

**UNIFORM RULES AND REGULATIONS
TO COMPLEMENT FORT RECOVERY
INCOME TAX ORDINANCE 1984-10**

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**UNIFORM RULES AND REGULATIONS
TO COMPLEMENT THE VILLAGE OF FORT RECOVERY
INCOME TAX ORDINANCE 1984-10**

ARTICLE I

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

ARTICLE II – DEFINITIONS

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

ADJUSTED FEDERAL TAXABLE INCOME means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

- a. Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income;
- b. Add an amount equal to five percent (5%) of intangible income deducted under (a) above, 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. 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; However, this section does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code;
- e. Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;

- f. In the case of a real estate investment trust and regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;
- g. If the taxpayer is not a C corporation and is not an individual, the taxpayer shall compute adjusted federal taxable income as if the taxpayer were a C corporation, except:
 - i. Guaranteed payments and other similar amounts paid or accrued to a partner, former partner, member, or former member shall not be allowed as a deductible expense; and
 - ii. Amounts paid or accrued to a qualified self-employed retirement plan with respect to an owner or owner-employee of the taxpayer, amounts paid or accrued to or for health insurance for an owner or owner-employee, and amounts paid or accrued to or for life insurance for an owner or owner-employee shall not be allowed as a deduction.

Nothing in the definition of “Adjusted Federal Taxable Income” 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 the Ordinance or these Rules and Regulations shall be construed as limiting or removing the ability of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax.

ADMINISTRATOR means the individual designated by the ordinance, and appointed by the mayor with confirmation of Council to administer and enforce the provisions of the ordinance.

ASSOCIATION means a partnership, limited partnership, S corporation or any other form of unincorporated enterprise owned by one or more persons.

BOARD OF REVIEW means the Board created by and constituted as provided in Section 13 of the Ordinance.

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

decendent's estate by the executor or administrator, and the mere custody, supervision and management of trust property under passive trust, whether intervivos or testamentary, unaccompanied by the actual operation of a business as herein 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 as having been made in the Village, under the three factor formula of property, payroll and sales, provided for in Section 3 of the Ordinance.

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

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 Workers' 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, branch, 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.

FISCAL YEAR means an accounting period of twelve (12) months or less ending on any day other than December 31.

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 municipality for reporting of that municipality's tax on income.

GROSS RECEIPTS means total income without deductions of taxpayers from whatever source derived.

INCOME FROM A PASS –THROUGH ENTITY means 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 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.

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

INTERNET means the international computer network of both Federal and nonfederal interoperable packet switched data networks, including the graphical sub-network known as the World Wide Web.

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

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

MUNICIPALITY means the Village of Fort Recovery, Mercer County, Ohio.

NET PROFIT for a taxpayer other than an individual means adjusted federal taxable income; and **NET PROFIT** for a taxpayer who is an individual means the individual's profit, other than amounts described in Article III (F), required to be reported on Schedule C, Schedule E, or Schedule F.

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

NON-RESIDENT means a person, whether an individual, association, corporation or other entity domiciled outside the Village of Fort Recovery, Ohio.

NON-RESIDENT INCORPORATED BUSINESS ENTITY means an incorporated business entity not having an office or place of business within the Village of Fort Recovery, Ohio.

NON-RESIDENT UNINCORPORATED BUSINESS ENTITY means an unincorporated business entity not having an office or place of business within the Village of Fort Recovery, Ohio.

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

ORDINANCE means Ordinance No. 1984-10 enacted by the Council of this municipality and any amendments and supplements thereto effective January 1, 1985.

OTHER ACTIVITY means any undertaking, not otherwise specially defined herein, which is normally entered into for profit, including, but not limited to, rental of real and personal property and a business conducted by a trust or guardianship estate.

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.

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.

OWNERS 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 Village, to (b) the total income from that entity of all owners whose income from the entity is subject to taxation by the Village.

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. **See Article III (F) (18)

PERSON includes individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities, and any other entities. Whenever used in a clause prescribing or imposing a penalty, the term PERSON as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

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

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

headquarters' activities at a place of business within a taxing municipality, the term means the largest place of business located in a taxing municipality.

QUALIFIED PLAN 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)(2) of the Ohio Revised Code.

RESIDENT means a person, whether an individual, association, corporation or other entity domiciled in the Village of Fort Recovery, Ohio.

RESIDENT INCORPORATED BUSINESS ENTITY means an incorporated business entity whose office, place of operation or business situs is within the Village of Fort Recovery, Ohio.

RESIDENT UNINCORPORATED BUSINESS ENTITY means an unincorporated business entity having an office or place of business within the Village of Fort Recovery, Ohio.

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

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. See Article III (F)(18).

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

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

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

TAXPAYER means a person subject to a tax on income levied by the Village of Fort Recovery, Ohio. 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 person who owns the disregarded entity or qualifying subchapter S subsidiary.

VILLAGE means the Village of Fort Recovery, Mercer County, Ohio.

In all definitions and these regulations the singular shall include the plural and the masculine shall include the feminine and the neuter and all periods set forth shall be inclusive of the first and last mentioned dates.

ARTICLE III – IMPOSITION OF TAX

A. Bases

1. Resident Employees:

a. In the case of residents of this municipality an annual tax of 1.0% is imposed on all qualifying wages, commissions, other compensation, and other taxable income earned or received during the effective period of the ordinance. For the purpose of determining the tax on the earnings of resident taxpayers taxed under Section 3, paragraph A(1) of the ordinance, the source of 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) of the ordinance:

.1 Qualifying wages, bonuses, incentive payments, and any other compensation 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 associations, or joint stock company;

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

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

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

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

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

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

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

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

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

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

.5 Payments made to employees by an employer as vacation wages, and under a wage continuation plan during periods of disability or sickness are taxable. Payments made by third parties (insurance companies) to an employee for sick or disability pay are taxable if the amount appears on a W-2 form.

.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 (F) hereof (Exclusions), it shall be considered other compensation and therefore taxable to the individual. This includes, but is not limited to:

- (a) Tips, bonuses, fees, gifts in lieu of pay, and gratuities.
- (b) Supplemental unemployment compensation benefits described in Section 3402(o)(2) of the Internal Revenue Code.
- (c) Strike pay; grievance pay.
- (d) Incentive payments, no matter how described, including, but not limited to payments to induce early retirement.
- (e) Severance pay.
- (f) Car allowance and personal use of employer-provided vehicle.
- (g) Group term life insurance to the extent taxable to the federal government.
- (h) Sick pay or disability pay whether paid by the employer to the employee or through a third party.
- (i) 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).

- (j) 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.
- (k) Nonqualified Deferred Compensation Plans or programs described in Section 3121(v)(2)(C) of the Internal Revenue Code.
- (l) Trusts not made pursuant to employee's retirement.

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

- c. Where compensation is paid or received in property, its fair market value, at the time of receipt, shall be subject to the tax and to withholding. Board, lodging and similar items received by an employee in lieu of additional cash compensation shall be included in earnings at their fair market value.

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

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

2. Non-resident Employees:

- a. In the case of individuals who are not residents of this municipality, there is imposed under Section 3, paragraph A(2) of the Ordinance, a tax of 1.0% on all qualifying wages, commissions, other compensation and other taxable income earned or received during the effective period of the ordinance for work done or services performed or rendered within this municipality whether such compensation or remuneration is received or earned directly or through an agent and whether paid in cash or in property. The location of the place for which payment is made is immaterial.
- b. The items subject to tax under Section 3, paragraph A(2) of the Ordinance are the same as those listed and defined in Article III(A). For the methods of computing the extent of such work or services performed within the Village, in cases involving compensation for personal services partly within and partly without the Village, see Article VI(A)(6).
- c. The Village shall not tax the compensation of an individual if all of the following apply:

.1 the individual does not reside in the Village;

.2 the compensation is paid for personal services performed by the individual in the Village on twelve (12) or fewer days during the calendar year;

.3 in the case of an individual who is an employee, the principal place of business of the individual's employer is located outside the Municipality and the individual pays tax on compensation described in item (2) of this article to the Village, if any, in which the employer's principal place of business is located, and no portion of that tax is refunded to the individual;

.4 the individual is not a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such a promoter, all as may be reasonably defined by the Village.

For the purposes of the 12-day calculation, "Day" means any part of a 24-hour calendar day where compensation is earned in the Village.

Beginning with the thirteenth (13) day, the individual shall no longer be considered an occasional entrant and is liable for taxes on income earned for the first twelve (12) days.

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 activities conducted, operated, engaged in, prosecuted or carried on, irrespective of whether such taxpayer has an office or place of business in this municipality, there is imposed an annual tax of 1.0% on the net profits earned, accrued or received during the effective period of the ordinance attributable to this municipality, under the formula provided for in Section 3(B) of the Ordinance, derived from sales made, work done or services performed or rendered and business or other activities conducted within this municipality.

.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)(3)(b).

.3 The tax imposed by Section 3, paragraph A(3) of the Ordinance is imposed on all resident unincorporated entities having net profits attributable to this municipality under the method of apportionment provided for in the ordinance, regardless of where the owners of such resident unincorporated business entity reside.

.4 Resident unincorporated entities owned by one or more persons all of whom are residents of this municipality, shall disregard the method of apportionment percentage formula provided for in the Ordinance and pay the tax on their entire net profits thereof. In such case, the tax paid by the entity shall constitute all tax due from the owners or members of the entity for their distributive share of net profits; however, an additional return shall be required from any such owner or member having taxable income other than the distributive share of the net profits from the entity. See Article XV for credits.

b. Imposition of Tax on Resident's Distributive Share of Profits of a Resident Unincorporated Business Entity, not attributable to this Municipality:

.1 A resident individual who is sole owner of a resident limited liability company, sole proprietorship, or other unincorporated entity shall disregard the business apportionment formula and pay the tax on the entire net profits of his resident unincorporated business entity to this municipality. See Article XV for credits.

.2 In the case of a resident individual who is a partner or part owner of a resident unincorporated entity, there is imposed an annual tax of 1.0% on such individual's distributive share of net profits earned, accrued or received during the effective period of the ordinance not attributable to this municipality, under the method of apportionment provided for in Section 3 of the ordinance, and not taxed against the entity by this municipality. See Article XV for credits.

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 whether or not they have an office or place of business in the Village, there is imposed an annual tax of 1.0% on the net profits earned, accrued or received during the effective period of the ordinance attributable to the Village, under the business apportionment formula provided for in the Ordinance.

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

.3 The tax imposed by Section 3(A)(4) of the Ordinance is imposed on all nonresident associations and other nonresident unincorporated entities having

net profits attributable to the Village under the method of apportionment provided for in the Ordinance, regardless of where the owner or owners of such nonresident unincorporated business or resident associations, etc., reside.

.4 Non-resident unincorporated entities owned by one or more persons all of whom are residents of this municipality shall disregard the method of apportionment provided for in the Ordinance and pay the tax on the entire net profits. In such case, the tax paid by the entity shall constitute all tax due from the owners or members of the entity for their distributive share of the net profits; however, a return shall be required from such owner or member having taxable income other than the distributive share of the net profit from the entity by this municipality. See Article XV for Credits.

b. Imposition of Tax on Resident's Distributive Share of Profits of a Non-Resident Unincorporated Business Entity not attributable to this municipality. See Article XV for Credits.

.1 A resident individual who is sole owner of a non-resident limited liability company, sole proprietorship, or other unincorporated business entity shall disregard the business apportionment 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 1.0% on such individual's distributive share of net profits earned, accrued or received during the effective period of the Ordinance not attributable to the Village under the method of apportionment provided for in Section 3 of the Ordinance and not taxed against the entity by this municipality.

5. Imposition of Tax on Net Profits of Corporations

a. In the case of corporations, including S corporations, whether domestic or foreign and whether or not such corporations have an office or place of business in this municipality, there is imposed an annual tax of 1.0% on the net profits earned, received or accrued during the effective period of the ordinance attributable to this municipality under the formula provided for in the Ordinance.

.1 No tax is imposed on a shareholder's share of an S Corporation's profit; a shareholder of an S Corporation is not permitted to report his share of an S Corporation's loss.

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

- c. Corporations which are required by the provisions of Section 5727.38 to 5727.41, inclusive, of the Ohio Revised Code, to pay an excise tax in any taxable year as defined by the Ordinance, may exclude that part of their gross receipts upon which the excise tax is paid. In such case, expenses incurred in the production of such gross receipts shall not be deducted in computing net profits subject to the tax imposed by the ordinance.

6. Amplification:

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

a. NET PROFITS

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

.2 Adjusted federal taxable income means a C corporation's federal taxable income before net 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 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 Deduct income & gain included in federal taxable income to the extent the income or gain is income or gain directly related to the sale, exchange, or other disposition of an asset described in Section 1221 or 1231 of the Internal Revenue Code; however, this section does not apply to the extent income or gain is described in section 1245 or 1250 of the Internal Revenue Code;

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

.06 In the case of real estate investment trusts and regulated investment companies, add amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors allowed as a deduction in the computation of federal taxable income;

.07 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; (1) 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; (2) amounts paid or accrued to a qualified self-employed retirement plan with respect to an owner or owner-employee of the taxpayer, amounts paid or accrued to or for health insurance for an owner or owner employee, and amounts paid or accrued to or for life insurance for an owner or owner-employee, shall not be allowed as a deduction.

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

b. GROSS RECEIPTS

.1 Gross receipts shall include but not be limited to income in the form of commissions, fees, capital gains, director's fees, sub pay, profit sharing from non-qualified plans, 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 the ordinary income from Form 4797.

c. EXPENSES

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

.2 If not claimed as part of the cost of goods sold or elsewhere in the return filed, there may be claimed and allowed a reasonable deduction for depreciation, depletion, obsolescence, losses resulting from theft or casualty

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

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

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

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

.6 Only taxes directly connected with the business may be claimed as a deduction. If for any reason the income from property is not subject to the tax, then taxes on and other expenses of said property are not deductible. In any event, the following taxes are not deductible from income: (1) the tax under the ordinance; (2) federal or other taxes based upon income exclusive of the amount of Ohio franchise tax computed on the net worth bases; (3) gift, estate or inheritance taxes; (4) taxes for local benefits or improvements to property which tend to appreciate the value thereof; and (5) self-employment taxes for unincorporated businesses or other entities including credit for employment taxes as allowed for federal tax purposes.

.7 If the taxpayer reports income that is non-taxable under the Ordinance and such amounts are deducted in order to reconcile the Village return with the taxpayer's federal return, expenses attributable to this non-taxable income shall not be allowed as a deduction from the remaining taxable income. The expenses attributed to such non-taxable income shall be five percent (5%) of the non-taxable 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.

.8 An employee who is paid on a commission or other compensation basis and who pays his business expense from his commissions or other compensation, without reimbursement from his employer, may deduct from his gross commissions, or other compensations, business expenses only as allowed by the Internal Revenue Service for federal income tax purposes and

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

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

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

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

7. Rentals from Real Property:

- a. Rentals received by the taxpayer are to be included only if and to the extent that the rental, ownership, management or operation of the real estate from which such rentals are derived (whether so rented, managed or operated by the taxpayer individually or through agents or other representatives) constitutes a business activity of the taxpayer in whole or in part.
- b. Where the gross monthly rental of any real properties, regardless of number and value, aggregate in excess of \$100.00 per month, it shall be prime facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental properties shall be subject to tax; provided that in the case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipt or profits of the lessee, whether or not such rental exceeds \$100.00 per month; provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in the crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds \$100.00 per month; and provided further that the person who operates a rooming house shall be considered in business whether or not the gross income exceeds \$100.00 per month.

- c. In determining the amount of gross monthly rental of any real property, periods during which (by reason of vacancy or any other cause) rentals are not received shall not be taken into consideration by the taxpayer.
 - d. Rentals received by a taxpayer engaged in the business of buying and selling real estate shall be considered as part of business income.
 - e. Real property, as the term is used in this regulation, shall include commercial property, residential property, farm property, and any and all other types of real estate.
 - f. In determining the taxable income from rentals, the deductible expenses shall be of the same nature, extent and amount as are allowed by the Internal Revenue Service for federal income tax purposes.
 - g. Residents of 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. However, if any property is located outside the Village, and is subject to another municipal income tax, credit shall be claimed in accordance with Section 15 of the Ordinance.
 - h. Non-residents of this municipality are subject to such taxation only if the real property is situated within this municipality.
 - i. Corporations owning or managing real estate are taxable only on that portion of income derived from property located in this municipality.
 - j. Reports required on tenants and lessees: See Article III(G)(3)
8. On all income received as gambling winnings as reported on IRS Form W-2G, Form 5754 and or any other Form required by the Internal Revenue Service that reports winnings from gambling, prizes, and lottery winnings.
9. 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.

B. Apportionment of Business Profits

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

1. Business Apportionment Percentage Method

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

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

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

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

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

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

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

.02 In the case of an employee whose compensation depends on other results achieved, the proportion of the total compensation received which the value of his services within the municipality 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 municipality is of his total working time.

.4 Nonresident professional persons shall use the factor of days spent within the Village to total working days.

- c. STEP 3: Ascertain the percentage which the gross receipts of the taxpayer derived from sales made and services rendered in this municipality 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 Village, shall be considered a resident business of the Village 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; and (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 this municipality's sales:

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

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

.03 All sales of tangible personal property delivered to purchasers within this municipality even though transported from a point outside this municipality if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within this municipality and the sale is directly or indirectly the result of such solicitation or promotion.

.04 All sales of tangible personal property shipped from an office, store, warehouse, factory or place of storage within this municipality to purchasers outside this municipality if the taxpayer is not, through its own employees regularly engaged in the solicitation or promotion of sales at the place of delivery.

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

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

- 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 in or outside this municipality. A factor is excluded only when it does not exist anywhere.
- e. STEP 5: The business apportionment percentage determined in Step 4 above shall be applied to the entire taxable net profits of the taxpayer wherever derived to determine the new profits apportioned to this municipality.

2. Substitute Method:

- a. In the event a just and equitable result cannot be obtained under the formula, the Administrator, upon application of the taxpayer, may substitute other

factors in the formula or prescribe other methods of apportioning net income calculated to effect a fair and proper apportionment.

- b. Application to the Administrator to substitute other factors in the formula or to use a different method to 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 Administrator as the case may be. No specific form need be followed in making such application. Once a taxpayer has filed under a substitute method, he must continue to so file until given permission to change by the Administrator.
 - c. The decision of the Administrator on subsections 2(a) and (b) hereof may be appealed by the taxpayer to the Board of Review, which shall have the power to adjust, modify or overrule such decision of the Administrator.
3. In the case of professional people and others furnishing personal services, if their only place of business is within the Village of Fort Recovery, all their net profit shall prima facie be attributable to the Village of Fort Recovery.

C. Operating Loss Carry Forward.

1. The portion of a net operating loss, based on income taxable under the Ordinance, sustained in any taxable year subsequent to January 1, 1984 apportioned to this municipality may be applied against the portion of the profit of succeeding year(s) apportioned to this municipality until exhausted, but in no event for more than five (5) taxable years immediately following the year in which the loss was sustained. No portion of a net operating loss shall be carried back against net profits of any prior year.
 - a. Losses from the operation of a business, profession or any other type of unincorporated entity are not deductible against employee earnings (as reported on W-2 or 1099-Misc), but may be carried forward as set forth herein. However, if a taxpayer is engaged in two or more taxable business activities to be included in the same return, the net loss of one unincorporated business activity (except any portion of a loss separately reportable for municipal tax purposes to another taxing entity) may be used to offset the profits of another for purposes of arriving at overall net profits.
2. In the event net profits are apportioned both within and without this municipality, the portion of a net operating loss sustained shall be apportioned to this municipality in the same manner as provided herein for apportioning net profits to this municipality. The portion of a net operating loss to be carried forward shall be determined in the year the net operating loss is sustained, on the basis of the

apportionment factors applicable to that year. The same method of accounting and apportionment must be used in the year to which an operating loss is carried as was used in the year in which the operating loss was sustained.

3. A short fiscal year (a fiscal year of less than twelve (12) months) in cases where there has been a change in accounting period, a new taxpayer selecting a short fiscal year, or where a taxpayer operates in this municipality for less than his full accounting period, shall be considered as a full taxable fiscal year for purposes of loss carry forward.
4. In any return in which a net operating loss deduction is claimed, a schedule should be attached showing:
 - a. Year in which net operating loss was sustained.
 - b. Method of accounting and apportionment used to determine portion of net operating loss apportioned to this municipality.
 - c. Amount of net operating loss used as a deduction in prior years.
 - d. Amount of net operating loss claimed as a deduction in current year.
5. The net operating loss of a taxpayer which loses its identity through merger, consolidation, etc., shall not be allowed as a carry-forward loss deduction to the surviving business entity.
6. In the case of a net operating loss in the filing of consolidated returns, see Article III, paragraph D.
7. Losses sustained in a given year must be filed and reported in the same given year in order to be carried forward to offset future net profits.

D. Consolidated Returns:

1. A consolidated return may be filed by a group of corporations who are affiliated through stock ownership if that affiliated group filed for the same tax period a consolidated return for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code. A consolidated return must include all companies which are so affiliated.
2. Once a consolidated return has been filed for a taxable year, the consolidated group must continue to file consolidated returns in subsequent years unless:
 - a. Permission in writing is granted by the Administrator to file separate returns.

- b. A new corporation other than a corporation created or organized by a member of the group has become a member of the group during the taxable year.
 - c. A corporation member of the group is sold or exchanged. Liquidating a corporation or merging one of the corporations of the group into another will not qualify the group for filing separate returns.
3. If a corporation becomes a member of the group during the taxable year, the consolidated return must include the income for the entire taxable year of the common parent corporation and any subsidiaries which were members of the group for the entire year, plus the income of each subsidiary which becomes a member of the group during the year for the period beginning with the date it became a member of the affiliated group. For the period prior to the time any subsidiary becomes 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 original cost of the property during the period such corporation was a member of the group. The rental portion of the fraction, however, shall be computed at 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. 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 transaction between members of the affiliated group.

7. In determining expenses that are not allowable because they are apportioned to nontaxable 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 nontaxable income.
- E. Capital gains from the sale of depreciable property shall be taxable to the extent of the aggregate amount of depreciation taken on such property for the Village of Fort Recovery income tax purposes. The taxable amount shall be the ordinary portion recognized on Federal Form 4797, "Sales of Business Property".
- F. Exclusions.

The following shall not be considered taxable.

1. Proceeds from welfare benefits, unemployment insurance benefits, pensions, social security benefits, and qualified retirement plans as defined by the Internal Revenue Service.
2. Proceeds of insurance, annuities, workers' compensation insurance, permanent disability benefits, compensation for damages for personal injuries and like reimbursement, not including damages for loss of profits or wages.
3. Dues, contributions and similar payments received by charitable, religious, and educational organizations, or labor unions, trade or professional associations, lodges and similar organizations.
4. Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations and income of a decedent's estate during the period of administration (except such income from the operation of a business).
5. Alimony is not taxed to the recipient nor is it allowed as a deduction by the payor.
6. Compensation for damage to property by way of insurance or otherwise.
7. Interest and dividends from intangible property, and distributions from a decedent's estate or a decedent's trust.
8. Military pay or allowances of members of the Armed Forces of the United States and of members of their reserve components, including the Ohio National Guard (ORC 718.01).
9. Income of any charitable, educational, fraternal or other type of nonprofit association or organization enumerated in Ohio Revised Code 718.01 to the

extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.

10. Any association or organization falling in the category listed in the preceding paragraph receiving income from non-exempt real estate, tangible or intangible personal property, or business activities of a type ordinarily conducted for profit by taxpayers operating for profit shall not be excluded hereunder.
11. In the event any association or organization receives taxable income as provided in the preceding paragraph from real or personal property ownership or income producing business located both within and without the corporate limits of the Village, it shall calculate its income apportioned to the Village under the method or methods provided above.
12. If exempt for federal income tax purposes, fellowship and scholarship grants are excluded from Municipal income tax.
13. The rental value of a home furnished to a minister of the gospel as part of his compensation, or the rental allowance paid to a minister of the gospel as part of his compensation, to the extent used by him to rent or provide a home pursuant to section 107 of the Internal Revenue Code.
14. Compensation paid under section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct official, to the extent that such compensation does not exceed one thousand dollars (\$1000.00) annually. Such compensation in excess of one thousand dollars may be subjected to taxation. The payer of such compensation is not required to withhold Village tax from that compensation.
15. Compensation paid to an employee of a transit authority, regional transit authority, or a regional transit commission created under Chapter 306 of the Ohio Revised Code for operating a transit bus or other motor vehicle for the authority or commission in or through the municipality, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such tax by reason of residence or domicile in the Municipality, or the headquarters of the authority or commission is located within the Municipality.
16. The Village shall not tax the compensation paid to a nonresident individual for personal services performed by the individual in the Village on twelve (12) or fewer days in a calendar year unless one of the following applies:
 - a. The individual is an employee of another person, the principal place of business of the individual's employer is located in another municipality in Ohio that imposes a tax applying to compensation paid to the individual for services paid on those days; and the individual is not liable to that other municipality for tax on the compensation paid for such services.

- b. The individual is a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such promoter, all as may be reasonably defined by the Municipality.

For purposes of this section, “day” means any part of a twenty four (24) hour calendar day where compensation is earned in the Village.

17. The income of a public utility, when that public utility is subject to the tax levied under section 5727.24 or 5727.30 of the Ohio Revised Code, except a municipal corporation may tax the following, subject to Chapter 5745 of the Ohio Revised Code:
 - a. The income of an electric company or combined company;
 - b. The Income of a telephone company.

As used in paragraph F(17) of this article, “combined company”, “electric company”, and “telephone company” have the same meanings as in section 5727.01 of the Ohio Revised Code.

18. An S corporation shareholder’s distributive share of net profits or losses of the S corporation.
19. Generally the above noted items in this section are the only forms of income not subject to the tax. Any other income, benefits, or other forms of compensation shall be taxable.

G. Mandatory Registration

1. Each new resident of the Village of Fort Recovery shall register with the Village Income Tax Department within thirty (30) days of residency in the Village or upon attaining their eighteenth (18th) birthday.
2. All employers, contractors or subcontractors who do work in the Village shall register with the Tax Administrator when work begins and shall present him/her with a list of all employees, subcontractors or others who may do work for them that are not already registered with the Village or whose profits, wages or earnings are not presently subject to withholding of the Village of Fort Recovery income tax.
3. On January 1, 2003 and each year thereafter, all landlords who rent property or dwellings in the Village of Fort Recovery must submit an up-to-date list of their tenants to the Tax Administrator. This list is not required if the tenants are responsible for their own water utility payments.

4. Any person who violates this section shall be subject to the provision of Section 12, paragraph A, line 8 of the Village of Fort Recovery Income Tax Ordinance.

ARTICLE IV – EFFECTIVE PERIOD OF TAX

The tax imposed by the Ordinance is levied, collected and paid with respect to income, net profits, and other taxable income subject to the tax earned or received on and after January 1, 1984.

ARTICLE V – RETURN AND PAYMENT OF THE TAX

A. Date and Requirement for Filing:

1. On or before April 30 of each year for the tax years prior to 2004 and April 15 of each year thereafter, every person subject to the provisions of Section 3, paragraph A(1) to A(6), inclusive, of the ordinance shall, except as hereinafter provided, make and file with the Administrator, a return on a form prescribed by and acceptable to the Administrator, whether or not a tax be due; The Village shall accept for filing a generic form of any such return, report, or document if the generic form, once completed and filed, contains all of the information required to be submitted with the Village's prescribed returns, reports or documents, and if the taxpayer or return preparer filing the generic form otherwise complies with the Rules and Ordinances of the Village governing the filing of returns, reports or documents.
 - a. Every resident as defined shall file an annual return. Exception shall be children under the age of eighteen (18).
 - b. To constitute a valid form, the following information must be included:
 - .1 The Village's account number and the taxpayer's Social Security number or Employer's Federal Identification number.
 - .2 Credit to other municipalities must show separately the tax paid to the Village, tax paid to other municipalities (not to exceed one percent (1%)), estimated payments made during the current year, and prior overpayments.
 - .3 A separate line indicating amounts for the underestimate penalty, the total of late filing penalty and interest, and a total line for these amounts.
 - .4 Schedules of adjustment to income and apportionment percentage.
 - .5 Taxpayer(s) signatures.
 - .6 All applicable federal schedules, forms and statements.

2. If the return is made for a fiscal year or any period less than a year, the said return shall be made within the fifteenth (15) day of the fourth (4) month from the end of each fiscal year or other period.
3. Every person subject to the provisions of Section 3 of the Ordinance shall, except as hereinafter provided, file a return setting forth the aggregate amount of qualifying wages, salaries, commissions and other personal service compensation, net profits from business or other activities, including the rental from use of real and personal property, and other income taxable under the Ordinance, received for the period covered by the return and such other pertinent facts and information in detail as the Administrator may require.
4. Where a non-resident employee's entire earnings for the tax period are paid by an employer or employers, and the one percent (1.0%) tax thereon has in each instance been withheld and deducted by the employer or employers from the total qualifying amount of the entire earnings of such employee-taxpayer, and where the employer of such employee has filed a report or return in which such employee's entire and only earnings are reported to the Administrator, and where such employee has no taxable income other than such earnings and the tax so withheld has been paid to the Administrator, such employee need not file a return.
5. An employee who is permitted to deduct business expenses as allowable and described under Article III(A)(6)(c)(8) of these regulations, from qualifying wages or commissions must file a return in order to claim such deductions even though all or part of such qualifying wages or commissions are subject to withholding. Such amounts must be properly reported on Form 2106, as filed with the Internal Revenue Service, and must be verifiable.
6. Any taxpayer who received taxable income not subject to withholding under the ordinance must file a return.
7. Any taxpayer having income, wages, or other compensation for which a return must be filed, and also having net profits from a business covering the same 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 this municipality 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 (A)(3)(b).(2) of these regulations.

10. A husband and wife may file a joint return either when engaged in the same or separate business, but may not deduct business losses of either from compensation paid by the employer. If a joint return is made, the tax shall be computed on the aggregated taxable income and the liability with respect to the tax shall be joint and several.
11. Operating losses from business or professional activities, the profits of which would be taxable under the ordinance, may be offset against net profits from other business or professional activities. Such operating loss may not be offset against qualifying wages, salaries, commissions and other personal service compensation paid as an employee for which a Federal W-2 has been issued by an employer. To the extent that such losses are offset, they shall not be allowable as an operating loss carry forward under Section 3(F) of the ordinance or Article III(C) of the regulations.
12. Any business, profession or corporation reporting a net loss is subject to the filing requirements of the Ordinance and these Rules and Regulations.
13. Executors and administrators are liable for the payment of any taxes due by a deceased from an estate of said deceased.
14. The return shall be accompanied by payment of any taxes due thereon.
15. The Tax Administrator may exempt from the annual filing requirement certain individuals who have attained retirement age, have retired, and have no income subject to taxation by the Village of Fort Recovery.

B. Information Required and Reconciliation with Federal Returns.

1. In returns filed hereunder, there shall be set forth the aggregate amount of qualifying wages, salaries, bonuses, incentive payments, commissions, fees and other compensation subject to the tax earned from each employer, taxable net profits, other taxable income earned or received, and other pertinent information as the Administrator may require.
2. Where figures of total income, total deductions, and net profits are included, as shown by a federal return, any items of income which are not subject to this municipality's tax and unallowable expenses shall be eliminated in determining net income subject to this municipality's tax. The fact that any taxpayer is not required to file a federal tax return does not relieve him from filing this municipality's tax return.
3. If a change in federal income tax liability, made by the Federal Internal Revenue Service, or by a judicial decision, results in an additional amount of tax payable to this municipality, a report of such change shall be filed by the

taxpayer within three (3) months after receipt of the final notice from the Federal Internal Revenue Service or final Court decision, see Article X(C)(2).

4. If a change in federal income tax liability results in a deduction of taxes owed and paid to this municipality, a claim for refund shall be filed with the Administrator as prescribed in Section 11 of the ordinance and Article XI(B) of these regulations.

C. Extensions.

1. Upon filing of a copy of the taxpayer's request for filing a federal extension, or a written request of the taxpayer made on or before the original date for filing the return as prescribed in Section 5(E) of the Ordinance, the Administrator may extend the time for filing such return for a period to the last day of the month following the month to which the due date of the federal income tax return has been extended. Whenever deemed necessary, the Administrator may require a tentative return accompanied by payment of the estimated tax. An extension of time for filing does not extend the time for payment of the tax, hence, interest and penalty, as defined under Section 10 of the Ordinance, may apply to any unpaid tax from the original due date of the return until said filing of the return. No penalty or interest will be assessed in those cases in which the return is filed and the final tax paid within the period as extended provided all other filing and payment requirements of the Ordinance have been met. Any extension by the Administrator shall be granted with the understanding that declaration filing and payment requirements have been fulfilled; however, if, upon further examination it then becomes evident that declaration filing and payment requirements have not been fulfilled, interest and penalties may be assessed in full and in the same manner as though no extension had been granted. The Administrator may deny a taxpayer's request for extension if the taxpayer:
 - a. Fails to timely file the request;
 - b. Fails to file a copy of the federal extension request (if applicable);
 - c. Owes the Village any delinquent income tax or any penalty, interest assessment or other charge for the late payment or nonpayment of income tax;
 - d. Has failed to file any required income tax return, report or other related document of a prior tax period.
2. Information returns, schedules and statements needed to support tax returns are to be filed within the time limits set forth for filing the tax returns.

D. Payment with Return.

1. The taxpayer making a return shall, at the time of the filing thereof, pay to the Administrator the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of Section 6 of the Ordinance, or where any portion of

said tax shall have been paid by the taxpayer pursuant to the provisions of Section 7 of the ordinance, or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with Article 15 hereof, shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing said return.

2. A taxpayer who has overpaid the amount of tax to which this municipality is entitled under the provisions of the Ordinance may have such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such overpayment (or part thereof) shall be refunded, provided that no additional taxes or refunds of less than one dollar and one cent (\$1.01) shall be collected, refunded, or credited to the taxpayer or his account.
3. An application for refund of overpayment of taxes withheld must be made by the employer or by the taxpayer with a letter of authorization from the employer.

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 Sections 10 and 11 of the Ordinance. Such amended return shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.
2. Within three (3) months from the final determination of any federal tax liability affecting the taxpayer's village tax liability, such taxpayer shall make and file an amended Village return showing income subject to this municipality's tax based upon such final determination of federal tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment.

- F. Information returns, schedules and statements required to support tax returns which are incomplete without such information shall be filed within the time limits set forth for filing of the tax returns and the failure to file such information returns, schedules and statements shall be a violation of the Tax Ordinance. Provided, however, that the taxpayer shall have ten (10) days after notification by the Tax Administrator, or his authorized representative, to file the items required by this paragraph.

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 this municipality, who employs one or more persons whether as an employee, officer, director or otherwise, to deduct each time any compensation is paid, the tax of one percent (1.0%) from:
 - a. The amount of all qualifying wages, salaries, bonuses, incentive payments, commissions or other forms of compensation paid to residents of this municipality, 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 this municipality.
 - c. An employer is liable for the payment of the tax required to be deducted and withheld, whether or not such tax in fact has been withheld.
2. All employers within or doing business within this municipality are required to make the collections and deductions specified in this Article, regardless of the fact that the services on account of which any particular deduction is required were performed outside this municipality.
3. Employers who do not maintain a permanent office or place of business in this municipality, but who are subject to tax on net profits attributable to this municipality, under the method of apportionment provided for in the Ordinance, are considered to be employers within this municipality and subject to the requirement of withholding.
4. The mere fact that the tax is not withheld will not relieve the employee of the responsibility of filing a return and paying the tax on the compensation paid. If the employer has withheld the tax and failed to pay the tax withheld to the Administrator, the employee is not liable for the tax so withheld. In such cases, the Village will not process any employee claim of refund or overpayment until the employer pays the tax withheld.
5. Commissions and fees paid to professional men, brokers and others who are independent contractors, and not employees of the payor, are not subject to withholding or collection of the tax at the source. Such taxpayers must in all instances file a declaration and return and pay the tax pursuant to the provisions of the Ordinance and Articles V and VII of the Regulations.
 - a. The commissions and fees paid to those individuals as independent contractors and as unincorporated entities by an employer, shall be reported to the Administrator and include the name, address, social security number and total amount paid if said amount is in an excess of six hundred dollars (\$600.00). This return shall be considered a required return and shall be subject to the penalties as described under Section 10 of the Ordinance.

6. Where a non-resident receives compensation for personal services rendered or performed partly within and partly without this municipality, the withholding employer shall deduct, withhold and remit the tax on that portion of the compensation which is earned within this municipality in accordance with the following rules of apportionment:
 - a. If the non-resident is a salesman, agent or other employee whose compensation depends directly on the volume of business transacted or chiefly effected by him, the deduction and withholding shall attach to the portion of the entire compensation which the volume of business transacted or chiefly effected by the employee within this municipality bears to the total volume of business transacted by him within and outside this municipality.
 - b. The deducting and withholding of personal service compensation of other non-resident employees, including officers of corporations, shall attach to the proportion of the personal service compensation of such employee which the total number of his working hours within this municipality is of the total number of working hours.
 - c. The fact that non-resident employees are subject to call at any time does not permit the apportionment of pay for time worked within this municipality on a seven (7) day per week basis. The percentage of time worked within this municipality will be computed on the basis of a forty (40) hour week unless the employer notifies the Administrator that a greater or lesser number of hours per week is worked.
 - .1 The determination of the tax liability of nonresidents working in and out of the corporate limits is to be computed on the formula of the total number of days worked in the Village divided by the total number of days worked during the year and the resulting percentage applied to the total annual income from wages including sick leave, holiday pay, vacation pay and other compensation required to be reported as qualifying wages. Where no record can be substantiated of the number of days worked, the figure **260** is to be used as the total number of days worked.
 - .2 If a nonresident physically reports to an employer's premises within the Village on a regular basis, such employee would be presumed to have at least a minimal tax liability.
 - d. Wages of occasional entrants as defined in Article 3(F)(16) are not subject to withholding.
 - 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 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. A municipal employer required to withhold the tax from a municipal employee 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 municipal tax from such municipal employee, except where the rate of tax for such other municipality is less than the rate of tax imposed by the ordinance. In such case the employer shall withhold and remit the difference to this municipality.
10. No person shall be required to withhold the tax on the wages or other compensation paid domestic servants employed exclusively in or about such person's residence, but such employee shall be subject to all of the requirements of the ordinance.
11. An employer whose records show that an employee is a non-resident of this municipality and has no knowledge to the contrary, shall be relieved of the responsibility of withholding the tax on personal service compensation paid to such employee for services rendered or work done outside Fort Recovery by such employee provided, however, that such employer must withhold the tax on all personal service compensation paid such employee after the Administrator notifies said employer in writing that such employee is a resident of Fort Recovery. All employees are required to notify the employer of any change of residence and the date thereof.
12. Regulation defines an employer to be any individual, partnership, association, corporation, and any other entity that hires, books, or contracts for individuals or groups to work, perform or entertain at their place of business, or rents facilities for the purpose of providing such work, entertainment, and as such, is responsible for the collecting and remitting of the Village income tax.
13. An employer is not required to make any withholding with respect to an individual's disqualifying disposition of an incentive stock option if, at the time

of the disqualifying disposition, the individual is not an employee of the corporation with respect to whose stock the option has been issued.

B. Employer Deemed Trustee of Taxes Withheld

1. 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.
2. 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.

C. 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 earnings or net profits) shall, on or before the last day of the next month following each quarterly period, make a return and pay to the Administrator the full amount of the tax so deducted or withheld with respect to compensation paid all of his employees subject to the tax under the Ordinance. Provided, however, the Administrator may require an employer to remit withholding taxes at more frequent intervals. The return (Form W-1) required to be filed under this Article shall be made on a form furnished by or obtainable on request from the Administrator.

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

a. Current Employees:

.1 If the over-withholding is discovered in the same period the employer shall make the necessary adjustment directly with the employee and the amount to be reported on the return (Form W-1) 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 (Form W-1) 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 (Form W-1).

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

b. Former Employees:

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

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

c. Non-Residents Employed Outside the Municipality:

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

e. Withholding Erroneously Reported and Remitted:

.1 In the event the employer erroneously reported and remitted withholding to the Village of Fort Recovery, which should have been reported and paid to another taxing jurisdiction, and upon a written request made by the employer stating the reason, the amount, and the correct taxing jurisdiction to which the withholding should have been paid and reported, shall be issued a refund made payable to the employer. The employer is responsible for remitting the refund to the proper taxing jurisdiction. If the error is discovered after the end

of the calendar year, corrected W2's will need to be submitted with the written request.

3. On or before the 28th day of February following any calendar year in which such deductions have been made by any employer, such employer shall file with the Administrator in the form prescribed by the Administrator, an information return for each employee from whom this municipality's income tax has been withheld, showing the name, address and social security number of the employee, the total amount of compensation paid during the year, and the amount of this municipality's income tax withheld from such employee. For the convenience of employers, the information return may be in one of two ways at the election of each employer, as follows:
 - a. Those employers using Federal Form W-2 furnished commercially shall submit a copy of such commercial Federal Form W-2 providing the copy furnished to the Village clearly shows the information required in 3 immediately preceding.
 - b. Where the furnishing of this information as indicated above will create a distinct hardship to the employer, upon written request to the Administrator, the employer may be permitted to furnish a list of all employees subject to the tax, which list shall show the employee's full name, Social Security Number, last known address, total qualifying wages paid during the year, the qualifying wages applicable to the Village, and the amount of Village income tax withheld.
 4. The qualifying wages to be reported for each employee shall be for the full twelve (12) calendar months of the year or such portion thereof as the employee reported on was employed.
 5. In addition to such information returns, and at the time the same are filed, such employer shall file with the Administrator a form (W-3) to enable the Administrator to reconcile the sum total of compensation paid and taxes withheld as disclosed by information return W-2, or list of employees, and prior returns and remittances made pursuant to the ordinance.
 6. All employers that provide any contracted service within this municipality, and who employ subcontractors in conjunction with that service, shall provide the municipality the names and addresses of the subcontractor. The subcontractor shall be responsible for all income tax withholding requirements under the Ordinance.
- D. It shall be the responsibility jointly and severally of the President and Treasurer of each corporation required to withhold taxes on employees' wages to see that all taxes so withheld are paid to the Village of Fort Recovery in accordance with the provisions of the Ordinance. In the event taxes withheld by a corporation from the

qualifying wages of its employees are not paid to the Village of Fort Recovery in accordance with the provisions of the Ordinance, the President and Treasurer of said corporation shall each be criminally liable under the provisions of Section 12 hereof.

- E. 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 (\$.005) or more in which case it shall be increased to one cent (\$.01).

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 the fifteenth (15th) day of the fourth (4th) month after the beginning of the taxable year.
2. A taxpayer's final return for the preceding year may be used as the basis for computing his declaration of estimated tax for the current year. In the event a taxpayer has not previously been required to file a return, a declaration of estimated tax on anticipated income shall be filed in good faith.
3. A declaration of estimated tax which is less than 80% of the tax as shown on the final return shall not be considered filed in good faith.
4. A declaration of less than \$100.00 for a tax year shall not be required.
5. A minimum charge of Twenty Five dollars (\$25.00) shall be imposed for failure to file any return required to be filed by the provisions of this ordinance.
6. A taxpayer who currently resides in the Village, but was not domiciled in the Village on the first day of January of the current calendar year, is not subject to any penalty and interest charges for the late payment or non-payment of estimated tax liability.

B. Date of Filing:

1. A person or other entity conducting a business not previously subject to the tax, or whose employer does not withhold the tax, shall file a declaration based on 100% of the current years tax liability within the fifteenth (15) day of the fourth (4th) month 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 the fifteenth (15th) day of the fourth (4th) month after the start of each fiscal year or period.

C. Form for Filing:

1. Such declaration shall be filed upon a form or forms furnished by, or obtainable from the Administrator. Provided, however, credit shall be taken for this municipality's tax to be withheld from any portion of such income. In accordance with the provisions of Section 15 of the ordinance, credit may be taken for tax to be withheld and remitted to another taxing municipality.
2. The original estimate of tax liability or any subsequent amendment thereof may be 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 may be made on the regular declaration form.
3. The mere submission of a declaration estimating a tax liability shall not constitute filing unless accompanied by the required payment.

D. Dates of Payments for Individuals:

1. The estimated tax may be paid in full with the declaration or in equal installments on or before the fifteenth (15th) day of the fourth month, and the end of the seventh, tenth, and thirteenth months after the beginning of the taxable year. (April 15, July 31, and October 31 of the tax year, and January 31 of the subsequent tax year).
2. The declaration must be accompanied by at least twenty percent (20%) of the estimated tax shown due thereon or twenty five percent (25%) of the previous year's tax liability if the previous year was a twelve (12) month period.
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. Dates of Payments for Other entities:

1. The estimated tax may be paid in full with the declaration or in equal installments on or before the fifteenth (15th) day of the fourth month, end of the seventh (7th), tenth (10th), and thirteen (13th) months after the beginning of the taxable year.
2. The declaration must be accompanied by at least twenty percent (20%) of the estimated tax shown due thereon or twenty five percent (25%) of the previous year's tax liability if the previous year was a twelve (12) month period.

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.

F. Annual 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 over one dollar and one cent (\$1.01).

G. Penalties and Interest:

1. Except as otherwise provided, interest and penalty may be imposed pursuant to Article X for failure to pay the tax in accordance with the provisions set forth in this Article.
2. Penalty and interest shall not be imposed if the taxpayer has paid, in accordance with this Article, an amount greater than or equal to one hundred percent (100%) of the taxpayer's liability for the preceding tax year provided the tax due for the preceding year reflected a liability for a twelve-month period.

ARTICLE VIII – DUTIES OF THE ADMINISTRATOR

A. Collection of Tax and Retention of Records:

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

B. Enforcement Provisions:

1. The Administrator is charged with the administration and enforcement of the provisions of the ordinance and is, subject to the approval of the Village Council, empowered to adopt, promulgate, and enforce rules and regulations or any amendment thereof relating to any matter or thing pertaining to the administration and enforcement of the ordinance. The Administrator has the authority to correct or adjust any return submitted, when a correction or adjustment is necessary to accomplish the intent of the Ordinance.

2. Any taxpayer or employer desiring a special ruling on any matter pertaining to the ordinance or these Rules and Regulations, should submit to the Administrator in writing all the facts involved and the ruling sought.
3. These regulations, together with all amendments and supplements hereto and all changes herein, will be on file at the office of the Administrator, 201 South Main Street and will be open to public inspection under normal business hours.
4. The Administrator is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proved to the Administrator that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under the ordinance.
5. Failure to make any deferred payment when due, shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Sections 11 and 12 of the ordinance shall apply.

C. Estimation of Tax by Administrator:

1. Whenever the Administrator has been unable to secure information from the taxpayer as to his taxable income for any year, he may determine the amount of tax appearing to be due and assess the taxpayer upon the basis of such determination, together with the interest and penalties as prescribed in Section 10 of the ordinance.
2. Such determination of tax may be adjusted upon submission by the taxpayer of actual records from which his tax may be computed, provided the submission of such actual records occurs within thirty (30) days of the Administrator's assessment notice.

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

E. Upon the demonstration and documentation of good cause, the Tax Administrator shall have the power to compromise penalty and interest liabilities imposed by the Ordinance, consistent with the Ordinance and these Rules and Regulations. In no case shall the Tax Administrator possess the authority to abate or compromise a tax liability.

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

A. Investigations by Administrator:

1. The Administrator, or his duly authorized agent, is authorized to examine the books, papers, records and federal income tax returns of any employer, taxpayer or person subject to the Ordinance, or whom the Administrator believes is subject to the provisions of the Ordinance, for the purpose of verifying the accuracy of any return made; or if no return was made, to ascertain the tax due under the Ordinance.
2. An employer or taxpayer shall furnish, within ten (10) days following a written request by the Administrator, or his duly authorized agent, the means, facilities and opportunity for making examinations and investigations authorized by the ordinance.

B. Subpoena of Records and Persons:

1. The Administrator, or any person acting in his capacity, is authorized to examine any person, under oath, concerning any income which was, or should have been, returned for taxation, or any transaction tending to effect such income. The Administrator may compel the production of books, paper, and records and the attendance of all persons before him whether as parties or witnesses, whenever he believes such persons have knowledge of the facts concerning any supposed income or supposed transaction of the taxpayer.
2. The Administrator's order to examine any document mentioned in the preceding paragraph shall state whether the examination is to be at the office of the taxpayer or at the office of the Administrator.
3. The Administrator may order the appearance before him, or his duly authorized agent, of any party whom he believes to have any knowledge of a taxpayer's income or withholdings, or any information pertaining to the taxpayer under investigation, whether or not the individual so ordered has actual custody of the records of the taxpayer being investigated. The Administrator is specifically authorized to order the appearance of the local manager or representative of any taxpayer.
4. 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 Administrator, or his duly authorized agent, by delivering it to the person named personally, or by leaving the notice at his usual

place of business or residence, or by mailing it to the person by registered mail, return receipt requested, addressed to his usual place of business or residence.

C. Penalty for Non-Compliance:

Refusal by an employer, supposed employer, taxpayer, or supposed taxpayer, or the refusal of any such person to appear before the Administrator or his duly authorized agent, to submit to such examination and to produce the records requested constitute 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 hearing before the Administrator, required by the Ordinance or authorized by these rules and regulations shall be confidential and no disclosure thereof shall be made except for official purposes or as ordered by a Court of competent jurisdiction. Any person divulging such information shall be guilty of a misdemeanor punishable by a maximum fine of One Thousand Dollars (\$1000.00) or imprisonment for not more than six (6) months, or both.

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

E. Retention of Records:

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

ARTICLE X – INTEREST & PENALTIES

A. Interest:

1. Except as provided in paragraph C of this article, all taxes imposed and all monies withheld, or required to be withheld, by employers under the provisions of the ordinance and remaining unpaid after they have become due shall bear interest, in addition to the amount of the unpaid tax or withholdings, at the rate of one percent (1.0%) per month or fraction thereof.

B. Penalties: In addition to interest as provided in paragraph A hereof, penalties for failure to estimate, pay, withhold and remit, and to file a tax return pursuant to the provisions of the Ordinance are hereby imposed as follows:

1. For failure to pay taxes due, other than taxes withheld: five percent (5.0%) per month or fraction thereof not to exceed fifteen percent (15.0%) based on the unpaid tax, or twenty five dollars (\$25.00), whichever is greater.
2. For failure to remit taxes withheld from employees: Three percent (3.0%) per month or fraction thereof based on the unpaid tax, or twenty five dollars (\$25.00) which ever is greater.
3. Where the taxpayer has failed to file a return by the due date or by the date resulting from extension, twenty five dollars (\$25.00).
4. An underpayment penalty shall be imposed on a final return if the estimated tax payments and withholding equal less than eighty percent (80%) of the final tax liability except when payment due on the final return is less than one hundred dollars (\$100.00). When the estimated declaration payments and withholding equal or exceed the previous tax year liability, no penalty or interest shall be assessed.

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 or interest shall be assessed on any additional taxes resulting from a federal audit for federal income tax purposes provided an amended return is filed and the additional tax paid within three (3) months after final determination of the federal tax liability.
3. No penalty or interest shall be charged against a taxpayer for the late payment or nonpayment of estimated tax liability if the taxpayer is an individual who resides in the municipal corporation but was not domiciled there on the first day of January of the current calendar year.

D. Appeal from Assessment:

1. Upon recommendation of the Administrator, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the Administrator to recommend abatement of penalty and/or interest, the Board may nevertheless abate penalty or interest, or both. If a written protest is not filed within thirty (30) days from the date of the Administrator's assessment, the proposed imposition of penalty and interest shall become the final assessment.

ARTICLE XI – COLLECTION OF UNPAID TAXES AND REFUND OF OVERPAYMENTS

A. Unpaid Sums:

1. All taxes imposed by Section 3 of the Ordinance, not paid when due, shall be collectible, together with any interest and penalties thereon, by either civil or criminal action. Employers who are required, under Section 6 of the ordinance, to withhold and remit the taxes required to be withheld at the source, and who fail to withhold and/or remit, become liable to the municipality in a criminal action to enforce the payment of the deficiency created by such failure.
2. No additional assessment shall be made by the Administrator after three (3) years from the time the return was due or filed, whichever is later. Provided, however, there shall be no period of limitation on such additional assessments in the case of a return that omits a substantial portion of income, or filing a false or fraudulent return to evade payment of the tax, or failure to file a return. Failure to report 25% or more of gross income required to be reported shall be considered a substantial omission.
3. In those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitations, the period within which an assessment may be made by the Administrator is extended to one (1) year from the time of final determination of federal tax liability.

B. Refunds and Overpayments:

1. Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date the tax was due or the return was filed, or three (3) months after the determination of the federal income tax liability, whichever is later.
2. No refund shall be made to any taxpayer until he has complied with all provisions of the Ordinance and has furnished all information required by the Administrator.
3. Overpayments will be either refunded or credited to the taxpayer's current year 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 became 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 and one cent (\$1.01), such amount shall not be collected, refunded, or credited to the taxpayer or his account.
2. Overpayments due to rounding will not be credited or refunded.

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. Knowingly make any incomplete, false or fraudulent return; or
3. Willfully fail, neglect or refuse to pay the tax, penalties or interest imposed by the ordinance; or
4. Willfully fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator; or
5. Refuse to permit the Administrator or any duly authorized agent or employee to examine his or his employer's books, records, papers and federal income tax returns relating to the income or net profits of a taxpayer; or
6. Fail to appear before the Administrator and to produce his or his employer's books, records, papers or federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator; or
7. Refuse to disclose to the Administrator any information with respect to such person or such person's employer's income or net profits; or
8. Fail to comply with the provisions of the Ordinance or any order or subpoena of the Administrator authorized hereby: or
9. Willfully give to an employer by an employee, false information as to his true name, correct social security number and residence address, or failure of such employee to promptly notify an employer of any change in residence address and date thereof; or

10. Failure on the part of any employer to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and this municipality's income tax withheld, or knowingly give the Administrator false information; or
11. Willfully fail or willfully refuse to make any payment on the estimated tax for any year or part of any tax year as required by Section 7; or
12. Fail to cause the tax withheld from the qualifying wages of the employees pursuant to the Ordinance to be paid to the Municipality in accordance with the provisions of Section 6; or
13. Attempt to do any thing 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 one thousand dollars (\$1000.00) 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 the 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, a 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.

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

ARTICLE XIII – BOARD OF REVIEW OR APPELLATE AUTHORITY

Refer to Ordinance.

ARTICLE XIV – USE OF FUNDS

No regulation in this Article as it is a policy matter for council.

ARTICLE XV – CREDIT ALLOWED FOR TAX PAID IN ANOTHER MUNICIPALITY

- A. Limitation: Refer to ordinance.
- B. Credits to Residents: Refer to Ordinance.
- C. Method of Applying for Credit:
 - 1. No credit will be given unless the taxpayer claims such on his final return or other form prescribed by the Administrator, and presents such evidence of the payment of a similar tax to another municipality, as the Administrator may require.
 - 2. A statement satisfactory to the Administrator from the taxing authority of the municipality to which the taxes are paid that the local resident or his employer is paying the tax shall be considered as fulfilling the requirement of this article.

ARTICLE XVI – SAVING CLAUSE

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

ARTICLE XVII – COLLECTION OF TAX AFTER TERMINATION OF ORDINANCE

- A. Authority to Collect after Termination of Ordinance:

The tax imposition provisions of the ordinance are effective until the ordinance is repealed, subject, however, to the provisions of Section 11 of the ordinance with respect to the limitation of time within which an additional assessment may be made.
- B. Payment of Taxes:
 - 1. Taxes due and unpaid on account of compensation paid or received and on account of profits earned in the last effective year of the ordinance or any part thereof which remains unpaid, are payable in full on or before the dates specified in Sections 5 and 6 of these regulations, and all final returns and withholding reports must be filed on or before that date, unless extended by the Administrator.

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

ARTICLE XVIII – AMENDMENTS AND SUPPLEMENTS

- A. From time to time amendments and supplements to these rules and regulations may be issued by the Administrator with the approval of the Council. The amendments will be available for public inspection during normal business hours.