

CITY OF ALLIANCE, OHIO TAX ORDINANCE

SECTIONS 1 THROUGH 18, Chapter 181, Title NINE , entitled "TAXATION", of the Codified Ordinances of the City of Alliance, Ohio, 1990, are hereby amended to read as follows:

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

Now, therefore, be it ordained by the Council of the City of Alliance, State of Ohio, that:

SECTION 1. PURPOSE

To provide funds for the purposes of general municipal operations, including police, fire, and other safety department responsibilities, maintenance, new equipment, and capital improvements of the City of Alliance, there is hereby levied a tax on salaries, wages, commissions, and other compensation, and on net profits as hereinafter provided.

SECTION 2. DEFINITIONS

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

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

ADMINISTRATOR - The individual designated by the ordinance, whether appointed or elected, to administer and enforce the provisions of the ordinance.

ASSOCIATION - A partnership, limited partnership, Chapter S corporation as defined in Federal Tax Code, 26 U.S.C. 1361, unincorporated enterprise, owned by two or more persons.

BOARD OF REVIEW - the board created by and constituted as provided in Section 13 of this ordinance.

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

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

CITY - means the City of Alliance.

CORPORATION - A corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory, or foreign country or dependency, but not including Chapter S Corporations.

DOMICILE - Means a place where a person has his true and permanent home to which, whenever absent from, he intends to return.

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

EMPLOYER - An individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, having a place of business or doing business within the city and who employs one or more persons on a salary, wage, commission, or other compensations basis. See Section 3.

FISCAL YEAR - An accounting period of 12 months or less ending on any day other than December 31.

GROSS RECEIPTS - The total income from any source whatsoever required to be included in the tax return.

INCOME - Shall include all monies derived from any source whatsoever less any excludable income, which excludable income includes dividends, interest, social security, old age pension, poor relief, or any other income excluded in accordance with state law.

MUNICIPALITY - Means the City of Alliance.

NET PROFITS - Means the net gain from the operation of a business, profession, enterprise or other activity excluding capital gains and losses after provision for all ordinary and necessary expenses 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 ordinance, federal, state and other taxes based on income; and in the case of an association, without deduction of salaries paid to partners, and other owners; and otherwise adjusted to the requirements of the ordinance, and the rules and regulations promulgated by the Tax Administrator pursuant to Section 8, 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 - An individual, association, corporation or other entity, domiciled outside the City of Alliance.

NON-RESIDENT UNINCORPORATED BUSINESS ENTITY - An unincorporated body not previously named or defined and includes enter alia fiduciaries.

PERSON - Every natural person, co-partnership, fiduciary, association, corporation or other entity. Whenever used in any clause prescribing and imposing a penalty the term "person" as applied to any unincorporated entity, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

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

RESIDENT - An individual, association, corporation or other entity, domiciled in the City of Alliance, or any person who maintains a place of abode within the city of Alliance for a total of 183 days or more, within any 12 month period, shall be deemed a resident.

RESIDENT UNINCORPORATED BUSINESS ENTITY - An unincorporated business entity having an office or place of business within the city of Alliance.

RULES AND REGULATIONS - An explanatory text, in printed form, amplifying and interpreting certain articles and sub-sections thereof of this ordinance. Copies of these are on file in the city Income Tax Office, Alliance, Ohio, and available to the public.

TAXABLE INCOME - Wages, salaries and other compensation paid by an employer or employers before any deductions and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of the ordinance.

TAXABLE YEAR - The calendar year, or the fiscal year upon the basis of which the net profits are to be computed under this ordinance and, in the case of a return for a fractional part of the year, the period for

which such return is required to be made. Unless approved by the administrator, the taxable year of a wage earner shall be a calendar year.

TAXPAYER - A person, whether an individual, co-partnership, association or any corporation or other entity, required by this ordinance hereunder to file a return or pay a tax on earnings or net profits.

SECTION 3. IMPOSITION OF TAX:

A. Subject to the provisions of Section 16 of this ordinance, an annual tax for the purposes specified in Section I hereof shall be imposed on and after January 1, 1982 at the rate of one and three quarters percent (1.75%) per Ordinance 79-81, passed November 3, 1981 upon the following taxable income:

1. On all salaries, wages, commissions, tips, gratuities, sub pay, and other compensation, such as early retirement incentive plans, earned during the effective period of the ordinance by residents for work done or services performed or rendered. . The tax shall not be levied upon expenses reported on Federal Form 2106, subject to audit and approval by the Department of Taxation.

2. On all salaries, wages, commissions, tips, gratuities, sub pay, and other compensation, such as early retirement incentive plans, earned during the effective period of the ordinance by non-residents for work done or services performed or rendered in the City of Alliance. The tax shall not be levied upon expenses reported on Federal Form 2106, subject to audit and approval by the Department of Taxation.

3. On any programs to include, but not limited to, deferred compensation plans, cafeteria plans 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.

4. On any programs to include, but not limited to IRA's KEOUGH's and similar plans offered that qualify for reductions in salaries, wages, commissions and other compensation under federal and state tax regulations unless specifically exempted in this ordinance and/or under state statutes.

5. (a) On the portion attributable to the city of the net profits earned and accrued or received of all resident associations, unincorporated businesses, professions or other entities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the city.

(b) On the portion of the distributive share of the net profits earned and accrued or received of a resident partner or owner of a resident unincorporated business entity or association not attributable to the city and not levied against such unincorporated business entity.

6. (a) On the portion attributable to the city for the net profits earned and accrued or received of all non-resident associations, unincorporated businesses, professions or other entities, derived from sales made, work done or services performed or rendered and business or other activities conducted in the city, whether or not such association or other unincorporated has an office or place of business in the city.

(b) On the portion of the distributive share of the net profits earned and accrued or received of a resident partner, or owner of a non-resident association or other unincorporated business entity not attributable to the city and not levied against such unincorporated business entity.

7. On the portion attributable to the city of the net profits earned and accrued or received of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in the city, whether or not such corporations have an office or place of business in the city.

8. 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.

B. Determination of income subject to tax. The portion of the entire net profits of a taxpayer to be allocated as having been derived from within the city, in the absence of actual records thereof, shall be determined as follows:

1. Multiply the entire net profits by business allocation percentage to be the average ration of:

(a) The average net book value of the real and tangible personal property owned or used by the taxpayer in the business or profession in the city during the taxable period to the average net book value of all the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated. As used herein, "real property" shall include property rented or leased by the tax payer and the value of such property shall be determined by multiplying the annual rental thereupon by 8.

(b) Wages, salaries, and other compensation paid or accrued during the taxable period to persons employed in the business or profession for services performed in the city to wages, salaries, and other compensation paid or accrued during the same period to persons employed in the business or profession, whenever their services are performed.

(c) Gross receipts of the business or profession from sales made and services performed during the taxable period in the city to gross receipts of the business or profession during the same period from taxes and services, wherever made or performed. In the event the foregoing allocation formula does not produce an equitable result, another basis may, under uniform regulation, be substituted so as to produce such results.

2. As used in this section, "sales made in the City" means:

(a) All sales of tangible personal property which is delivered within the city regardless of where title passes if tangible personal property is shipped or delivered from a stock of goods within the city.

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

(c) All sales of tangible personal property which is shipped from a place within the city to purchasers outside the city regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

For the purpose of this section, the taxable base shall be determined in accordance with federal tax interpretations, when applicable, and with the accounting method used by the taxpayer for federal income taxes adjusted to the requirements of this ordinance. (See addenda for text of Section 718.02 of the General Code of Ohio, Revised)

C. CONSOLIDATED RETURN

1. Filing of consolidated returns may be permitted or required in accordance with Rules and Regulations prescribed by the Administrator pursuant to the authority contained in Section 8.

2. A corporation which owns or controls at least eighty percent (80%) of the common stock of another corporation or corporations may at its option make a consolidated return, provided that affiliated corporations which do no business within the United States shall not be included in such consolidated return.

3. 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 within 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. If the Administrator finds net profits are not properly allocated to the City of Alliance by reason of transactions with stockholders or with corporations related by stock ownership, interlocking directorates, or transactions with such division, branch, factory, office, laboratory, or activity or by some 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.

D. EXEMPTIONS - The tax provided for herein shall not be levied on the following:

1. Funds received from local, state, or federal governments because of service in the Armed Forces of the United States by the person rendering such service, or as a result of another person rendering such service.

2. Poor relief, pensions, unemployment insurance benefits, social security benefits and/or similar payments, including disability benefits received from private industry or local, state, or federal governments or from charitable, religious, or educational organizations.

3. Alimony received

4. Income, dues, contributions, receipts from casual entertainment, amusements, sport events and health and welfare activities received by religious, fraternal, charitable, scientific, literary, educational institutions or organizations, labor union, lodges and similar organizations.

5. Any association, organization, corporation, club or trust, which is exempt from federal tax on income be reason of its charitable, religious, educational, literary, scientific, etc., purposes.

6. Gains from involuntary conversion, cancellation of indebtedness, interest on federal obligations, items of income already taxed by the State from which the City is specifically prohibited from taxing and income of a decedent's estate during the period of administration, except such income from the operation of a business.

7. Earnings and income of all persons under sixteen (16) years of age whether residents or non-residents.

8. Dividends.

9. Interest.

10. Relocation costs of any employee that are reimbursed by the employer.

11. The tax provided for herein shall not be levied upon any compensation, net profits or other income that the Municipality is precluded from taxing under Ohio R .C. Chapter 718.

E. 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 retirement incentive plans).

3. Stock options - taxed when exercised on amount indicated on W-2 forms.

4. Cost of group term life insurance over \$50,000.00, tax on entire amount.

5. Severance pay or separation payments.

6. Compensation paid in property or the use thereof at fair market value to the same extent as taxable under Federal Internal Revenue Act and so indicated on the W-2 form.

7. Tips.

8. Contributions made by or on behalf of employees to tax deferred annuity plan (401-K plans and the like), proportionate to the amounts earned in Alliance.

9. Stipends - if work required (vow of poverty not recognized).

10. Income from guaranteed annual wage contracts.

11. Third party disability pay - employer paid premiums.

12. Bonuses.

13. Health insurance premiums withheld each payday by employer from employee wages for future monthly premium payments (non-deferrable).

b. NET PROFITS FROM:

1. Corporations

2. Unincorporated businesses

(1) Sole proprietorship - Schedule C.

(2) Rental properties - Schedule E.

(3) Partnerships - Schedule E - Tax is imposed on individual partner.

(4) Farm net income - Schedule F.

3. Trusts and estates (file and pay as entity).

c. Directors fees.

d. Income from jury duty.

e. Supplemental unemployment pay - paid by employer.

f. Union steward fees.

g. Strike benefits paid by company.

h. Profit sharing - if from non-qualified plan.

i. Moving expense reimbursement in excess of Federal Form 3903 allowance.

j. Ohio State Lottery, Multi-state lottery, and games or schemes of chance.

SECTION 4. EFFECTIVE DATE

Said tax shall be levied, collected, and paid with respect to the salaries, wages, commissions and other compensations, and with respect to the net profits of businesses, professions, or other activities earned and accrued or received from January 1, 1982 and thereafter until repealed at the rate of one and three quarters (1.75%) percent. ORDINANCE 79-81 passed November 3, 1981.

SECTION 5. RETURN AND PAYMENT OF TAX

A. City council hereby directs that each taxpayer except as herein provided, shall, whether or not a tax is due thereon, make and file a return on or before April 15 of the year following effective date of Ordinance 78-90, passed October 1, 1990, and on or before April 15 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within 105 days from the end of such fiscal year or period.

This method of filing termed "universal filing" shall be in effect until such time as Council provides otherwise, subject to the exception set forth in (5-F), herein. If directed by Council, the Tax Administrator is authorized to provide by regulation that the return of an employer showing the amount of tax deducted by such employer from the salaries, income wages, commissions, or other compensation of an employee, and paid by him to the Tax Administrator, may be accepted as the return required of any employee whose whole income, subject to tax under this chapter is such salary, wages, commissions, or other compensation.

The return shall be filed with the administrator on a form or forms furnished by or obtainable upon request from the administrator setting forth:

1. The aggregate amounts of salaries, wages, commissions, and other compensation earned and gross income from business, profession, or other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to said tax;
2. The amount of the tax imposed by this ordinance on such earnings and profits; and
3. Such other pertinent statements, information returns, or other information as the Administrator may require.

B. The Administration may extend the time for filing of the annual return upon the request of the taxpayer for a period of not to exceed six (6) months, or one (1) month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the Federal Income Tax Return. A tentative return, accompanied by payment of the amount of tax shown to be due shall be filed by the date the return is normally due. No penalty shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended, but interest at the rate of 12% per annum as imposed under Section 10 will be assessed on the tax due.

C. 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 this ordinance, or where any portion of said tax shall have been paid by the taxpayer pursuant to the provisions of Section 7 of this ordinance, or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with Section 6, 7, and 15 hereof, shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing and return.

D. A taxpayer who has overpaid the amount of tax to which the City of Alliance is entitled under the provisions of this ordinance may have such over payment applied against any subsequent liability hereunder or, at his election indicated on the return, such over payment (or part thereof) shall be refunded, provided, however, that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded.

E. All individuals, businesses, employers, brokers or others doing business who engage persons, either on a commission basis, or as independent contractors, and are not subject to withholding shall indicate the total amount of earnings, payment, commission and bonuses to such as are residents of the City of Alliance,

or who do business in the City of Alliance, supported by form(s) 1099A attached, providing the same information as is required on Federal Form 1099.

F. Retirees having no taxable income for municipal income tax purposes shall be exempt from these filing requirements and any subsequent penalties upon the filing of a registration form with the Tax Administrator in the manner prescribed. Such registration shall be in effect until that time in which the retiree registrant received taxable income for municipal income tax purposes, at which time the retiree shall be required to comply with the provisions of this ordinance, including the filing requirements.

G. 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 15. Such amended returns shall be on a form obtainable on request from the Income Tax Administrator. A taxpayer may not change the method of accounting or appointment 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.

H. No refund shall be allowed unless a written request be presented to the administrator within three (3) years of the date the taxes were due.

I. When the taxpayer's tax return indicates that a refund is due and a refund is not issued within 180 days after the tax administrator has received proper verification and substantiation as to the validity of the refund claim, interest at the rate of 6% per annum shall be paid on the amount to be refunded after date shown validating return.

J. Information returns, schedules and statements required to support tax returns which are incomplete shall be filed within the limits set forth for the filing of the tax returns and the failure to file such information returns, schedules and statements shall be deemed to be a violation. However, the taxpayer shall have 10 days after notification by the Administrator to file the items required by this section.

SECTION 6. COLLECTION AT SOURCE

A. Each employer within the City of Alliance or doing business within the City of Alliance who employs one or more persons on a salary, wage, commission or other compensation basis (including tips and gratuities) shall deduct at the time of the payment of such salary, wage, commission or other compensation (including tips and gratuities), the tax imposed by section 3, of the Alliance Tax Ordinance at the rate of one and three quarters percent (1.75%).

B. Each employer shall, on or before the last day of the month following the close of the calendar quarter ending March 31st, June 30th, September 30th, and December 31st make a return and pay to the Income Tax Administrator the amount of taxes so deducted. However, (when required by the Tax Administrator through an administrative ruling or adopted by the Board of Review), any employer who deducts taxes in the amount of five hundred dollars (\$500.00) or more per month shall remit to the Tax Administrator on or before the 20th day of the second and third months of each calendar quarter the taxes so deducted monthly, which remittance may be based on an estimate made by the employer of the employer's most recent payroll. Also, by January 31, each employer shall file a withholding reconciliation prescribed by and attainable from the Administrator attaching form(s) W-2, setting forth the names and addresses of all employees from whose compensation the tax was withheld during the preceding calendar year and the amount of tax withheld from his employees and such other information as may be required by the rules and regulations adopted by the Administrator.

C. Such employers, in collecting said tax, shall be deemed to hold same until payment is made by such employer to the City of Alliance, as a trustee for the benefit of the City of Alliance and any such tax collected by such employer from his employees shall, until the same is paid to the City of Alliance, be deemed a trust fund in the hands of such employer.

D. However, 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, even though the residence is in the city, but such employee shall be subject to all the requirements of this Ordinance.

E. LIABILITY FOR PAYMENT:

1. All officers of a corporation or the employees having control or supervision or charged with the responsibility of filing the return and making payment, shall be personally liable for failure to file the return or pay the tax due as required herein. The dissolution, bankruptcy, or reorganization of any such employer does not discharge any officer's or employee's liability for a prior failure of such business to file a return or pay taxes due.

SECTION 7. DECLARATIONS

A. Every taxpayer having or anticipating any income not subject to the provisions of Section 6 (collection at source), or who engages in any business, profession, enterprise, or activity subject to the tax imposed by Section 3, shall file a declaration setting forth the estimated annual income, or the estimated profit or loss from such business activity, together with an estimate of the amount of tax due thereon. Such declaration shall be filed quarterly as provided in paragraph (B) hereof, upon a form furnished or obtainable from the Tax Administrator. The estimated amount of tax due annually may be amended each quarter to reflect the tax due under this ordinance.

B. Such declaration of estimated annual tax to be paid to the City of Alliance shall be accompanied by a payment of at least one-fourth (1/4) of the estimated annual tax for such year and shall be paid on or before April 15th, June 15th, September 15th, and January 15th of the succeeding year. Provided, however, that on or before April 15th of the year succeeding that for which such declaration was filed, an annual return shall be filed and any tax remaining due the City of Alliance in the amount of one dollar (\$1.00) or more shall be paid therewith. Should it then appear that such taxpayer has paid more than the amount of the tax to which the City of Alliance would be entitled under the provisions of this ordinance, such overpayment shall be applied against any subsequent liability hereunder, or, at the election of the taxpayer and so indicated on the tax return, such overpayment (or portion thereof) shall be refunded, but in no event shall overpayment of less than one dollar (\$1.00) be refunded.

C. Those taxpayers reporting on a fiscal year basis must file and pay the annual declarations of estimated tax and the annual return and tax due thereon using the corresponding calendar quarter of the fiscal year.

D. If a taxpayer's total quarterly estimate payments do not equal at least seventy per cent (70%) of the total tax liability as established on the taxpayer's annual tax return or if the taxpayer's total quarterly estimate payments do not equal the taxpayer's tax liability for the preceding year, provided that such preceding year's liability was not zero, interest and penalty shall be assessed at the following rates and in the following manner:

1. The taxpayer's annual tax liability as established on the taxpayer's annual return shall be divided by four (4) to determine the amount of tax which should have been paid quarterly on an estimated basis. The difference between the amount of tax which should have been paid quarterly on an estimated basis and the amount of tax actually paid quarterly on an estimated basis shall be subject to penalty of one percent (1%) per month or fraction thereof and interest of one percent (1%) per month or fraction thereof from the due date of each quarterly installment to the date the annual return is due or the tax paid thereon, whichever is earlier.

2. In the event the taxpayer provides satisfactory evidence to the Tax Administrator that the taxpayer's annual income fluctuated in such a manner that the penalty and/or interest as specified in paragraph (1) hereof should not be imposed, the Administrator, as provided in Section 10 (D), may waive any portion of such penalty and/or interest upon request of the taxpayer and submission of evidence of such fluctuation to the Administrator.

3. The Administrator may waive imposition of penalty and/or interest on underpayments of estimated taxes for good cause shown under guidelines established by the Board of Review.

SECTION 8. DUTIES OF THE ADMINISTRATOR

A. 1. It shall be the duty of the Administrator to receive and collect the tax imposed by this ordinance in the manner prescribed herein from the taxpayers' to keep an accurate record thereof; and to report all

monies so received to the City Treasure who in return shall make a written report to council each quarter of all monies collected during the preceding quarter.

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. Said Administrator is hereby charged with the enforcement of the provisions of this ordinance, and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and administration and enforcement of the provisions of this ordinance, including provisions for the re-examination and correction of returns and payments.

The Administrator is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments not to exceed six (6) months, when the taxpayer has proved to the Administrator that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under this ordinance. The Administrator may also authorize an extension of time for not more than six months in addition to the initial six months extension for the payment of such taxes due upon written application of the taxpayer. Denial of such extension by the Tax Administrator may be appealed to the Board of Review as set forth in section 13 of this ordinance. Any additional extensions shall only be granted by the Board of Review.

Failure to make any deferred payment when due, shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Section 11 and 12 of the ordinance shall apply.

C. 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 determine the amount of tax appearing to be due the City of Alliance from the taxpayer or employer and shall send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any. Such assessment shall be collected in accordance with the rules and regulations as set forth by the Administrator and approved by the Board of Review.

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

SECTION 9. INVESTIGATIVE POWERS OF THE ADMINISTRATOR - PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION

A. The Administrator, or any authorized employee, is hereby authorized to examine the books, papers, records, and federal income tax returns of any employer or of any taxpayer or person subject to, or whom the Income Tax Administrator believes is subject to the provisions of this ordinance, for the purpose of verifying the accuracy of any return made, or, if no return has been made, to ascertain the tax due under this ordinance. Every such employer, supposed employer, taxpayer, or supposed taxpayer is hereby directed and required to furnish within 10 days upon written request by the Income Tax Administrator or his duly authorized agent or employee, the means, facilities, and opportunity for making such examinations and investigations as are hereby authorized.

B. The Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before him and may examine such person, under oath, concerning any income which was or should have been returned for taxation or any transaction tending to effect such income, and for this purpose may compel the production of books, papers, records, and federal income tax returns and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.

C. The refusal to produce books, papers, records, and federal income tax returns, or the refusal to submit to such examination by any employer or person subject or presumed to be subject to the tax or by any officer, agent, or employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this Section or with any order or subpoena of the Income Tax Administrator authorized hereby shall be deemed a violation of this ordinance, punishable as provided in Section 12 hereof.

D. Any information gained as a result of any returns, investigations, hearings, or verifications required or authorized by this ordinance shall be confidential, and no disclosure thereof shall be made except to municipal, county, jurisdiction, or unless disclosure is necessary to the conduct of a hearing before the Board of Review. Any appointed employee divulging such information in violation of this section shall be subject to dismissal. Any person divulging such information in violation of this section shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months, or both. Each disclosure shall constitute a separate offense.

E. Tax returns and all audit papers and information connected therewith are confidential and shall be carefully preserved so that they shall not be available for inspection by anyone other than the following listed proper agents of the City for official purposes:

1. The City Auditor
2. The Tax Administrator
3. Employees of the Income Tax Division
4. City Law Director

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

SECTION 10. INTEREST AND PENALTIES

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

B. 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 5% of the total tax due, whichever is greater.

2. For failure to remit taxes withheld from employees, three percent (3%) per month or fraction thereof, or 5% of the total tax due, whichever is greater.

3. Where the taxpayer has failed to file a declaration on which he has estimated and paid a tax equal to or greater than the tax paid for the previous year, or has failed to file a declaration on which he has estimated and paid tax equal to or greater than 70% of the actual tax for the year, or has failed to file a final return and pay the total tax on or before the end of the month following the end of his taxable year, 10% of the difference between 70% of the actual tax for the year and the amount paid through withholding or declaration.

4. Except in the case of fraud, the penalty shall not exceed 50% of the unpaid tax. a return has been filed in good faith and the tax paid thereon within the time prescribed by the Administrator. Furthermore, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, providing an amended return is filed and the additional tax is paid within 3 months after the final determination of the federal tax liability.

C. Exceptions - a penalty shall not be assessed on an additional tax assessment made by the Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Administrator. Furthermore, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, providing an amended return is filed and the additional tax is paid within 3 months after the final determination of the federal tax liability.

D. At the Administrator's discretion, the Administrator may abate up to \$5000.00 of penalty or interest, or both, and upon recommendation of the Administrator, the Board of Review may abate penalty or interest, or both, of a taxpayer who appeals for such abatement under the provisions of Section 13 (Board of Review) subsequent to a denial of such abatement by the Administrator.

E. Any person required to withhold the tax who knowingly fails to withhold such tax, or pay over such tax or knowingly attempts in any manner to evade or defeat such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable for a penalty equal to the total amount of the tax evaded, or not withheld, or not paid over. No other penalty under this section shall be applied to any offense to which this penalty is applied.

F. Penalty shall not be assessed where an extension has been granted by the Administrator and the final tax paid within the period as extended.

G. Penalties shall be imposed by the Administrator on those taxpayers failing to file their tax returns when due, and who are not otherwise exempt from filing requirements by virtue of Section 3 (D), a civil penalty of twenty-five dollars (\$25.00) be imposed for the first instance and fifty dollars (\$50.00) for each subsequent instance.

SECTION 11. COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS

A. All taxes imposed by this ordinance shall be collectable, together with any interest and penalties thereon by Civil Suit, as other debts of like amount are recoverable. Except in the case of fraud, omission of 25% or more of income subject to this tax, or failure to file a return, an additional assessment shall not be made after three (3) years from the time the return was due or filed, whichever is later. However, in those cases in

which the Commission of Internal Revenue and the taxpayer have executed a waiver of the Federal Statute of Limitations, the period within which an additional assessment may be made by the administrator shall be one (1) year from the time of the final determination of the Federal tax liability.

B. Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date on which such payment was made or the return was due, or within three (3) months after final determination of the Federal tax liability, whichever is later. (Subject to O.R.C. 718.06)

C. Additional amounts of less than one dollar (\$1.00) shall not be collected or refunded, unless such assessment results from income which the taxpayer has failed to report.

SECTION 12. VIOLATION - PENALTIES

A. A person shall be guilty of a misdemeanor of the third degree if he or she shall:

1. Fail, neglect, or refuse to make any return or declaration required by this ordinance; or
2. Make any incomplete, false, or fraudulent return; or
3. 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 or her employees or remit such withholding to the Income Tax Administrator; or
5. Refuse to permit the Administrator or any duly authorized agent or employee to examine his or her books, records, papers, and copies of Federal Income Tax Returns relating to the income or net profits of a taxpayer; or
6. Fail to appear before the Administrator and to produce his or her books, records, papers, or copies of 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 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 or her true name, correct social security number and resident address, or fail to promptly notify and 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 addresses, total wages paid and the City of Alliance tax withheld, or to knowingly give the Administrator false information; or
11. Attempt to do anything whatever to avoid payment of the whole or any part of the tax, penalties, or interest, imposed pursuant to this ordinance; and

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

B. All prosecutions under this section must be commenced within three (3) years from the time of the offense complained of (see Ohio Revised Code 718.06): provided that, in case of fraud, failure to file a return, or the omission of 25% or more of income required to be reported, prosecutions may be commenced within six (6) years after the commission of the offense.

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

SECTION 13. BOARD OF REVIEW

A. A Board of Review consisting of the Mayor, or a person designated by him or her, the Auditor, or a person designated by him or her, and the Law Director, or an assistant Law Director designated by him or her, is created. All rules and regulations and amendments or changes thereto, which are adopted by the Administrator under the authority conferred by this ordinance, must be approved by the Board of Review Before the same become effective. After such approval, such rules, regulations, amendments, and changes shall be filed with the Clerk of Council and shall be open to public inspection.

B. Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this ordinance, may appeal therefrom to the Board of Review within fifteen days (15) from the announcement of such ruling or decision by the Administrator, and the Board of Review shall, upon hearing the appeal, have jurisdiction to affirm, reverse, or modify any such ruling or decision or any part thereof. Such hearing shall be scheduled within thirty (30) days from the date of appeal. Also the Board of Review ruling must be made within fifteen (15) days from the date of the hearing.

Any person dissatisfied with any ruling or decision of the Board of Review may appeal therefrom to a court of competent jurisdiction within sixty (60) days from the announcement of such ruling or decision.

C. The Law Director shall be Chairman of the Board of Review, and the City Auditor shall Serve as Secretary thereof. A majority of the members of the Board of Review shall constitute a quorum. The Board of Review shall adopt its own procedural rules and shall keep a record of its transactions. All hearings on appeal by the Board may be conducted privately to the extent allowed by O.R.C. 121.22, and the provisions of Section 9, hereof with reference to the confidential character of information required to be disclosed by the ordinance shall apply to such matters as may be heard before the Board of Review on appeal.

SECTION 14. ALLOCATION OF FUNDS

The funds collected under the provision of this Ordinance shall be deposited in the special Income Tax Fund and said funds shall be dispersed each calendar year in the following manner, to-wit:

1. Such part thereof as shall be necessary to defray all costs of collecting the tax and the cost of administering and enforcing the provisions of this Ordinance.
2. Four percent (4%) of net available income tax receipts received annually shall be used for water works improvement.
3. Seven percent (7%) of net available income tax receipts received annually shall be used for street and road improvements.
4. Ten percent (10%) of net available income tax receipts received annually shall be appropriated and set aside in the Master Capital Improvement Fund #402.
5. Seventy-nine percent (79%) of net available income tax receipts received annually shall be used for operation expenses of the City and/or specified capital improvements as determined by Council. (Ord. 79-81. Passed 8-17-81.)

SECTION 15. CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY

A. Where a resident of the City of Alliance is subject to a municipal income tax in another municipality, he or she shall not pay a total municipal income tax on the same income greater than the tax imposed at the highest rate.

1. See alternative Section 15 at the end of the Ordinance.

B. Every individual taxpayer who resides in the city but receives net profits, salaries, income, wages, commissions, other personal service compensation, or a distributive share of net profits from a resident or nonresident unincorporated business entity or association of which he is a partner or owner, for work done or services performed or rendered outside of the city, if it is made to appear that he (or she) or such business entity has paid a municipal income tax on or with respect to the same income taxable under this

ordinance to another municipality, shall be allowed a credit against the tax imposed by this ordinance in the amount so paid by him or her, in his or her behalf, or by such business entity, to the other municipality. In no event, however, shall any municipal income tax to the extent paid to another municipality and allowed as a credit hereunder be deductible in computing the net profit of such taxpayer or such business entity. In addition, the credit shall not exceed the tax assessed by this ordinance on income earned in such other municipality or municipalities where the tax is paid.

C. A claim for refund or credit under this section shall be made in such manner as the Administrator may by regulation provide.

D. No credit will be given unless the taxpayer claims such credit on his final tax return or other form prescribed by the Tax Administrator, and presents such evidence as W-2 Form(s) of the payment of a similar tax to another municipality, as the Administrator may require.

E. The Administrator, or any duly authorized agent or employee, may exchange information with the administrator or his authorized agent, or employees of other taxing jurisdictions for the purpose of verifying any claim for credit by Alliance residents, or for the purpose of verifying any claims for credit for taxes paid to the City of Alliance by residents of such other taxing jurisdictions, and may enter into agreements for such purpose.

SECTION 16. SAVING CLAUSE

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

SECTION 17. COLLECTION OF TAX AFTER TERMINATION OF ORDINANCE

A. This tax ordinance and all preceding tax ordinances, including all amendments thereto, shall continue to be effective insofar as the collection of taxes levied thereunder until all of said taxes are fully paid and any and all suits and prosecutions for the collection of said taxes or for the punishment of violations of said ordinance shall have been fully terminated, subject to the limitations contained in Section 11 and 12 hereof.

B. Annual returns due for all or any part of the last effective year of this ordinance shall be due on the date provided in Sections 5 and 6 of this ordinance as though the same were continuing.

SECTION 18. (WITHOUT EMERGENCY CLAUSE)

This ordinance shall take effect and be in force from and after : Date 1st Month October Year 1990.

ALTERNATIVE SECTION 15. REDUCED TAX CREDIT TO RESIDENTS

A - When the taxable income of a resident of the City of Alliance is subject to a municipal income tax in another municipality on the same income taxable under this Ordinance such resident shall be allowed a credit of the amount of income tax paid on such taxable income to such other municipality, equal to (_____) percent (_____ %) of the amount obtained by multiplying the lower of the tax rates of such other municipality or of this municipality by the taxable income earned in or attributable to the municipality of employment or business activity. For the purpose of this section, taxable income shall include the distributive share of net profits of a resident partner or owner of an unincorporated business entity.

B - Method of Applying for Credit:

1. No credit will be given unless the taxpayer claims such on his or her final return or other form prescribed by the Administrator, and presents such evidence of 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 (insert name of municipality) resident or his employer is paying the tax shall be considered as fulfilling the requirement of this article.

