the Tax Administrator from imposing a penalty pursuant to this Code.

(3) The penalties provided for under divisions (B)(1) and (2) of this section may be billed and imposed in the same manner as the tax or fee with respect to which the identifying information is sought and are in addition to any applicable criminal penalties described in this Code for a violation of this Code, and any other penalties that may be imposed by the Tax Administrator by law.

Section 35. CONFIDENTIALITY

(A) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by ORC 718 or by the charter or ordinance of the Municipality is confidential, and no person shall access or 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 Municipality as authorized by ORC 718 or the charter or ordinance authorizing the levy. The Tax Administrator of the Municipality or a designee thereof may furnish copies of returns filed or otherwise received under this Code and other related tax information to the Internal Revenue Service, the State Tax Commissioner, and Tax Administrators of other municipal corporations.

(B) This section does not prohibit the Municipality from publishing or disclosing statistics in a form that does not disclose information with respect to particular taxpayers.

Section 36. FRAUD

No person shall knowingly make, present, aid, or assist in the preparation or presentation of a false or fraudulent report, return, schedule, statement, claim, or document authorized or required by municipal corporation ordinance or state law to be filed with the Tax Administrator, or knowingly procure, counsel, or advise the preparation or presentation of such report, return, schedule, statement, claim, or document, or knowingly change, alter, or amend, or knowingly procure, counsel or advise such change, alteration, or amendment of the records upon which such report, return, schedule, statement, claim, or document is based with intent to defraud the Municipality or the Tax Administrator.

Section 37. OPINION OF THE TAX ADMINISTRATOR

(A) An "opinion of the Tax Administrator" means an opinion issued under this section with respect to prospective municipal income tax liability. It does not include ordinary correspondence of the Tax Administrator.

(B) A taxpayer may submit a written request for an opinion of the Tax Administrator as to whether or how certain income, source of income, or a certain activity or transaction will be taxed. The written response of the Tax Administrator shall be an "opinion of the Tax Administrator" and shall bind the Tax Administrator, in accordance with divisions (C), (G), and (H) of this section, provided all of the following conditions are satisfied:

- (1) The taxpayer's request fully and accurately describes the specific facts or circumstances relevant to a determination of the taxability of the income, source of income, activity, or transaction, and, if an activity or transaction, all parties involved in the activity or transaction are clearly identified by name, location, or other pertinent facts.
- (2) The request relates to a tax imposed by the Municipality in accordance with this Code.
- (3) The Tax Administrator's response is signed by the Tax Administrator and designated as an "opinion of the Tax Administrator."

(C) An opinion of the Tax Administrator shall remain in effect and shall protect the taxpayer for whom the opinion was prepared and who reasonably relies on it from liability for any taxes, penalty, or interest otherwise chargeable on the activity or transaction specifically held by the Tax Administrator's opinion to be taxable in a particular manner or not to be subject to taxation for any taxable years that may be specified in the opinion, or until the earliest of the following dates:

- (1) The effective date of a written revocation by the Tax Administrator sent to the taxpayer by certified mail, return receipt requested. The effective date of the revocation shall be the taxpayer's date of receipt or one year after the issuance of the opinion, whichever is later;
- (2) The effective date of any amendment or enactment of a relevant section of the Ohio Revised Code, uncodified state law, or the Municipality's income tax ordinance that would substantially change the analysis and conclusion of the opinion of the Tax Administrator;
- (3) The date on which a court issues an opinion establishing or changing relevant case law with respect to the Ohio Revised Code, uncodified state law, or the Municipality's income tax ordinance;

- (4) If the opinion of the Tax Administrator was based on the interpretation of federal law, the effective date of any change in the relevant federal statutes or regulations, or the date on which a court issues an opinion establishing or changing relevant case law with respect to federal statutes or regulations;
 - (5) The effective date of any change in the taxpayer's material facts or circumstances;
 - (6) The effective date of the expiration of the opinion, if specified in the opinion.
- (D) (1) A taxpayer is not relieved of tax liability for any activity or transaction related to a request for an opinion that contained any misrepresentation or omission of one or more material facts.
- (2) If the taxpayer knowingly has misrepresented the pertinent facts or omitted material facts with intent to defraud the Municipality in order to obtain a more favorable opinion, the taxpayer may be in violation of this Code.
- (E) If a Tax Administrator provides written advice under this section, the opinion shall include a statement that:
- (1) The tax consequences stated in the opinion may be subject to change for any of the reasons stated in division (C) of this section;
 - (2) It is the duty of the taxpayer to be aware of such changes.
- (F) A Tax Administrator may refuse to offer an opinion on any request received under this section.
- (G) This section binds a Tax Administrator only with respect to opinions of the Tax Administrator issued on or after January 1, 2016.
- (H) An opinion of a Tax Administrator binds that Tax Administrator only with respect to the taxpayer for whom the opinion was prepared and does not bind the Tax Administrator of any other municipal corporation.
- (I) A Tax Administrator shall make available the text of all opinions issued under this section, except those opinions prepared for a taxpayer who has requested that the text of the opinion remain confidential. In no event shall the text of an opinion be made available until the Tax Administrator has removed all information that identifies the taxpayer and any other parties involved in the activity or transaction.
- (J) An opinion of the Tax Administrator issued under this section or a refusal to offer an opinion under subsection (F) may not be appealed.

Section 38. ASSESSMENT; APPEAL BASED ON PRESUMPTION OF DELIVERY

- (A) (1) The Tax Administrator shall serve an assessment either by personal service, by certified mail, or by a delivery service authorized under section 5703.056 of the Ohio Revised Code.
- (2) The Tax Administrator may deliver the assessment through alternative means as provided in this section, including, but not limited to, delivery by secure electronic mail. Such alternative delivery method must be authorized by the person subject to the assessment.
- (3) Once service of the assessment has been made by the Tax Administrator or other municipal official, or the designee of either, the person to whom the assessment is directed may protest the ruling of that assessment by filing an appeal with the Local Board of Tax Review within sixty days after the receipt of service. The delivery of an assessment of the Tax Administrator as prescribed in Section 718.18 of the Revised Code is prima facie evidence that delivery is complete and that the assessment is served.
- (B) (1) A person may challenge the presumption of delivery and service as set forth in this division. A person disputing the presumption of delivery and service under this section bears the burden of proving by a preponderance of the evidence that the address to which the assessment was sent was not an address with which the person was associated at the time the Tax Administrator originally mailed the assessment by certified mail. For the purposes of this section, a person is associated with an address at the time the Tax Administrator originally mailed the assessment if, at that time, the person was residing, receiving legal documents, or conducting business at the address; or if, before that time, the person had conducted business at the address and, when the assessment was mailed, the person's agent or the person's affiliate was conducting business at the address. For the purposes of this section, a person's affiliate is any other person that, at the time the assessment was mailed, owned or controlled at least twenty per cent, as determined by voting rights, of the addressee's business.
- (2) If a person elects to appeal an assessment on the basis described in division (B)(1) of this section, and if that assessment is subject to collection and is not otherwise appealable, the person must do so within sixty days after the initial contact by the Tax Administrator or other municipal official, or the designee of either, with the person. Nothing in this division prevents the Tax Administrator or other official from entering into a compromise with the person if the person does not actually file such an appeal with the Local Board of Tax Review.

Section 39. LOCAL BOARD OF TAX REVIEW; APPEAL TO LOCAL BOARD OF TAX REVIEW

- (A) (1) The legislative authority of the Municipality shall maintain a Local Board of Tax Review to hear appeals as provided in Ohio Revised Code Chapter 718.
- (2) The Local Board of Tax Review shall consist of three members.

Two members shall be appointed by the legislative authority of the Municipality, and may not be employees, elected officials, or contractors with the Municipality at any time during their term or in the five years immediately preceding the date of appointment. One member shall be appointed by the top administrative official of the Municipality. This member may be an employee of the Municipality, but may not be the director of finance or equivalent officer, or the Tax Administrator or other similar official or an employee directly involved in municipal tax matters, or any direct subordinate thereof.

(3) The term for members of the Local Board of Tax Review appointed by the legislative authority of the Municipality shall be two years. There is no limit on the number of terms that a member may serve should the member be reappointed by the legislative authority. The board member appointed by the top administrative official of the Municipality shall serve at the discretion of the administrative official.

(4) Members of the board of tax review appointed by the legislative authority may be removed by the legislative authority as set forth in Section 718.11(A)(4) of the Revised Code.

(5) A member of the board who, for any reason, ceases to meet the qualifications for the position prescribed by this section shall resign immediately by operation of law.

(6) A vacancy in an unexpired term shall be filled in the same manner as the original appointment within sixty days of when the vacancy was created. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. No vacancy on the board shall impair the power and authority of the remaining members to exercise all the powers of the board.

(7) If a member is temporarily unable to serve on the board due to a conflict of interest, illness, absence, or similar reason, the legislative authority or top administrative official that appointed the member shall appoint another individual to temporarily serve on the board in the member's place. This appointment shall be subject to the same requirements and limitations as are applicable to the appointment of the member temporarily unable to serve.

(8) No member of the Local Board of Tax Review shall receive compensation, fee, or reimbursement of expenses for service on the board.

(9) A member of a Local Board of Tax Review shall not be appointed to or serve on another such board simultaneously.

(B) Whenever a Tax Administrator issues an assessment, the Tax Administrator shall notify the taxpayer in writing at the same time of the taxpayer's right to appeal the assessment, the manner in which the taxpayer may appeal the assessment, and the address to which the appeal should be directed, and to whom the appeal should be directed.

(C) Any person who has been issued an assessment may appeal the assessment to the board by filing a request with the board. The request shall be in writing, shall specify the reason or reasons why the assessment should be deemed incorrect or unlawful, and shall be filed within sixty days after the taxpayer receives the assessment.

(D) The Local Board of Tax Review shall schedule a hearing to be held within sixty days after receiving an appeal of an assessment under division (C) of this section, unless the taxpayer requests additional time to prepare or waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the board and/or may be represented by an attorney at law, certified public accountant, or other representative. The board may allow a hearing to be continued as jointly agreed to by the parties. In such a case, the hearing must be completed within one hundred twenty days after the first day of the hearing unless the parties agree otherwise.

(E) The board may affirm, reverse, or modify the Tax Administrator's assessment or any part of that assessment. The board shall issue a final determination on the appeal within ninety days after the board's final hearing on the appeal, and send a copy of its final determination by ordinary mail to all of the parties to the appeal within fifteen days after issuing the final determination. The taxpayer or the Tax Administrator may appeal the board's final determination as provided in section 5717.011 of the Ohio Revised Code.

(F) The Local Board of Tax Review created pursuant to this section shall adopt rules governing its procedures, including a schedule of related costs, and shall keep a record of its transactions. The rules governing the Local Board of Tax Review procedures shall be in writing, and may be amended as needed by the Local Board of Tax Review. Such records are not public records available for inspection under section 149.43 of the Ohio Revised Code. For this reason, any documentation, copies of returns or reports, final determinations, or working papers for each case must be maintained in a secure location under the control of the Tax Administrator. No member of the Local Board of Tax Review may remove such documentation, copies of returns or reports, final determinations, or working papers from the hearing. Hearings requested by a taxpayer before a Local Board of Tax Review created pursuant to this section are not meetings of a public body subject to section 121.22 of the Ohio Revised Code. For this reason, such hearings shall not be open to the public, and only those parties to the case may be present during the hearing.

Section 40. ACTIONS TO RECOVER; STATUTE OF LIMITATIONS

- (A) (1) (a) Civil actions to recover municipal income taxes and penalties and interest on municipal income taxes shall be brought within the latter of:
- (i) Three years after the tax was due or the return was filed, whichever is later; or
 - (ii) One year after the conclusion of the qualifying deferral period, if any.

(b) The time limit described in division (A)(1)(a) of this section may be extended at any time if both the Tax Administrator and the employer, agent of the employer, other payer, or taxpayer consent in writing to the extension. Any extension shall also extend for the same period of time the time limit described in division (C) of this section.

(2) As used in this section, "qualifying deferral period" means a period of time beginning and ending as follows:

(a) Beginning on the date a person who is aggrieved by an assessment files with a Local Board of Tax Review the request described in this Code. That date shall not be affected by any subsequent decision, finding, or holding by any administrative body or court that the Local Board of Tax Review with which the aggrieved person filed the request did not have jurisdiction to affirm, reverse, or modify the assessment or any part of that assessment.

(b) Ending the later of the sixtieth day after the date on which the final determination of the Local Board of Tax Review becomes final or, if any party appeals from the determination of the Local Board of Tax Review, the sixtieth day after the date on which the final determination of the Local Board of Tax Review is either ultimately affirmed in whole or in part or ultimately reversed and no further appeal of either that affirmation, in whole or in part, or that reversal is available or taken.

(B) Prosecutions for an offense made punishable under a resolution or ordinance imposing an income tax shall be commenced within three 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 per cent or more of income required to be reported, prosecutions may be commenced within six years after the commission of the offense.

(C) A claim for a refund of municipal income taxes shall be brought within the time limitation provided in this Code.

(D) (1) Notwithstanding the fact that an appeal is pending, the petitioner may pay all or a portion of the assessment that is the subject of the appeal. The acceptance of a payment by the Municipality does not prejudice any claim for refund upon final determination of the appeal.

(2) If upon final determination of the appeal an error in the assessment is corrected by the Tax Administrator, upon an appeal so filed or pursuant to a final determination of the Local Board of Tax Review created under this Code, of the Ohio board of tax appeals, or any court to which the decision of the Ohio board of tax appeals has been appealed, so that the amount due from the party assessed under the corrected assessment is less than the amount paid, there shall be issued to the appellant or to the appellant's assigns or legal representative a refund in the amount of the overpayment as provided by this Code, with interest on that amount as provided by division (D) of this section.

(E) No civil action to recover municipal income tax or related penalties or interest shall be brought during either of the following time periods:

- (1) The period during which a taxpayer has a right to appeal the imposition of that tax or interest or those penalties;
- (2) The period during which an appeal related to the imposition of that tax or interest or those penalties is pending.

Section 41. ADOPTION OF RULES

(A) Pursuant to Section 718.30 of the Revised Code, the legislative authority of the Municipality has the authority, by Ordinance or Resolution, to adopt rules to administer the income tax imposed by the Municipality.

(B) All rules adopted under this section shall be published and posted on the internet.

Section 42. COLLECTION AFTER TERMINATION OF CODE

(A) This Code shall continue in full force and effect insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions and proceedings for collecting any tax so levied or enforcing any provisions of this Code are concerned, it shall continue in full force and effect until all of the taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of taxes or for the punishment of violations of this Code have been fully terminated, subject to the limitations contained in this Code.

(B) Annual returns due for all or any part of the last effective year of this Code shall be due on the date provided in this Code as though the same were continuing.

Section 43. SAVINGS CLAUSE

If any sentence, clause, section or part of this Code, or any tax imposed against, or exemption from tax granted to, any taxpayer or forms of income specified herein is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section or part of this Code so found and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this Code. It is hereby declared to be the intention of the legislative authority of the Municipality that this Code would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included in this Code.

Section 44. VIOLATIONS; PENALTY

(A) Except as provided in division (B) of this section, whoever violates this Code, division (A) of this Code by failing to remit municipal income taxes deducted and withheld from an employee, shall be guilty of a misdemeanor of the first degree and shall be subject to a fine of not more than one thousand dollars or imprisonment for a term of up to six months, or both. In addition, the violation is punishable by dismissal from office or discharge from employment, or both.

(B) Any person who discloses information received from the Internal Revenue Service in violation of Internal Revenue Code Sec. 7213(a), 7213A, or 7431 shall be guilty of a felony of the fifth degree and shall be subject to a fine of not more than five thousand dollars plus the costs of prosecution, or imprisonment for a term not exceeding five years, or both. In addition, the violation is punishable by dismissal from office or discharge from employment, or both.

(C) Each instance of access or disclosure in violation of this Code constitutes a separate offense.

(D) Whoever violates any provision of this Code for which violation no penalty is otherwise provided, is guilty of a misdemeanor of the 4th degree on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the 3rd degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the 2nd degree. By way of an illustrative enumeration, violations of this Code shall include but not be limited to the following acts, conduct, and/or omissions:

- (1) Fail, neglect or refuse to make any return or declaration required by this Code; or
- (2) Knowingly make any incomplete return; or
- (3) Willfully fail, neglect, or refuse to pay the tax, penalties, and interest, or any combination thereof, imposed by this Code or
- (4) Cause to not be remitted the city income tax withheld from qualifying wages of employees to the Municipality municipal corporation as required this Code; or
- (5) Neglect or refuse to withhold or remit municipal income tax from employees; or
- (6) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his or her books, records, papers, federal and state income tax returns, or any documentation relating to the income or net profits of a taxpayer; or
- (7) Fail to appear before the Tax Administrator and to produce his or her books, records, papers, federal and state income tax returns, or any documentation relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator; or
- (8) Refuse to disclose to the Tax Administrator any information with respect to such person's income or net profits, or in the case of a person responsible for maintaining

information relating to his or her employers' income or net profits, such person's employer's income or net profits; or

(9) Fail to comply with the provisions of this Code or any order or subpoena of the Tax Administrator; or

(10) To avoid imposition or collection of municipal income tax, willfully give to an employer or prospective employer false information as to his or her true name, correct social security number and residence address, or willfully fail to promptly notify an employer or a prospective employer of any change in residence address and date thereof; or

(11) Fail, as an employer, agent of an employer, or other payer, to maintain proper records of employees residence addresses, total qualifying wages paid and municipal tax withheld, or to knowingly give the Tax Administrator false information; or

(12) Willfully fail, neglect, or refuse to make any payment of estimated municipal income tax for any taxable year or any part of any taxable year in accordance with this Code; or

(13) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this Code.

(14) For purposes of this section, any violation that does not specify a culpable mental state or intent, shall be one of strict liability and no culpable mental state or intent shall be required for a person to be guilty of that violation.

(15) For purposes of this section, the term "person" shall, in addition to the meaning prescribed in this Code, include in the case of a corporation, association, pass-through entity or unincorporated business entity not having any resident owner or officer within the city, any employee or agent of such corporation, association, pass-through entity or unincorporated business entity who has control or supervision over or is charged with the responsibility of filing the municipal income tax returns and making the payments of the municipal income tax as required by this Code.