

**RESOLUTION
CITY OF ALLIANCE
INCOME TAX RULES AND REGULATIONS**

**Issued by
TAX ADMINISTRATOR**

UNDER AUTHORITY OF SECTION 8 OF ORDINANCE 78-90
Approved by Council on October 1, 1990

Effective October 1, 1990

ARTICLE I

SECTION 1 of the ordinance deals only with the purposes for which the tax collected will be used. They are not repeated here, other than for personal information; they have no effect on these Rules and Regulations.

**ARTICLE II
DEFINITIONS**

As used in these Rules and Regulations the following words defined herein shall have the meaning ascribed to them herein. In all definitions contained in these regulations, the singular shall include the plural and the masculine shall include the feminine and the neuter with regard to terms, phrases, words, and their derivatives used herein.

ADMINISTRATOR: means the individual designated to administer and enforce the provisions of the Income Tax Ordinance.

ASSOCIATION: means any partnership, cooperative, limited partnership, Chapter "S" corporation as defined in the Federal Tax Code, or any other form of unincorporated business or enterprise, owned by two or more persons.

BOARD OF APPEALS: means the Board created by and constituted by as provided in Article 13

BOARD OF REVIEW: means the Board created by and constituted as provided for in the Income Tax Ordinance of the City of Alliance, Section 13.

BUSINESS: means an enterprise, cooperative activity, profession, trade, public utility or public service, or undertaking of any nature conducted for profit, or ordinarily conducted for profit, whether by an individual, proprietorship, partnership, association, corporation or any other entity, excluding however, all non-profit corporations which are exempt from the payment of Federal income tax. The administration of a decedent's estate by the executor or administrator and mere custody, supervision and management of trust property under an intervivos or testamentary trust unaccompanied by the actual operation of a business, shall not be construed as the operation of a business.

BUSINESS ALLOCATION: as used in these regulations means the portion of net profits to be allocated to the City of Alliance as having been made in the City of Alliance, either under separate accounting method, or under the three (3) factor formula of property, payroll, and sales, provided for in Section 3 B of the ordinance.

BUSINESS DEDUCTIONS: are the ordinary and necessary expenses actually incurred in the operation of the business. See Article 3-A-6-b(2).

CITY: as used herein, means the taxing municipality. (City of Alliance).

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, but not including Chapter "S" corporations (see "ASSOCIATION").

DISHONORED CHECKS: means any check received in payment of taxes that is returned unpaid by the bank.

DOMICILE: is that place where an individual has his true, fixed, and permanent home, and principle establishment, and to which, whenever he is absent, he has the intention of returning.

EARNED INCOME: is used in determining whether certain income is taxable within the effective dates of this ordinance. "Earned Income" is earned when received if the taxpayer is on a cash basis or when accrued if the taxpayer is on an accrued basis. The taxpayer must use the same accounting method he used for Federal tax purposes.

EMPLOYEE: means one who works for wages, salary, commission or other type of compensation in the service of an employer and shall include temporary, provisional, casual, or part-time employment. Generally the relationship of employer and employee exists when the person for whom the services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished but also as to the details and means by which that result is accomplished. Any person from whom an employer is required to withhold for Federal Income Tax or Social Security tax, or on whose account payments are made under the Ohio Workmen's Compensation Law, shall prima facie be deemed an employee.

EMPLOYEE EXPENSES: an employee, when required to travel, may deduct travel expenses when not reimbursed for same. Attach Federal Form 2106.

EMPLOYER: means an individual, partnership, association, corporation (including a corporation not for profit), or 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 as herein before defined. The term employer includes the State of Ohio, its political subdivisions, and its agencies, instrumentalities, boards, bureaus, departments, etc., as well as other governmental subdivisions, agencies, instrumentalities, boards, bureaus, departments, etc., to the extent that any such body withholds tax on a mandatory or voluntary basis. No rights, duties or obligations are imposed with respect to any such body not otherwise authorized by law (as outlined in Section 3).

EMPLOYER: shall be further defined to be an individual, partnership, association, corporation, or any other entity who books or contracts for individuals and/or groups to perform or entertain at their place of business or rents facilities for the purpose of providing such entertainment. It does not include any person who employs only domestic help for such person's private residence.

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

GROSS RECEIPTS: means the total income of a taxpayer from any source whatsoever.

INDEPENDENT CONTRACTOR: is a person who while performing services for another, is not under the control and direction of such other person, as to the result to be accomplished by the work and as to the details and means by which that result is accomplished such as professional men, etc..

INTANGIBLE PROPERTY: is hereby to be:

- (a) Shares of stock in corporations, associations and joint stock companies.
- (b) Interest bearing obligations (notes, corporate bonds, bonds either Federal, State, and other governmental agencies, savings accounts).
- (c) Income from purchased annuities.
- (d) Royalties from patents and copyrights. Royalties derived from land leases (mineral rights, oil, gravel, etc.) are taxable.

MUNICIPALITY : means the City of Alliance.

NET PROFITS: means the net gain or loss from the conduct, operation of a trade, business, profession, enterprise, or other activity, excluding capital gains and losses, after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for Federal Income Tax purposes without deduction of taxes imposed by the Income Tax Ordinance, Federal, State, and other taxes based on income; and in the case of an association, without deduction of salaries and payments to partners and other owners; and otherwise adjusted to the requirements of this ordinance, excluding dividends and excluding income received from affiliated or subsidiary companies which own no property and do no business within the United States.

NON-RESIDENT: means an individual, partnership, association or other entity domiciled outside of the boundaries of the City of Alliance.

NON-RESIDENT UNINCORPORATED BUSINESS ENTITY: means an unincorporated business entity not having an office or place of business within the City of Alliance.

ORDINANCE: means Ordinance No. 78-90 enacted by the council of the City of Alliance, Ohio and any amendments and supplements effective from October 1, 1990, and continuing until repealed. (Note: Hereinafter this will be referred to as "effective period of the Ordinance".)

OTHER ACTIVITY: means any undertaking, not otherwise specifically 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.

PERSON: means every natural person, partnership, fiduciary, association, corporation, or other entity. Whenever used in any article 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 a corporation, the officers thereof, and in the case of any unincorporated entity or corporation not having any partner, member or officer within the City of Alliance, any employee or agent of such unincorporated entity or corporation who can be found within the corporate limits of the City of Alliance, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

PLACE OF BUSINESS: means any bona fide office (other than a mere statutory office), factory, warehouse, or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his regular employees regularly in attendance. A taxpayer does not have a place of business outside the City of Alliance by consigning goods to an independent factor for sale outside the City of Alliance.

RESIDENT: means an individual, partnership, association or other entity domiciled in the City of Alliance. Any person who maintains a place of abode within the City of Alliance for a total of 183 days or more within any twelve (12) month period shall be deemed a resident.

RESIDENT UNINCORPORATED BUSINESS ENTITY: means an unincorporated business entity having an office or place of business within the City of Alliance.

SALARIES, WAGES, COMMISSIONS, AND OTHER COMPENSATIONS: shall include salaries, wages, commissions, bonuses, incentive payments, fees, and tips that may accrue or be received by an individual, whether directly or through an agent and whether in cash or in property for services rendered.

TAXABLE INCOME: means gross wages, salaries, and other compensation paid by an employer or employers before any deduction, other than ordinary and necessary business expenses and in the same manner as provided by the Internal Revenue Code and/or the net profits from the operation of a business, profession, or other enterprise or activity in accordance with the provisions of the Ordinance and these Regulations.

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

TAXING MUNICIPALITY: means any municipal corporation levying a municipal income tax on salaries, wages, commissions and other compensation earned by individuals, and on the net profits earned from the operation of a business, profession or other activity.

TAXPAYER: means a person, whether an individual, partnership, association, corporation, or any other entity, required by the ordinance to file a return of earnings or of net profits or to pay a tax.

TANGIBLE PROPERTY: shall be all property not defined as intangible property.

WORKING DAY: is one for which an employee receives compensation. whether the services are performed or not performed, such as Sundays, holidays, etc..

ARTICLE III IMPOSITION OF TAX

A. Bases

1. RESIDENT EMPLOYEE:

a. In the case of residents of the City of Alliance an annual tax of one and three quarters percent (1.75%) is imposed on all salaries, wages, commissions and other compensation earned and received, or earned and accrued, 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, except that tax shall not be levied on expenses reported in accordance with guidelines for Federal Form 2106, subject to audit and approval by the Alliance City Income Tax Department.

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

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

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

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

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

.04 An officer or employee (whether elected, appointed, or commissioned) of the United States Government or of a corporation created and owned or controlled by the United States Government, or any of its agencies; or of the State of Ohio or any of its political subdivisions of agencies thereof; or any foreign country or dependency except as provided in Section 3-D of the ordinance indicating sources of income not taxed.

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

(2) Commissions earned by a taxpayer whether directly or through an agent, and whether in cash or in property for services rendered during the effective period of the ordinance, regardless of how computed or by whom or where so ever 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 (or has directly off-setting business expense) 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 or association of which the individual receiving such commission is owner or part owner and therefore subject to the tax under Section 3, paragraph A-3 or A-4 of the ordinance, they shall not be taxed under Section 3, paragraph A-1.

(3) Fees, unless such fees are properly includable as part of the net profits of a trade, business, profession, or enterprise regularly carried on by an unincorporated entity owned or partly owned by said individual and such net profits are subject to the tax under Section 3, paragraph A-3 of the Ordinance. Example of fees taxable are those received by a director or officer of a corporation.

(4) Other taxable compensation and income, as reported on W-2's or 1099's, shall include:

- .01** Tips received by waiters and others.
- .02** Bonuses.
- .03** Gifts, gratuities in connection with employment
- .04** Compensation paid to domestic servants, casual employees and other types of employees.
- .05** Benefits resulting from employers assuming a tax.
- .06** Fellowships, grants, or stipends paid to a graduate student in the full amount except that any amount allocated in writing for tuition, books, and laboratory fees shall be excluded.
- .07** Dismissal pay which is demandable as a matter of right by virtue of the contract of employment.
- .08** Incentive payments.
- .09** Tax Shelter Plans - contributions by employees to a retirement system are not deductible by such employee. If such contributions are deducted by an employer from the earnings of an employee, such amounts are subject to withholding.
- .10** If an employer pays into a tax shelter plan on behalf of an employee in lieu of paying said amount as wages, said payments are considered additional compensation to the employee and are subject to withholding.
- .11** Contributions to a pension, annuity, or tax shelter plan by an employer is deemed to be other compensation subject to withholding of the employee's interest in or entitlement to the amount contributed is vested and non-forfeitable at the time of the contribution.
- .12** Money distributed at Christmas amounting to a fixed percentage of the salaries or wages drawn during the current year is considered additional income subject to tax.
- .13** Buy-Out Time of Early Retirement Plans (Early retirement bonus buy out is continuation of wages and taxable).

(5) Vacation, sickness, etc. payments made by an employer to an employee during periods of absence from work are taxable when paid and at the tax rate in effect at the time of payment, regardless of the fact that such payments may be labeled sick leave or sick pay, disability, vacation, Separation pay, terminal pay, supplemental unemployment (sub) pay, (such as pay received from unions by individuals in lieu of wages) etc., and may not be excluded from taxable income by an employer or non-resident employee.

(6) Insurance payments - Payments made to an employee by an employer, either directly or by an insurance company, under a wage continuation plan during period of disability or sickness, are taxable and may not be excluded from taxable income by an employer or non-resident employee. Such payments are attributable to the city of employment.

(7) Group term life insurance protection over \$50,000 taxed on the entire cost.

(8) Stock options given as compensation and when exercised regardless to the treatment by I.R.S. the employer would be required to withhold on the difference between the fair market value and the amount paid by the employee. "Employers must withhold municipal income tax on the exercise of non-qualified stock options if the employee acquired the option as compensation or in lieu of wages.

(9) Losses from the operation of a business or profession are not deductible from employee earnings. Rental and business losses may not be used to offset wage income.

(10) Where compensation is paid or received in property, it's fair market value, at the time of receipts, 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.

(11) 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 taxable compensation.

(12) Non-resident over the road drivers, and others with similar situations, reporting to a terminal, office, etc. located in the City of Alliance must have a minimum of twenty-five percent (25%) of wages withheld and allocated to the City of Alliance where the terminal, office, etc. is located.

(12.1) A non-resident individual who works in the City of Alliance twelve (12) or fewer days per year shall be considered an occasional entrant, and shall not be subject to City of Alliance municipal income tax for those twelve (12) days. For purposes of the twelve (12) day calculation, any portion of a day worked in the City of Alliance shall be counted as one day worked in the City of Alliance. Beginning with the thirteenth day, the employer of said individual shall begin withholding income tax from remuneration paid by the employer to the individual, and shall remit the withheld income tax to the City of Alliance in accordance with Section 181.05. Since the individual can no longer be considered to have been an occasional entrant, the employer is further required to remit taxes on income earned in the City of Alliance by the individual for the first twelve (12) days. If the individual is self-employed, it shall be the responsibility of the individual to remit the appropriate income tax to the City of Alliance. The twelve (12) day occasional entry rule does not apply to entertainers or professional athletes, their employees or individuals who perform services on their behalf, or to promoters and booking agents of such entertainment events and sporting events.

Income tax withheld by a nonresident employer and paid to the City of Alliance as a result of the employer being, subject to the \$150 de minimus provision cannot be refunded to an individual under the twelve (12) day occasional entry provision.

(13) On any programs to include, but not be limited to, deferred compensation plans, cafeteria plans, retirement incentive plans, [and all employee contributions made towards health insurance premiums, withheld by his or her employer, are taxable at time of withholding, (and non-deferrable)], and similar plans offered that would reflect a reduction from salaries, wages, commissions and other compensation as reported on a W-2 and/or similar wage reporting form, i.e. 1099 forms.

(14) On any program to include, but not be limited to IRA's, KEOGH's and similar tax sheltered annuity plans offered that qualify for reductions in salaries, wages, commissions and other compensation under Federal and State tax regulation unless specifically exempted in this Ordinance and/or under State statutes.

(15) Real Estate Sales: When a resident employee receives compensation for services for sales of real estate or insurance from an employer whose situs is the City of Alliance, that total compensation is taxable at Alliance tax rate and is payable to the City of Alliance. The site of the property sold or residence of the purchaser of insurance has no bearing on the taxing of the compensation, except that non-residents may allocate their compensation to other municipalities by submitting an allocation plan acceptable to the Administrator.

(16) On all income derived from gambling, wagering, lotteries, including The Ohio State Lottery, Multi-state lotteries and games or schemes of chance earned or received by residents of the City.

2. NON-RESIDENT EMPLOYEES:

a. In the case of individuals who are not residents of the City of Alliance, there is imposed under Section 3, paragraph A-2 of the Ordinance, a tax of one and three-fourths percent (1.75%) on all salaries, wages, commissions and other compensation received (including earnings deposited by the employee into deferred compensation or medical coverage plans) during the effective period of the Ordinance for work done or services performed or rendered within the City of Alliance, whether such compensation or remuneration is received or earned directly or through an agent and whether paid in cash or in property. The location of the place from which payment is made is immaterial. A tax shall not be levied on expenses reported in accordance with guidelines for Federal Form 2106, subject to audit and approval by the Alliance City Tax Department.

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 City of Alliance, in cases involving compensation for personal services partly within and partly without the city, see Article VI-A-6.

c. When a non-resident employee receives compensation for services for sales of real estate or insurance from an employer whose situs is the City of Alliance, that total compensation is taxable at Alliance's tax rate and is payable to the City of Alliance. The site of the property sold or residence of the purchaser of insurance has no bearing on the taxing of the compensation, except that non-residents may allocate their compensation to other municipalities by submitting an allocation plan acceptable to the Administrator.

3. IMPOSITION OF TAX ON NET PROFITS OF RESIDENT UNINCORPORATED BUSINESSES:

a. In the case of resident unincorporated businesses, professions, enterprises, undertakings, or other entities conducted, operated, engaged in, prosecuted, or carried on irrespective of whether such taxpayer has an office or place of business in the City of Alliance there is imposed an annual tax of one and three fourths percent (1.75%) on the net profits earned and accrued or received during the effective period of the Ordinance attributable to the City of Alliance, under the formula or separate accounting method provided for in section 3-B-1 of the ordinance, derived from sales made, work done, or services performed or rendered and business or other activities conducted in the City of Alliance.

b. The tax imposed on resident associations or other unincorporated entities owned by two (2) 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 (1) person is upon the individual owner. For tax on that part of a resident owner's distributive share of net profits not taxed against the entity, see Article III A-3b-4b.

c. The tax imposed by Section 3, paragraph A-3a of the ordinance is imposed on all resident unincorporated entities having net profits attributable to the City of Alliance under the method of allocation provided for in the Ordinance, regardless of where the owner or owners of such resident unincorporated business entity reside.

d. Resident unincorporated entities owned by two (2) or more persons all of whom are residents of the City of Alliance, shall disregard the method of allocation provided for in the Ordinance and pay the tax on their entire net profits thereof. In such case, the tax paid by the entity shall constitute all tax due from the owners or members of the entity for their distributive share of such net profits, however, an additional return shall be required from any such owner or member having taxable income other than the distributive share of the net profits from the entity.

4. IMPOSITION OF TAX ON RESIDENT'S DISTRIBUTIVE SHARE OF PROFITS OF A RESIDENT UNINCORPORATED BUSINESS ENTITY; NOT ATTRIBUTABLE TO THE CITY OF ALLIANCE.

a. A resident individual who is sole owner of a resident unincorporated entity shall disregard the business allocation formula and pay the tax on the entire net profits of his or her resident individual unincorporated business entity.

b. In the case of a resident individual partner or part owner of a resident unincorporated entity, there is imposed an annual tax of one and three-fourths percent (1.75%) on such individual's distributive share of net profits earned and accrued or received during the effective period of the Ordinance not attributable to the City of Alliance, under the method of allocation provided for in Section 3 of the Ordinance, and not taxed against the entity.

5. IMPOSITION OF TAX ON NET PROFITS OF NON-RESIDENT UNINCORPORATED BUSINESSES OR ASSOCIATIONS.

a. In the case of non-resident unincorporated businesses, professions, associations, enterprises, undertakings, or other activities conducted, operated, engaged in, prosecuted, or carried on, there is imposed an annual tax of one and three-fourths percent (1.75%) on the net profits earned and accrued or received during the effective period of the Ordinance attributable to the City of Alliance, under the formula or separate accounting method provided for in Section 3 of the Ordinance.

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

c. Non-resident unincorporated entities owned by two (2) or more persons all of whom are residents of the City of Alliance may elect to disregard the method of allocation 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, an additional return shall be required from such owner or member having taxable income other than the distributive share of the net profits from the entity. See Article XV for credits.

6. IMPOSITION OF TAX ON RESIDENT'S SHARE OF PROFITS OF A NON-RESIDENT UNINCORPORATED BUSINESS ENTITY NOT ATTRIBUTABLE TO THE CITY OF ALLIANCE.

a. A resident individual who is sole owner of a non-resident unincorporated business entity shall disregard the business allocation formula and pay the tax on the entire profits of his unincorporated entity.

b. In the case of a resident individual partner or part owner of a non-resident unincorporated entity, there is imposed an annual tax of one and three-quarters percent (1.75%) on such individual's distributive share of net profits earned and accrued or received during the effective period of the Ordinance not attributable to the City of Alliance under the method of allocation provided for in Section 3 of the Ordinance and not taxed against the entity.

7. IMPOSITION OF TAX ON NET PROFITS OF CORPORATIONS.

a. In the case of corporations, whether domestic or foreign and whether or not such corporations have an office or place of business in the City of Alliance there is imposed an annual tax of one and three-fourths percent (1.75%) on the net profits earned and received or accrued during the effective period of the Ordinance attributable to the City of Alliance under the formula or separate accounting method provided for in the Ordinance.

b. In determining whether a corporation is conducting a business or other activity in the City of Alliance, 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 Revised Code of Ohio, to pay an excise tax in any taxable year as defined by the Ordinance, may exclude that part of their gross receipts upon which the excise tax is paid. In such case, expenses incurred in the production of such gross receipts shall not be deducted in computing net profits subject to the tax imposed by the Ordinance.

8. AMPLIFICATION:

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

a. Net Profits

(1) Net profits as used in the Ordinance and these Regulations means net profits derived from any business, profession or other activity or undertaking carried on for profit or normally carried on for profit.

(2) Net profits as disclosed on any return filed pursuant to the provisions of the ordinance shall be computed by the same accounting method used in reporting net income to Federal Internal Revenue Service (providing such method does not conflict with any provisions of the Ordinance). Net profits, shown on returns filed pursuant to the Ordinance must be reconciled with the income reported to the Federal Internal Revenue Service.

(3) Income from patents and copyrights is not to be included in net profits subject to the tax if the income from such patents or copyrights is subject to the State Intangible Tax. Conversely, such a State

Intangible Tax is not deductible in determining city tax. Such items shall be clearly disclosed on an attachment to be filed with the city tax return.

b. Gross Receipts

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

(2) From gross receipts there shall be deducted allowable expenses to arrive at the net profit subject to tax.

c. Expenses

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

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

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

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

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

.05 Only taxes directly connected with the business may be claimed as a deduction. If for any reason the income from the 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 on income; (3) gift, estate or inheritance taxes; and (4) taxes for local benefits or improvements to property which tend to appreciate the value thereof.

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

.07 If the taxpayer reports income that is non-taxable under the Ordinance and such amounts are deducted in order to reconcile the City of Alliance return with the taxpayer's federal income tax return, expenses attributable to this non-taxable income shall not be allowed. In the absence of records showing the actual expenses attributable to such non-taxable income, and upon approval of the Administrator, such amount shall be deemed to equal five percent (5%) of such non-taxable income.

.08 Contributions are deductible by corporations only in an amount not exceeding five percent (5%) of the income subject to the tax imposed by this ordinance. Contributions in excess of this five percent (5%) limit may not be carried forward or backward to a different taxable year.

.09 Capital gains and losses from a sale, exchange, or other disposition of capital assets shall not be taken into consideration in arriving at net profits earned.

.10 Losses sustained on a sale or other disposition of tangible personal property used in business are deductible to the extent of the undepreciated value thereof. Any amount received on a sale or other disposition of tangible personal property used in business, in excess of book value, shall be treated as taxable income under the Ordinance to the extent of depreciation allowable after January 1, 1962. The

balance shall be treated as a capital gain. Gains or losses from involuntary conversion shall not be taken into consideration on arriving at net profits.

.11 Federal Investment Credit is not deductible. However, if the investment credit requires the basis of the property to be lowered, depreciation may be computed on the original basis.

.12 Oil and Gas Wells - income derived from the operation of oil and/or gas wells shall be taxable, and expenses incurred in connection therewith shall be considered in determining net profits.

.001 Definition of Property Used in Trade or Business:

For purposes of this Article, the term "property used in the trade or business" means property used in the trade or business of a character which is subject to the allowance for depreciation and real property used in the trade or business, held for more than six (6) months which is not:

a. Property of a kind which would properly be includible in the inventory of the taxpayer if on hand at the close of the taxable year;

b. Property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business; or

c. A copyright, a literary, musical, or artistic composition, or similar property held by the taxpayer.

9. RENTALS FROM REAL PROPERTY:

a. Rentals received by the taxpayer are to be included in the computation of net profits from business activities 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 one hundred dollars (\$100) per month in any one month of a taxable year, it shall be prima facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental properties shall be subject to tax; provided that in case of Commercial Property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds one hundred dollars (\$100) per month; provided, further, that in the case of Farm Property, the owner shall be considered engaged in a business activity when he shares in the crops or when the rent is based on a percentage of the gross or net receipts derived from farming whether net income exceeds one hundred dollars (\$100) per month; and provided, further, that the person who operates a Rooming House shall be considered in business whether or not the gross income exceeds one hundred dollars (\$100) per month.

(1) The test of whether rental income constitutes a business activity is determined by the amount of gross rent yielded by the property or properties without regard to the number of registered owners of the property. The tax is then imposed against the business entity and not the separate owners (e.g. husband and wife own properties under no formal agreement, which yield in excess of one hundred dollars (\$100) in any month of the taxable year. A business entity return must be filed indicating the tax liability).

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

h. Non-residents of the City of Alliance are subject to such taxation only if the real property is situated within the City of Alliance. Non-residents, in determining whether gross monthly rentals exceed one hundred dollars (\$100) shall take into consideration only real estate within the City of Alliance.

i. Owners of rental property who are residents of the City of Alliance may offset net losses against net profits from all rental property located within said City of Alliance and any other municipality which does not levy a similar tax. Net profits and losses from one taxing community property and/or property in a non-taxing municipality may not be combined with net profits and losses in other municipalities levying a similar tax.

j. Owners of rental property who are not residents of the City of Alliance that the property is located in, may offset net losses against net profits only between rental properties located in the City of Alliance.

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

l. To be considered non-taxable as "ground rents", the property must be under a perpetual leasehold by the term of which the lessor performs no services of any type, including the payment of taxes on the property.

m. Any person receiving rental from commercial property, farm property, or a rooming house, irrespective of the rental amount limitation, one hundred dollars (\$100) per month, must file a return whether or not there is any tax due.

10. PATENTS AND COPYRIGHTS AND ROYALTIES:

a. Income from patents or copyrights is not to be included in net profits subject to the tax if the income from such patents and copyrights is subject to the State of Ohio intangible tax. Conversely, such tax is not deductible in determining city tax. Such items shall be clearly disclosed on an attachment to be filed with the City of Alliance tax return. Royalties derived from land leases (mineral rights, oil, gravel, etc.) are taxable, also if taxpayer's activities produced a publication or other product, the sale of which produces the royalties.

B. ALLOCATION OF BUSINESS PROFITS:

If the books and records of a taxpayer conducting a business or profession both within and without the City of Alliance disclose with reasonable accuracy what portion of its net profits is attributable to business conducted within the City of Alliance, the separate accounting method may be used. In the absence of such records, the business allocation percentage method will be used.

1. SEPARATE ACCOUNTING METHOD:

a. The net profits allocable to the City of Alliance from business, professional, and other activities conducted in the City of Alliance by corporations or unincorporated entities (whether resident or non-resident) may be determined from the records of the taxpayer if taxpayer has bona fide records which disclose with reasonable accuracy what portion of his net profits is attributable to that part of his activities conducted within the City of Alliance.

b. If the books and records of the taxpayer are used as the basis for apportioning net profits rather than the business allocation formula, a statement must accompany the return explaining the manner in which such apportionment is made in sufficient detail to enable the Administrator to determine whether the net profits attributable to the City of Alliance are apportioned with reasonable accuracy or not.

c. In determining the income allocable to the City of Alliance from the books and records of a taxpayer, an adjustment may be made for the contribution made to the production of such income by headquarters activities of the taxpayer, whether such headquarters is within or without the City of Alliance.

2. BUSINESS ALLOCATION PERCENTAGE METHOD:

a. Step 1. Ascertain the percentage which the average net book value of real and tangible personal property, including lease hold improvements, owned or used in the business and situated within the City of Alliance is of the average net book value of real and tangible personal property, including leasehold improvements, owned or used in the business wherever situated, during the period covered by the return. Average net book value of property may be computed on a monthly, quarterly, semi-annual, or annual basis, provided such method is consistently followed each year.

(1) The percentage of taxpayer's real and tangible personal property within the City of Alliance is determined by dividing the average net book value of such property within the City of Alliance (without deduction of any encumbrances) by the average net book value of all such property within and without the

City of Alliance. In determining such percentage property rented to the taxpayer as well as real and tangible personal property owned by taxpayer must be considered.

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

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

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

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

b. Step 2 Ascertain the percentage which the gross receipts of the taxpayer derived from sales made, work done, and services rendered in the City of Alliance is of the total gross receipts wherever derived during the period covered by the return.

(1) The following sales shall be considered City of Alliance sales:

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

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

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

.04 All sales of tangible personal property shipped from an office, store, warehouse, factory or place of storage within the City of Alliance to purchasers outside the City of Alliance 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 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 F.O.B. point or other conditions of the sale; and the place at which orders are accepted or contracts legally consummated shall be immaterial. Solicitation of customers outside the City of Alliance by mail or phone from an office or place of business within the city shall not be considered a solicitation of sales outside the City of Alliance.

c. Step 3 Ascertain the percentage which the total wages, salaries, commissions, and other compensation of employees within the City of Alliance is of the total wages, salaries, commissions, and other compensation of all taxpayer's employees within and without the City of Alliance 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 for income tax purposes.

(3) In the case of an employee who performs services both within and without the City of Alliance, the amount treated as compensation for services performed within the city shall be deemed to be:

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

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

- d. **Step 4.** Add the percentage determined in accordance with steps 1, 2, and 3, or such of the aforesaid percentages as may be applicable to the particular taxpayer's business and divide the total so obtained by the number of percentages used in ascertaining said total. The result so obtained is the business allocation percentage. In determining the average percentage, if one of the factors (property, receipts, or payroll) is missing, the other two percentages are added and the sum is divided by two, and if two of the factors are missing the remaining percentage is the business allocation percentage. A factor is excluded only when it does not exist anywhere. Also, a factor shall not be excluded from the computation merely because said factor is found to be allocable outside the city.
- e. **Step 5.** The business allocation percentage determined in Step 4 above shall be applied to the entire taxable net profits of the taxpayer wherever derived to determine the net profits allowable to the City of Alliance.

3. 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 allocating net income calculated to effect a fair and proper allocation.
- b. Application to the Administrator to substitute other factors in the formula or to use a different method to allocate net profits must be made in writing before the end of the taxable year. The application 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. No specific form need be followed in making such application. Once a taxpayer has filed under a substitute method, he must continue to file until given permission to change by the Administrator. In the event a substitute method of allocation is authorized, a statement should be attached to each annual return indicating that the allocation is in conformity with the ruling and setting forth the date of the filing.

C. OPERATING LOSS CARRY FORWARD

- (1) The portion of a loss, based on income taxable under the Ordinance, sustained in any taxable year subsequent to effective date of the Income Tax Ordinance allocable to the City of Alliance may not be applied against the portion of the profit of succeeding year(s) allocable to the City of Alliance until exhausted but no more than five (5) years. No portion of a net operating loss shall be carried back against net profits of prior years.

The loss may continue to be carried forward in subsequent years only when in each year following that in which loss occurred, the taxpayer has offset the profit of such years up to the entire amount of such profit by the amount of carry-forward loss needed to offset such profit. Any amount of carry-forward loss not so used is lost for subsequent years.

When succeeding losses are experienced, the first year can be carried forward for five (5) years, and the second, third, etc., need not be claimed until the first year has been used up. However, even in such cases the five-year limitation is followed.

- (2) In the event net profits are allocated both within and without the City of Alliance the portion of net operating loss sustained shall be allocated to the City of Alliance in the same manner as provided herein for allocating net profits to the City of Alliance. 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 allocation factors applicable to that year.
- (3) In the case of fiscal years beginning prior to the effective date of the Ordinance, the net operating loss deduction will be that portion of the operating loss that the number of months of the fiscal year after the effective date of the Ordinance bears to the total number of months in such fiscal year.

- .01 A short fiscal year (a fiscal year of less than twelve (12) months in cases where there has been a change in accounting period, where a new taxpayer selects a short fiscal year, or where a new taxpayer operates in the City of Alliance for less than his full accounting period, shall be considered as a full taxable fiscal year.
- (4) In any return in which a net operating loss deduction is claimed, a schedule should be attached showing:
- .01 Year in which net operating loss was sustained.
 - .02 Method of accounting and allocation, used to determine portion of net operating loss allocable to City of Alliance.
 - .03 Amount of net operating loss claimed as a deduction in current year.
- (5) Operating losses incurred by businesses cannot be offset against salaries, wages, commissions, and other compensation earned by individuals for the purpose of this tax.
- (6) Operating losses incurred by a business cannot be offset against or consolidated with the net profits or losses of another association, business, partnership, rental, or corporation for the purpose of this tax. Each business stands alone for applying the Loss.
- (7) Loss from one community may never be used to offset the gain in another community.
- (8) The net operating loss of a business which loses its identity through merger, consolidation, etc., shall not be allowed as a carry forward loss deduction to the surviving business entity to the extent permitted by the Internal Revenue Code.
- (9) In the case of a net operating loss in the filing of consolidated returns, see Article III-D.

D. CONSOLIDATED RETURNS.

- (1) Consolidated returns may be filed by a group of corporations who are affiliated through stock ownership, provided such group files consolidated returns for Federal Income Tax purposes. For a subsidiary corporation to be included in a consolidated return, 80% of its stock must be owned by the other members of the affiliated group. A consolidated return must include all companies which are so affiliated, along with all required schedules and amount and manner of determining income subject to municipal income tax.
- (2) Once a consolidated return has been filed for any taxable year the consolidated group must continue to file consolidated returns in subsequent years unless:
- (a) Permission in writing is granted by the Administrator to file separate returns; or
 - (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; or
 - (c) A corporate member of the group is sold or exchanged. Liquidating a corporation or merging one of the corporations of the group into another will not qualify the group for filing separate returns.
- (3) If a corporation becomes a member of the group during the taxable year, the consolidated return must include the income for the entire taxable year of the common parent corporation and any subsidiaries which were members of the group for the entire year, plus the income of each subsidiary which becomes a member of the group during the year for the period beginning with the date it became a member of the affiliated group. For the period prior to the time any subsidiary became a member of the group, separate returns must be filed for that subsidiary. When a subsidiary ceases to be a member of the affiliated group, the consolidated return must include the income of such subsidiary for the period during which it was a member of the group; but for the period after it ceases to be a member 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 and separate returns must be filed.

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 of days in the taxable year.

- (4) In determining the allocation 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 factor (Step 1 of the formula) shall be determined on the basis of the average net book value of the property during the period such corporation was a member of the group. The rental portion of the fraction, however, shall be computed at eight (8) times the annual rent. The gross receipts and wage factors 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 transactions between members of the affiliated group.
- (7) In determining expenses that are not allowable because they are allocable to non-taxable income, such calculations shall be based on the consolidated net income. As an example, inter-company dividends which are eliminated in the consolidation will not be taken into consideration in determining non-taxable income.
- (8) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates, or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity with the City of Alliance constituting a portion only of its total business, the Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to the City of Alliance.
- (9) If the Administrator finds that net profits are not properly allocated to the City of Alliance by reason of transaction with stockholders or with other corporations related by stock ownership, interlocking directorates, or transaction with such divisions, branches, factories, offices, laboratories, or activities, or by such other method, he shall make such allocation as he deems appropriate to produce a fair and proper allocation of net profits to the City of Alliance.

E. **EXCEPTIONS:** The following shall not be considered taxable:

- (1) Income of members of the Armed Forces - All military pay and allowances of any member of the Armed Forces of the United States are exempt from the tax imposed by the Ordinance. This exemption includes not only the military pay and allowances received by the members themselves, but also military pay and allowances, such as dependency allowances, received by another person by reason of the member's service. Any bonus or additional compensation paid to a person by the United States, State of Ohio, or any other state for active service in the Army, Navy, or Air Force. In the case of members of the National Guard, Air National Guard, Organized Reserves and Air Reserves, the exception shall apply only to their drill and flight pay.
- (2) Certain Organizations - The income of religious, fraternal, charitable, scientific, literary or educational institutions is exempt from the tax imposed by the ordinance to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities. The income and profits of organizations exempt from Federal Income Tax under Section 501(a) of the Internal Revenue Code shall be exempt from taxation under the ordinance. Also see Section 718.01 of O.R.C..
- (3) Payments from Governments and Certain Organizations - Poor relief, unemployment insurance benefits, old age pensions or similar payments, including disability benefits, received from local,

state or federal governments or charitable, religious or educational organizations, are exempt from the tax imposed by the ordinance. The exempted benefits include all types of payments and allowances made or given such governments or organizations for the relief or correction of poverty, unemployment, delinquency, problems of health or advanced age, lack of education, and similar problems. The exempted benefits include, for example, aid to dependent children and the aged; rent, food, and clothing allowances or subsidies, job training allowances; Social Security and Medicare benefits, and Workman's Compensation Benefits.

(4) Insurance and Annuity Proceeds, Certain Employee Benefits and Gifts :

(a) Proceeds of insurance paid by reason of the death of the insured, gratuities not in the nature of compensation for services rendered, pensions, disability benefits (not under a wage continuation plan), retirement benefits, and annuities are exempt from the tax imposed by the ordinance, irrespective of the source from which derived. The exemption includes inheritances, scholarships, and student grants-in-aid, but not fellowships described in Article III (b)(4).06 hereof. Disability benefits include the proceeds of health and accident insurance and similar benefits. Benefits under a wage continuation plan are not exempt. Death benefits, pensions, retirement benefits, annuities and similar payments made to an employee or to the beneficiary of an employee under a retirement program or plan (whether formal or informal) after termination of employment are exempt from the tax; however, supplemental unemployment benefits are NOT exempt from taxation; payments for longevity are also not exempt.

(b) Gifts not in connection with services rendered or work performed are exempt.

.01 Cash or Property. These items received under a will or under Statute of Descent and Distribution is not taxable.

- (5) Receipts of Certain Organizations and Associations** - Receipts from seasonal entertainment, amusement, sports events and health and welfare activities, when any such are conducted by charitable, religious or educational organizations or associations are exempt from the tax imposed by the ordinance. This exemption refers only to the receipts of the organization and not to the compensation of employees.
- (6) Alimony** - Alimony received is exempted from the tax imposed by the ordinance. Support payments made by one spouse for the benefit of the other spouse or children in connection with any divorce or separation, whether or not awarded by the court, shall be deemed alimony for purposes of this exemption.
- (7) Person Under Age 16** - Personal earnings of any person under 16 years of age are exempt from the tax imposed by the ordinance.
- (8) Personal Injury and Damage to Property** - Compensation for personal injuries or for damages to property by way of insurance or otherwise is exempt from the tax imposed by the ordinance.
- (9) Interest** - Dividends and other revenue from intangible property - Income from intangibles by the way of dividends, interest and the like, if such income is subject to taxation under the intangible personal property laws of the State of Ohio or specifically exempt from municipal taxation under said law. See Article III-6-c-06.
- (10) Involuntary Conversion and other Exemptions** - Gains from involuntary conversion, cancellations of indebtedness, interest on Federal obligations, dividend income subject to the Ohio intangible property tax thereon and income of a decedent's estate during the period of administration (except such income from the operation of a business) are exempt from the tax imposed by the ordinance.
- (11) Taxation Prohibited by Federal Government** - Salaries, wages, commissions, and other compensation and net profits, the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the State or their political subdivisions to impose net income tax on income derived from interstate commerce, are exempt from the tax imposed by the ordinance.
- (12) Taxation Prohibited by the State of Ohio** - Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the Constitution of the State of

Ohio or any act of the Ohio General Assembly limiting the power of a municipality to impose net income taxes, are exempt from the tax imposed by the ordinance.

- (13) General** - No person shall be exempt from the imposition of this Income Tax unless specifically excluded or exempted by the laws of the State of Ohio or this ordinance. Upon request of the Administrator, any person who claims exemption from tax under the ordinance shall provide detailed information to show the basis of such claim. The information shall be furnished and returned within thirty (30) days after receipt of request.

EXEMPTED NON-TAXABLE INCOME - AMPLIFIED

- A. Military pay - including reserve pay.
- B. Income earned while under 16 years of age.
- C. Alimony.
- D. Capital gains.
- E. Interest.
- F. Dividends.
- G. Social Security Benefits.
- H. Workers Compensation
- I. State Unemployment Benefits
- J. Insurance Benefits
- K. Prizes - unless connected with employment.
- L. Income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax-exempt real estate, tax- exempt tangible or intangible property, or tax-exempt activities.
- N. Welfare payments.
- O. Pension income - includes lump sum distributions.
- P. Patent and copyright income.
- Q. Royalties - if derived from intangible property taxed by State.
- R. Income from Foster Grandparent Program.
- S. Annuities - of time of distribution.
- T. Housing for clergy
- U. Meals and lodging required on premises (board and lodging).
- V. Government allotments.
- W. Profit sharing from qualified plans.
- X. Royalty income derived from oil and gas wells (non-taxable).
- Y. Sports winnings and/or sports events.

TAXABLE INCOME: AMPLIFIED

- (A)** Gross wages, salaries, commissions and other compensation to include:
- 1. Sick and vacation pay
 - 2. Income from Wage Continuation Plans (includes early retirement incentive plans.) Note: on-going retirement benefits, such as pension payments, are exempt.
 - 3. Stock option - taxed when exercised on amount indicated on W-2 form.
 - 4. Cost of Group Term Life Insurance over \$50,000 (taxed on entire cost).
 - 5. Severance pay or separation pay-outs.
 - 6. Compensation paid on property or the use thereof at fair market value to the same extent as taxable under the Federal Internal Revenue Act and so indicated on the W-2 form.
 - 7. Tips
 - 8. Gifts and gratuities in connection with employment.
 - 9. Deferred contributions made by or on behalf of employees to a tax deferred annuity plan (401(k)- KEOGH - IRA plans and the like), proportionate to the amount earned in Alliance.
 - 10. Stipends - if work required (vow of poverty not recognized).
 - 11. Income from guaranteed annual wage contracts.

12. Third party disability pay - premiums paid by employer.
13. Bonuses.
14. Royalties - derived from land leases (mineral rights, oil, gravel, etc.) are taxable.
15. Ohio State Lottery, Multi-state lottery, and games or schemes of chance.

(B) NET PROFITS FROM:

1. Corporations
 2. Unincorporated businesses:
 - (a) Sole proprietorships - Schedule C.
 - (b) Rental properties - Schedule E.
 - (c) Partnerships - Schedule E - Tax is imposed on individual partner.
 - (d) Farm net income - Schedule F.
 3. Trusts and Estates (file and pay as entity). Trustees of trust and executors and administrators of estates having taxable income are required to file and pay the tax thereon.
- (C) Director Fees.**
- (D) Income from jury duty.**
- (E) Supplemental unemployment pay - paid by employer.**
- (F) Union steward fees.**
- (G) Strike benefits paid by company.**
- (H) Ordinary income from Form 4797.**
- (I) Profit sharing - if from non-qualified plan.**
- (J) Moving expense reimbursement - in excess of Federal for 3903 allowance.**
- (K) Income derived from the operation of oil and/or gas wells shall be taxable, and expenses incurred in connection therewith shall be considered in determining net profits.**

**ARTICLE IV
EFFECTIVE PERIOD**

- A. The tax imposed by Section 3, paragraphs A-1 and A-2 of the ordinance shall be levied, collected and paid with respect to salaries, wages, bonuses, incentive payments, commissions, fees, and other compensation earned during effective period of this ordinance.
- B. The tax imposed by Section 3, paragraphs A-3 through A-7 of the ordinance, with respect to net profits of trades, businesses, professions, enterprises, undertakings and other activities is on the net profits earned during the effective period of this ordinance.

**ARTICLE V
RETURN AND PAYMENT OF THE TAX**

- A. Date and Requirement for filing:
 1. On or before April 15th of the year following the effective date of the ordinance and each year thereafter, every person subject to the provisions of Section 3, paragraphs A-1 through A-7, inclusive, of the ordinance shall, except as hereinafter provided, make and file with the Administrator, a return on a form prescribed by and obtainable upon request from the Administrator, whether or not a tax is due. The fact that a taxpayer is not required to file a Federal Tax Return does not relieve him or her from filing a City of Alliance tax return.
 2. If the return is made for a fiscal year or any period less than a year, said return shall be made within 105 days after the end of such 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 salaries, wages, commissions, and other personal service compensation, net profits from business or other activities, including the rental from real and personal property, and other income taxable under the ordinance, for the period covered by the return and such other pertinent facts and information in detail as the Administrator may require.

4. Where an employee's entire earnings for the tax period are paid by an employer or employers, and the one and three quarters percent (1.75%) thereon has in each instance been withheld and deducted by the employer or employers from the gross amount of the entire earnings of such employee-taxpayer, and where the employer of such employee has filed a report or return in which such employee's entire and only earnings are reported to the Administrator, and where such employee has no taxable income other than such earnings and the tax so withheld has been paid to the Administrator. The Administrator is hereby authorized to accept such report or returns provided by the employer, unless otherwise specified, as the return required of any such employee.
 5. An individual taxpayer who is permitted for Federal Income Tax purposes to deduct certain business expenses from gross wages, salaries, or commissions, must file a copy of Federal Income Tax Form 2106 or an itemized statement of expenses with his municipal tax return, claiming only deductions allowable under Part I of Form 2106, no matter whether all or part of such wages, salaries, or commissions are subject to withholding.
 6. City Income Tax withheld on moving expenses reimbursed by employer and so indicated on W-2, or lines 1 through 4 on Federal 3903 are taken into consideration when refund is requested.
 7. Any taxpayer who received taxable income not subject to withholding under the ordinance must file a return.
 8. Any taxpayer having income, wages, or other compensation for which a return must be filed, and also having net profits from a business may report the wage income and business operation on the same return. However, business losses cannot be offset against the wage or non-business income, losses are to be treated in accordance with Article III-C of these regulations.
 9. Trustees of active trusts are required to file returns and pay the tax on the taxable income thereof.
 10. 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 received disclosing the net profits allocable to the City of Alliance and the tax paid thereon. However, any resident partner or resident member of the unincorporated entity or association is required to make a return and pay the tax in accordance with Article III-A-4b of these Regulations.
 11. A husband and wife may, in any tax year, elect to file separate or joint returns.
 12. Operating losses from business or professional activities, the profits of which would be taxable under the ordinance, may not be offset against salaries, wages, commissions, and other personal service compensation, or against net profits from other business or professional activities.
- B. Information Required and Reconciliation with Federal Returns :
1. In returns filed hereunder, there shall be set forth the aggregate amount of salaries, wages, bonuses, incentive payments, commissions, fees, and other compensation subject to the tax earned from each employer, taxable net profits and other pertinent information as the Administrator may require.
 2. Where figures of total income, total deduction, and net profits are included, as shown by a Federal return, any items of income which are not subject to the City of Alliance tax and unallowable expenses shall be eliminated in determining net income subject to the City of Alliance tax. In the absence of records showing the actual unallowable expenses, such expenses shall be determined in accordance with Article III, A-6c(1).07 of these regulations. The fact that any taxpayer is not required to file a Federal tax return does not relieve him from filing a City of Alliance Tax Return.
 3. If a change in Federal income tax liability, made by the Federal Internal Revenue Service, or by a judicial decision, results in an additional amount of tax payable to the City of Alliance, a report of such change shall be filed by the taxpayer within three (3) months after receipt of the final notice from the Federal Internal Revenue Service or final court decision. See Article XI-c of these regulations.
 4. If a change in Federal income tax liability results in a reduction of taxes owned and paid to the City of Alliance, 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 written request of the taxpayer made on or before the date for filing the return, and for good cause shown, or upon receipt of a copy of the Federal Internal Revenue Service extension granted the taxpayer, the Administrator may extend the time for filing such return for a period of not to exceed six (6) months, or to one (1) month beyond any extension requested of or granted by the Federal Internal Revenue Service. It is required that a tentative return accompanied by payment of the estimated tentative tax be paid. No penalty will be assessed in those cases in which the return is filed and the final tax paid within the period as extended, provided all other filing and payment requirements have been met. In any event, such payments made after the due date shall be subject to interest charges as provided in Article X hereof. The interest shall be computed from the date the return was originally due, even though any extension has been granted.
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 XV 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 the City of Alliance is entitled under the provisions of the ordinance may have such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such overpayment (or part thereof) shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded.

E. Amended Returns :

1. Where necessary an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Sections 11 and 12. 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 City of Alliance tax liability, such taxpayer shall make and file an amended City of Alliance return showing income subject to the City of Alliance 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. See Article XI-B-1. of these regulations.
3. No refund shall be allowed unless a written request is presented to the Administrator within three (3) years from the date the taxes were due.
4. When the taxpayer's tax return indicates that a refund is due and a refund is not issued within 180 days after the Administrator has received proper verification and substantiation as to the validity of the refund claim, interest at the rate of six percent (6%) per annum shall be paid on the amount to be refunded.

**ARTICLE VI
COLLECTION OF TAX AT THE SOURCE - WITHHOLDING**

A. Duty of Withholding :

1. Except as otherwise provided herein, it is the duty of each employer within or doing business within the City of Alliance, who employs one or more persons, whether as employee, officer, director, or otherwise, to deduct each time any compensation is paid the tax of one and three quarter percent (1.75%) from;
 - a. The gross amount of all salaries, wages, bonuses, incentive payments, fees, commissions, or other forms of compensation paid to residents of the City of Alliance, regardless of the place where the services are rendered; and
 - b. All compensation paid non-residents for services rendered, work performed or other activities engaged in within the City of Alliance.
2. All employers within or doing business within the City of Alliance are required to make the collections and deductions specified in this article, regardless of the fact that the services on account of which any particular deduction is required, as to residents of the City of Alliance, were performed outside the City of Alliance.
3. Employers who do not maintain a permanent office or place of business in the City of Alliance, but who are subject to tax on net profits attributable to Alliance under the method of allocation provided in the ordinance, are considered to be employers within the City of Alliance and subject to the requirement of withholding.
4. The mere fact that the tax is not withheld will not relieve the taxable 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 taxable employee is not liable for the tax so withheld.
5. All individuals, businesses, employers, brokers, or others doing business who engage persons, either on a commission basis, or as independent contractors, contract employees, and are not subject to withholding shall indicate the total amount of earnings, payments, commissions and bonuses to such as are residents of the City of Alliance, or who do business in the City of Alliance copies of Federal Form 1099 or shall attach a list which shall indicate social security numbers, names, addresses and amounts paid.
6. In case of employees who are non-residents of the City of Alliance, the amount to be deducted is the current rate of tax on the compensation paid with respect to personal services rendered within the City of Alliance.
7. An employer shall withhold the tax on the full amount of any advances made to an employee on account of commissions (but not then on commissions also).
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 (other than as an offset to an advance or reimbursement) under Article III of these regulations.
9. An employer whose records show that an employee is a non-resident of the City of Alliance and has no knowledge to the contrary, shall be relieved of the responsibility of withholding the tax on personal service compensation paid to such employee for services rendered or work done outside the City of Alliance by such employee, provided, however, that such employer must withhold the tax on all personal service compensation paid such employee after the Administrator notifies said employer in writing that such employee is a resident of the City of Alliance. All employees are required to notify the employer of any change of residence and the date thereof.
10. A City of Alliance employer required to withhold the tax from a City of Alliance resident for work done or services performed in another municipality, and who does so withhold and remit to such other municipality, shall be relieved from the requirement of withholding the City of Alliance tax from such City of Alliance resident, except where the rate of tax for such other municipality is less than the rate of tax imposed by this ordinance. In such case the employer shall withhold and remit the difference to the City of Alliance.

11. No person shall be required to withhold the tax on the wages or other compensation paid domestic servants employed exclusively in or about such person's residence, but such employee shall be subject to all of the requirements of the ordinance. Also see Article III-A-1-b-(11).

B. Where a non-resident receives compensation for personal services, rendered or performed partly within and partly outside the City of Alliance the withholding employer shall deduct, withhold, and remit the tax on that portion of the compensation which is earned within said City of Alliance, in accordance with the following rules of apportionment:

- a. If the non-resident is a salesman, agent or other employee whose compensation on the basis of commissions depends directly on the volume of business transacted by him, the deduction and withholding shall attach to the portion of the entire compensation which the volume of business transacted by the employee within the City of Alliance bears to the volume of business transacted by him within and outside of the City of Alliance.
- b. The deducting and withholding of personal service compensation of other non-resident employees, including officers of corporations, shall attach to the proportion of the personal service compensation of such employee which the total number of his working hours within the City of Alliance bears to the total volume of business transacted by him.
- c. The fact that non-resident employees are subject to call at any time does not permit the allocation of pay for time worked within the City of Alliance on a seven (7) day per week basis. The percentage of time worked in the City of Alliance will be computed on the basis of a forty (40) hour week unless the employer notified the Administrator that a greater or lesser number of hours per week is worked.
- d. The occasional entry into the City of Alliance of a non-resident employee who performs the regular duties for which he is employed almost entirely, or entirely, outside such municipality, but also enters such municipality for the purpose of reporting, receiving instructions, accounting, etc., incidental to his duties, shall not be deemed to take such employee out of the class of those rendering their services entirely outside the City of Alliance.
- e. \$150 De minimus Rule. If not currently required to withhold the City of Alliance income tax, then a non-resident employer, agent of such employer, or other payer not situated in the City of Alliance shall not further be required to withhold City of Alliance income tax from remuneration paid to employees of the employer until the collective tax liability of the employees initially exceeds \$150.00.

Independent contractors of a non-resident employer shall be deemed employees for work performed in the City of Alliance on behalf of the employer, and are subject to the collective tax liability provision as if they were employees, and not excluded from taxation by Section 718.11.

When the collective tax liability exceeds \$150.00, the employer is required to begin withholding the appropriate income tax for the City of Alliance on behalf of all the employees performing work in the City of Alliance. The withheld income tax shall be remitted to the City of Alliance in accordance with Section 181.05. After exceeding the \$150 de minimus amount, the employer shall continue to have no liability for remitting any portion of the initial \$150 liability that was not withheld. Once the collective tax liability has exceeded \$150, the employer must withhold income tax for work performed in the City of Alliance for the remainder of that calendar year and for subsequent years, even if the liability in subsequent years does not exceed \$150. However, if the tax liability for each of the three consecutive years (subsequent to that year in which the employer became liable for withholding the income tax) does not exceed \$150, the employer will be considered as not having performed work in the City of Alliance in regard to further tax liability, and will again be subject to the twelve (12) day occasional entry rule.

- f. Payments made to all employees subject to the tax by resident or non-resident employers for vacation allowance, periods of disability or sickness paid for under a wage or salary continuation plan, termination of employment contract, and severance and dismissal pay, are taxable. Such payments are considered as additional compensation for services previously rendered, the place of domicile at the time the payment(s) are received is immaterial. The tax situs if such payments are deemed to be the same as the primary job assignment or location of the employee

and are taxable on the same ratio as the normal earnings were of the employee for his primary job assignment, as provided for herein in Article VI, Sections 6 and 6a and Article XV.

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

1. Every employer is deemed to be a trustee of the City of Alliance 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. The dissolution, bankruptcy, or reorganization of any such employer does not discharge an employer's liability for a prior failure of such business to file a return or pay taxes due.
 - a. Except as otherwise provided, every such employer required to deduct and withhold the tax at the source is liable directly to the City of Alliance for payment of such tax, whether actually collected by such employer or not.
 - b. Any tax deducted and withheld is to be considered paid to the City of Alliance whether or not the employer actually remits the tax to the City of Alliance, for purposes of determining employee payments or credits.
 - c. The deductions from salaries, wages and other compensation required to be made by employers are to begin with compensation earned on and after the effective dates of the income tax ordinance.
 - d. The first withholding return and payment required to be made, on account of such deductions shall be made, filed and paid to the Administrator by the 30th of the month next following the close of each quarterly period ending March 31, June 30, September 30, and December 31.
 - e. Provided, however, that where he deems such precaution necessary, the Administrator may require an employer to remit the withholding taxes at more frequent intervals, i.e. on monthly basis.
 - f. The return (Form EQR) 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 over-withholding is determined as follows: See Article XI-B-1.
 - a. **Current Employees:**
 - .1 If the over-withholding is discovered in the same quarterly period the employer shall make the necessary adjustment directly with the employee and the amount to be reported on the quarterly Form EQR as withheld shall be the corrected amount;
 - .2 If the over-withholding is discovered in a subsequent quarter of the same calendar year, the employer may make proper adjustment with the employee. In such case, Form EQR for the quarter in which the adjustment is made shall reflect the total amount actually withheld for the quarter and the amount of adjustment deducted therefrom, and the corrected amount reported on the EQR.
 - .3 If the over-withholding is discovered in the following year, the employer should notify the Administrator of such over-withholding and the circumstances thereof. Upon proper verification, the Administrator shall refund to the employee the amount of such excess withholding:
See Article XI-B-1.
 - b. **Former Employees:**
 - .1 In case too much has been withheld from an employee who is no longer employed by the employer, the employer shall notify the Administrator of the amount and circumstances of such over-withholding; and the Administrator, after verification, 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. **Residents Employed Outside the City:**
 - .1 Where an employer has withheld the tax from all wages of a non-resident of the City of Alliance and such non-resident has been employed outside of the City of Alliance for all or 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 therefor. and on a separate return pay the withholding deficiency (Article XI and Section 6).

3. Information Return:

a. On or before January 31st, following any calendar year in which such deduction have been made by any employers, such employer shall file with the Administrator, in the form prescribed by the Administrator, an information return for each employee from whom municipal income tax has been withheld, showing the name, address, and social security number of the employee, the total amount of taxable compensation paid during the year, and the amount of municipal income tax withheld for such employees. Information returns must also be submitted for each person receiving payments on a commission or fee basis as non-employees.

4. Information Return Three Fold:

- a. Those employers using Form W-2 furnished commercially may submit a copy of such commercial W-2 providing the copy furnished to the City of Alliance clearly shows the information required in Subsection 3 immediately preceding;
- b. Computer generated magnetic media (either magnetic tape or diskette), if this option is elected, then record formats, layouts and pertinent information regarding tape or diskette should be included.
- c. Where the furnishing of this information as above indicated will create a distinct hardship, the employer, upon written request to the Administrator may be permitted to furnish a list of all employees subject to the tax, which list shall show the employee's full name, last known address, social security number, gross amount of taxable compensation paid during the year and the amount of municipal income tax withheld.

5. **Form W-3** : In addition to such information returns, and at the time the same are filed, such employer shall file with the Administrator Reconciliation of Returns Form W-3 to enable the Administrator to reconcile the sum total of compensation paid and taxes withheld as disclosed by the total of the W-2's or lists of employees. The W-3 shall also reconcile to prior remittances and returns filed by the employer for such tax year with respect to taxes withheld.

6. **Fractional Parts of a 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 (\$0.005) or more, in which case it shall be increased to one cent (\$0.01). No person shall be entitled to a refund merely because such rounding off of the tax results in an apparent overpayment based on his total earnings.

**ARTICLE VII
DECLARATIONS**

A. Requirements 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 in full by an employer or employers. The declaration must be filed only if the estimate of tax that will not be withheld exceeds one hundred dollars (\$100.00).
- 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, after taking into consideration known factors

which might alter anticipated income. In the event a taxpayer has not previously been required to file a return, a declaration of estimated tax on anticipated income shall be filed in good faith.

B. Date of Filing :

1. Those taxpayers reporting on a calendar year basis shall file a declaration of estimated tax on or before April 15th of each year or within 105 days after the date the taxpayer becomes subject to the tax for the first time.
2. Those taxpayers reporting on a fiscal year basis shall file a declaration of estimated tax within 105 days of the date the taxpayer becomes subject to the tax for the first time.

C. Forms of Filing :

1. (a) Such declaration shall be filed upon a form or forms furnished by, or obtainable from the Administrator. Provided, however, credit shall be taken for the City of Alliance 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.
(b) Should the declaration of estimated tax indicate an overpayment, such overpayment shall not be refunded until the final return has been filed.
2. The original estimate of tax liability or any subsequent amendment thereof may be increased or decreased by filing an amended declaration of estimated tax on or before any quarterly payment dates as set forth in Article VII- D-1 hereof. Such amendment may be made on the quarterly billing forms, if there is a change of more than thirty percent (30%) to the original estimate. Interest and penalty may be assessed against estimates that are seventy percent (70%) or less of income taxable to Alliance.

D. Dates of Payments :

1. The estimated tax may be paid in full with the first declaration of estimated tax on each tax year or in equal installments on or before April 15th, June 15th, September 15th, and January 15th of the taxable year.
2. The declaration of estimated tax must be accompanied by at least one fourth (1/4) of the estimated tax shown due thereon.
3. In event an amended declaration has been filed the unpaid balance shown thereon shall be paid in equal installments over the remaining payment dates.

E. Final Returns Required :

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

**ARTICLE VIII
DUTIES OF THE ADMINISTRATOR**

A. Collection of Tax and Retention of Records :

1. It shall be the duty of the Administrator to receive the tax imposed by the Ordinance in the manner prescribed therein from the taxpayers, to keep and 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 the City of Alliance, 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 Board of Review, empowered to adopt, promulgate, and enforce rules and regulations relating to any matter or thing pertaining to the Administrator 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 those 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, 504 E. Main Street, Alliance, Ohio, and will be open to public inspection.
4. Except as otherwise provided in these regulations, 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 provided 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, and shall exceed a period in excess of six (6) months only with approval of the Administrator. Payment agreements of more than twelve (12) months duration shall be granted only by the Board of Review.
 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 : In any case where a taxpayer or employer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Administrator may assess the amount of tax appearing to be due, together with interest and penalties thereon, if any, in the following manner:

1. General Provisions :

a. If the Administrator determines that any taxpayer subject to the provisions of the Ordinance has a tax liability for which he has filed no return, or has filed an incorrect return and has failed to pay the full amount of tax due, the Administrator shall issue a proposed assessment showing the amount of tax due, together with any penalty and interest that may have accrued thereon.

(1) Such proposed assessment shall be served upon the taxpayer in person or by mailing to his last known address. Proof of mailing furnished by the U.S. Post Office shall be presumptive proof of receipt thereof by the addressee.

(2) A taxpayer may, within fifteen (15) days after the date the proposed assessment was served or mailed, file a written protest with the Administrator. Within fifteen (15) days after receipt of the protest the Administrator shall give the protestant an opportunity to be heard; provided further that the administrator may extend the date of hearing for good cause shown. After the hearing the Administrator shall withdraw the assessment or he shall adjust or reaffirm the assessment and it shall then become final. If no protest is filed as herein provided, such proposed assessment shall become final fifteen (15) days after being served.

b. After a proposed assessment becomes final, notice of such final assessment shall be issued and shall be served in the same manner as a proposed assessment.

(1) A taxpayer shall have fifteen (15) days after the date the final assessment was served or mailed within which to file written notice of appeal with the Board of Review. Such written notice of appeal shall be filed in a sealed envelope plainly marked "Appeal to Board of Review" and mailed or delivered to the Administrator who shall, within five days after receipt thereof, deliver such appeal to the Chairman of the Board of Review, or, if the Chairman is not available, to the vice-Chairman or Secretary of the Board or Review.

(2) The Board of Review, upon receipt of a notice of appeal, shall within fifteen (15) days notify the Administrator thereof who will forward within fifteen (15) days to the Board a certified transcript of all actions taken by him with respect to said final assessment. Such transcript shall be open to inspection by the appellant and his counsel.

(3) Any taxpayer against whom a final assessment has been issued and who has filed a notice of appeal shall be granted a hearing by the Board of Review. At such hearing the appellant and the Administrator shall be given opportunity to present evidence relating to the said final assessment. After the conclusion of such hearing the Board of Review shall affirm, reverse, or modify the said final assessment and shall furnish a copy of its decision in respect thereof to the appellant and the Administrator. The appellant's copy of said decision shall be served upon him in the same manner as herein provided for the serving of assessments.

c. When any taxpayer subject to the provisions of the Ordinance has filed a return indicating the amount of tax due and has failed to pay said tax into the City Treasury as required by the Ordinance, the Administrator need not issue an assessment but may proceed under the provisions of Sections 11 and 12 of the ordinance.

2. Provisions Affecting Employers :

a. If the Administrator determines that an employer subject to the provisions of the Ordinance has failed to file a return for tax withheld and has failed to pay into the City Treasury the full amount of said taxes, the Administrator shall issue a proposed assessment showing the amount of tax due, together with any penalties and interest that may have accrued thereon, and the provisions of paragraph C of Section 8 of the Ordinance shall then apply.

b. If the Administrator determines that an employer subject to the provisions of the Ordinance has failed to withhold tax the Administrator shall issue a proposed assessment showing the tax due, together with any penalties and interest that may have accrued thereon, and the provisions of paragraph C of Section 8 of the Ordinance shall then apply.

c. When an employer subject to the provisions of the ordinance has filed a return indicating the amount of tax withheld and has failed to pay said tax into the City Treasury as required by the Ordinance, the Administrator may proceed under the provisions of Section 11 and 12 of the ordinance and need not issue an assessment as provided in Section 8, paragraph C of the Ordinance.

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

A. Investigations by Administrator:

1. The administrator, or his duly authorized agent, is authorized to examine the books, papers, records and federal income tax returns of any employer, taxpayer, or person subject to the Ordinance, or whom the Administrator believes is subject to the provisions of the Ordinance, for the purpose of verifying the accuracy of any return made; or, if no return was made, to ascertain and determine the tax due Alliance under the Ordinance.

2. An employer or taxpayer shall furnish, within ten (10) days following a written request by the Administrator, or his duly appointed agent, the means, facilities and opportunity for making examinations and investigations authorized by the Ordinance.

B. Subpoena of Records and Persons :

1. The Administrator, or any person acting in his capacity, is authorized to examine any person, under oath, concerning any income which was, or should have been, returned for taxation, or any transaction tending to affect such income. The Administrator may compel the production of books, papers and records and the attendance of all persons before him whether as parties or witnesses, whenever he believes such persons have knowledge of the facts concerning any supposed unreported income or supposed transactions 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 mentioned 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 any employer, supposed employer, taxpayer, or supposed taxpayer, or the refusal of any such person to appear before the Administrator or his duly authorized agent, to submit to such examination and to produce the records requested constitutes a misdemeanor punishable by fine or imprisonment, or both, as prescribed by Section 12 of the Ordinance.

D. Confidential Nature of Examinations_: Any information gained as a result of any returns, investigations, verifications, or hearings before the Administrator or the Board, required by the Ordinance or authorized by these rules and regulations shall be confidential and no disclosure thereof shall be made except for official purposes or as ordered by a court of competent jurisdiction. Any person divulging such information shall be guilty of a misdemeanor punishable by a maximum fine of five hundred dollars (\$500) or imprisonment for not more than sixty days or both.

In addition to the above penalty, any employee of the City of Alliance who violates the provisions of this section 9 relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

E. Retention of Records : All employees 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 three (3) years from the date the final return is filed and paid or the withholding taxes are paid.

ARTICLE X INTEREST AND PENALTIES

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

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

1. For failure to pay taxes due, other than taxes withheld: one percent (1%) per month or fraction thereof, or five percent (5%), whichever is greater.

2. For failure to remit taxes withheld from employees: three percent (3%) per month or fraction thereof, or five percent (5%), whichever is greater.

3. For underpaying estimated taxes: There is a charge of one percent (1%) interest and one percent (1%) penalty per month for under paying the tax when the difference of the amount actually paid and the amount that should have been paid of the estimated tax paid was 70% or less of the amount shown on the final return. The penalty for underpaying estimated taxes is figured separately for each installment.

4. Penalties shall be imposed by the Tax Administrator of the City of Alliance in the following instances for a failure to file:

a. In the case of taxpayers failing to file their Final Tax Returns when due, a civil penalty of twenty-five dollars (\$25.00) shall be imposed for the first instance and fifty dollars (\$50.00) for each subsequent instance.

b. In the case of taxpayers failing to file a bona fide Declaration of Estimated Tax, a civil penalty of twenty-five dollars (\$25.00) shall be imposed for the first instance and fifty dollars (\$50.00) for each subsequent instance.

5. In addition to any other charges for interest and/or penalties which may be applicable, a charge of fifteen dollars (\$15.00) shall be added to the tax due when any check in payment of taxes is returned unpaid by the bank. this charge is to offset the cost of additional bookkeeping and processing and is made irrespective of any charge which may be levied against the maker by his bank. Notice by the Administrator to the taxpayer that a check has been returned unpaid is not required nor is notice of the above charge required. The tender of payment shall not be considered as received as long as this charge has not been paid.

6. Except in the case of fraud, the penalty shall not exceed fifty percent (50%) of the unpaid tax for direct accounts or one hundred percent (100%) for withholding accounts.

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 (fifteen (15) days from the date the taxpayer was notified of such findings.)

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

3. A taxpayer or employer shall have fifteen (15) days after receipt of notice of any proposed imposition of interest and penalties within which to file a written protest or explanation with the Administrator. If no protest or explanation is filed within the prescribed time, the proposed imposition of interest and penalties

shall become and be the final assessment. Upon filing of a written protest or explanation, the Administrator shall determine the assessment which may or may not be the same as the proposed assessment.

D. Abatement of Interest and Penalty : Appellate Review :

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

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

A. Unpaid Sums - A Civil Debit :

1. All taxes imposed by the ordinance and not paid when due become, together with interest and penalties thereon, a debt due the city from the taxpayer and are recoverable as are other debts by civil suit. Employers who are required, under Section 6 of the Ordinance, to withhold and remit the taxes required to be withheld at the source, and who fail to withhold and/or remit, become liable to the City in a civil action to enforce the payment of the debt created by such failure.

2. No additional assessment shall be made by the Administrator after six (6) 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 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. a. Taxes erroneously paid shall not be refunded unless claim for refund is made within three (3) years from the date on which such payment was made or return was due, thereof, or within three (3) months after final determination of the federal income tax liability, whichever is later.

b. Federal adjustment must have a direct effect on items subject to city tax to extend the statute.

c. Based on the three (3) year statute of limitations, taxpayers required to file an annual return use April 15th as due date of the return. Taxpayers not required to file a return other than a request for refund use January 30th as due date of return.

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's liability at his option. Where no election has been made by the taxpayer, overpayments of any year's taxes shall be applied as follows:

a. To the taxes owed for any previous year in the order which such taxes become due.

b. To his current estimated tax liability.

4. Items included on Federal Form 2106 are eligible as deductions, subject to review and approval by the Administrator, and subject to limitations imposed by the federal government.

5. Refunds are normally available only to non-residents, and refunds shall be computed by dividing total wages by total days worked in order to determine an average daily wage. If the information is submitted, holidays, sick days, and/or vacation days shall be subtracted from two hundred sixty (260) to determine the total days worked. Saturdays, Sundays, vacation days, sick days, and holidays shall not normally be considered work days. Additions, deletions, or other changes to the method for calculating refunds shall be at the discretion of the Administrator.

C. Limitations :

1. Amounts of less than one dollar (\$1.00) shall not be refunded or assessed.

ARTICLE XII VIOLATIONS - PENALTIES

A. Any person who shall :

1. Fail, neglect or refuse to make any return or declaration required by the Ordinance; or
 2. Make any incomplete, false or fraudulent return; or
 3. Fail, neglect or refuse to pay the tax, penalties or interest imposed by this Ordinance; or
 4. 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 books, records, papers and Federal Income Tax returns relating to the income or net profit of a taxpayer; or
 6. Fail to appear before the Administrator and to produce his books, records, papers or Federal Income Tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator; or
 7. Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer; or
 8. Fail to comply with the provisions of this Ordinance or any order or subpoena of the Administrator authorized hereby; or
 9. Give to an employer false information as to his true name, correct social security number, and residence address, or fail to promptly notify an employer of any change in residence address and date thereof; or
 10. Fail to use ordinary diligence in maintaining proper records of employee's residence and address, total wages paid and municipal tax withheld, or to knowingly give the Administrator false information; or
 11. Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this Ordinance;
- Shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty (60) days or both, for each offense.

B. Prosecutions :

1. Civil actions to recover municipal income taxes and penalties and interest on municipal income taxes shall be brought within three (3) years after the tax was due or the return was filed, whichever is later. See specifics in O.R.C. Section 718.06.
2. Prosecution under the Ordinance shall be commenced within three (3) years after the commission of the offense provided that in 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 - No Excuse or Defense :

1. The failure of any employer or person to receive or procure a return, declaration, or other required form shall not excuse him (1) from making any information return, declaration, or return; (2) from filing such form; or (3) from paying the tax.

ARTICLE XIII BOARD OF REVIEW

A. Board of Review Established :

A Board of Review consisting of the Mayor, or a person designated by him or her, the City Auditor, or person designated by him or her, the Law Director, or person designated by him or her, is hereby created. The Board shall select, each year for a one-year term, one of its members to serve as Chairman (Law Director serving the first year) and one to serve as Secretary (City Auditor serving first year). A majority of the board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board may be conducted privately unless the taxpayer requests in writing a public hearing, and the provisions of Article IX hereof with reference to the confidential character of information required to be disclosed by the Ordinance shall apply to such matters as may be heard before the Board of Appeals.

B. Duty to Approve Regulations to Hear Appeals : All rules and regulations and amendments or changes thereto, which are adopted by the Administrator under the authority conferred in the Ordinance, must be approved by the Board of Review before the same shall become effective. The Board shall hear and pass on appeals from any ruling or decision of the Administrator, and, at the request of the taxpayer or administrator, is empowered to substitute alternate methods of allocation. Also after such approval, such rules, regulations, amendments, and changes shall be filed with the Clerk of Council and shall be open to public inspection.

C. Right of Appeal :

1. An appeal from a ruling of the Administrator by a taxpayer or employer is effected by filing a written notice of appeal with the Board of Review at 513 E. Main Street, Alliance, Ohio, 44601, within fifteen (15) days after the announcement of the Administrator's ruling or decision from which the appeal is taken. A copy of such notice of appeal must be filed with the Administrator. Then the Board of Review must schedule a hearing within thirty (30) days from the date of the appeal and its decision must be rendered within fifteen (15) days from the date of the hearing.

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

3. A taxpayer dissatisfied with a decision or ruling by the Board of review may appeal to a court of competent jurisdiction within sixty (60) days from the date of announcement of the ruling or decision to which exception is taken.

**ARTICLE XIV
ALLOCATIONS OF FUNDS**

The funds collected under the provisions of this Ordinance shall be deposited in the special Income Tax Collection Fund of the City of Alliance to be used for the purpose of paying all costs of collecting the taxes levied and the cost of administering and enforcing the provisions thereof; for the payment of other current operating expenses of the City of Alliance; and for payment of the costs of making such permanent improvements as City Council may determine from time to time. However, a portion of such funds may be placed in a Sundry Trust Fund Refund Account as may be determined from time to time by the City Auditor on the basis of need to provide a fund for the refund of such income tax overpayments as provided in Section XI.

**ARTICLE XV
CREDIT ALLOWED FOR TAX PAID IN ANOTHER MUNICIPALITY**

A. Limitation :

1. Where a resident of the City of Alliance is subject to a municipal tax, on or measured by income, in

another municipality either located within or without the State of Ohio, he shall not pay a total municipal tax on the same income greater than the tax imposed at the higher rate.

B. Credits to Residents :

Resident individuals of the City of Alliance who are required to pay and do pay, a tax to another municipality on salaries, wages, commissions or other compensation for work done or services performed in such other municipality, or on net profits from businesses, professions, or other activities conducted in such other municipality, may claim a credit of the amount of tax paid by them or on their behalf to such other municipality, but only to the extent of the tax imposed by this ordinance on such compensation or net profits.

C. Method of Applying 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 a City of Alliance resident or his employer is paying the tax shall be considered as fulfilling the requirements of this article.

**ARTICLE XVI
SAVINGS 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 Tax After Termination of Ordinance : In the event the tax imposed by the provisions of the Ordinance may be repealed or amended, the Ordinance shall remain in full force and effect for purposes of collection and payment of taxes due and payable beyond that date, subject, however, to the provisions of Section 11 of the ordinance with respect to the limitation of time within which an additional assessment may be made.

B. Payment of Taxes :

1. Taxes due and unpaid on account of compensation paid or received and on account of profits earned the last effective year of the Ordinance or any part thereof which remain unpaid, are payable in full on or before the dates specified in Section 5 and 6 of the Ordinance and Articles V and VI 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 section 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 regulations may be issued by the Administrator, subject to the approval of the Board of Review.

OHIO REVISED CODE

CHAPTER 718: MUNICIPAL INCOME TAXES

See Sections:

718.01 - 718.02 - 718.03 - 718.04 - 718.05 - 718.06