

- 1:01** 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 the term, phrases, words and their derivatives used herein.
- 1:02** **Administrator** means the individual designated to administer and enforce the provisions of the Income Tax Ordinance of the City of Warren.
- 1:03** **Association** means any partnership, limited partnership, or any other form of unincorporated business or enterprises, owned by two or more persons.
- 1:04** **Board of Review** means the Board created by and constituted as provided for in the Income Tax Ordinance of the City of Warren.
- 1:05** **Business** means an enterprise, cooperative activity, profession, trade 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 exempted from the payment of federal income tax. The administration of a decedent's estate by the executor or administrator and the mere custody, supervision and management of trust property under an inter vivos, or testamentary trust unaccompanied by the actual operation of a business, shall not be constructed as the operation of a business.
- 1:07** **Business Deductions** are the ordinary and necessary expenses actually incurred in the operation of the business.
- 1:08** **City** as used herein, means the City of Warren, Ohio.
- 1:09** **Corporation** means a corporation, joint stock company, 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.

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- 1:11** **Earned Income** is used in determining whether certain income is taxable within the effective dates of the 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.

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- 1:13** **Employee Expenses** – When required to travel, an employee may deduct travel expenses when not reimbursed for same. Expenses are subject to limitations (Form 2106) as set forth by IRS guidelines.
- 1:14** **Employer** means an individual, proprietorship, association, corporation 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 hereinbefore defined. The term employer includes the State of Ohio, its political subdivisions and its agencies, instrumentalities, boards, bureaus, departments, etc., as well as 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.

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.

- 1:15 Fiscal Year** means an accounting period of twelve (12) months or less ending on any day other than December 31st. Only fiscal years accepted by the Internal Revenue Service for federal income tax purposes may be used for municipal income tax purposes.
- 1:16 Gross Receipts** means the total income from any source whatsoever. Gross receipts shall include but not be limited to, income in the form of fees, commissions, rental 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.
- 1:17 Intangible Property** is hereby defined 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.
- (See Article 2:09 (A) (3))
- 1:18 Net Profits** means the net gain from the conduct, or operation of a trade, business, profession, enterprise, or other activity 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 paid to partners and other owners.
- 1:19 Non-Resident** means an individual, partnership, association or other entity domiciled outside of the City of Warren.
- 1:20 Non-Resident Unincorporated Business Entity** means an unincorporated business entity not having an office or place of business within the City of Warren.
- 1:21 Ordinance** means Chapter 17 (“Income Tax”) of the Codified Ordinances of the City of Warren, Ohio enacted by the council of the City of Warren and any amendments and supplements thereto and continuing until repealed.
- 1:22 Person** means every natural person, partnership, fiduciary, association, corporation or other entity. Whenever the term “Person” is used in any clause prescribing or imposing a penalty, the term as applied to an unincorporated entity shall mean the partners or members thereof, and as applied to a corporation, the officers thereof.
- 1:23 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.
- 1:24 Resident** means an individual, partnership, association or other entity domiciled in the City of Warren.
- 1:25 Resident Unincorporated Business Entity** means an unincorporated business entity having an office or place of business within the City of Warren.
- 1:26 Salaries, Wages, Commissions and Other Compensation** 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.
- 1:27 Taxable Income** means wages, salaries, and other compensation paid by an employer or employers before deductions of any kind, and/or net profits or employers before deductions of any

profession and other enterprise or activity adjusted in accordance with the provisions of the Income Tax Ordinance and these regulations.

1:28 Taxable Year means the calendar year or the fiscal year, used as the basis on which net profits or other taxable income 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.

1:29 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.

1:30 Working Day is one for which an employee receives compensation whether the services are performed or not performed, such as Sundays, holidays, etc.

2:01 Resident Employee

A. In the case of residents of the City of Warren, an annual tax of two percent (2%) 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 earnings of resident taxpayers under the ordinance, the source of earnings and the place or places in or at which the services were rendered, are immaterial. All such earnings wherever earned are taxable. The location of the place from which payment is made or where payment is received is immaterial.

- B. The following are items which are subject to the tax imposed by this 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:
 - A. An officer, director or employee of a corporation (including charitable and other non-profit organizations), joint stock associations or joint stock company;
 - B. An employee (as distinguished from a partner or member) of a partnership, limited partnership, or any form of unincorporated enterprise owned by one or more persons;
 - C. An employee (as distinguished from a proprietor of a business, trade or profession) conducted by an individual owner;
 - D. An office 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 subdivision or agencies thereof; or any foreign country or dependency except as provided in the section of the ordinance indicating sources of income not taxed.
 - E. An employee of any other entity or person, whether based upon hourly, daily, weekly, semimonthly, 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 through an agent and whether in cash or in property for serviced rendered during the effective period of the ordinance, regardless of how computed or by whom or wheresoever paid.
 - A. 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.
 - B. 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 new profits taxable under Federal law, and the employee is not required to include such receipts as income (or has directly offsetting business expense) on his Federal Income Tax return.

- C. If commissions are included in the net earnings of the trade, business, profession, enterprises, or activity, carried on by an unincorporated entity of which the individual receiving such commission is owner or part owner and therefore subject to the tax on the net profits provision of the ordinance, they shall not be taxed under the provisions relating to salaries, wages or commissions earned.
- 3. Fees, unless such fees are properly includible as part of the net profits of a trade, business, professions, or enterprise regularly carried on by an unincorporated entity owned or partly owned by said individual. Example of fees taxable are those received by a director or office of a corporation.
- 4. Other compensation shall include:
 - A. Tips received by waiters and other employees
 - B. Bonuses
 - C. Gifts and gratuities in connection with employment
 - D. Compensation paid to domestic servants, casual employees and other types of employees
 - E. Benefits resulting from employers assuming a tax
 - F. 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
 - G. Dismissal pay which is demandable as a matter of right by virtue of the contract of employment
 - H. Incentive payments
 - I. Tax Shelter Plans- Contributions by an individual to a retirement system are not deductible by such individual. If such contributions are deducted by an employer from the earnings of an individual such amounts are subject to withholding.

If an employer pays into a tax shelter plan on behalf of an individual in lieu of paying said amount as wages, said payments are considered additional compensation to the individual and are subject to withholding.

- J. Supplement Unemployment Benefits (Sub Pay)
- 5. Vacation, sickness, etc. Payment made to employees by an employer, as vacation wages are taxable. Payments made to an employee by an employer, whether directly or by an insurance company, under a wage continuation plan during periods of disability or sickness, are taxable.
- 6. Where compensation is paid or received in property, its fair market value, at the time of receipt, shall be subject to the tax and to withholding. Board, lodging and similar items received by an employee in lieu of additional cash compensation shall be included in their earnings at their fair market value.
 - A. In the case of domestics and other employees whose duties require them to live at their place of employment or assignment, board and lodging shall not be considered as taxable compensation.
- 7. All proceeds from lotteries, gaming, wagering, or schemes of chance, including the Ohio State Lottery, received by residents of the City of Warren or received by non-residents of the City within the City or on the basis of activity conducted within the City of Warren. Gambling losses may not be used to offset winnings unless taxpayer is a professional gambler.

2:02 Non-Resident Employee

- A. In the case of individuals who are not residents of the taxing community there is imposed under the ordinance, a tax of two percent (2%) on all salaries, wages, commissions and other compensation earned and received, or earned and accrued, on and after the effective date of the ordinance for work

done or services rendered or performed within the City of Warren 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 which payment is made is immaterial.

- B. The items subject to tax under the ordinance are the same as those listed and defined in Article 2:01 hereof. For the methods of computing the extent of such work or serviced performed within a taxing community, in cases involving compensation for personal services partly within and partly outside the City of Warren.

2:03 Resident Unincorporated Business

- 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 Warren, there is imposed an annual tax of two percent (2.0 %) on the net profits earned during the effective period of the ordinance attributable to the City of Warren determined by the separate accounting method or formula provided for in this ordinance hereof, derived from sales made, work done or services performed or rendered and business or other activities conducted in the City of Warren.
- B. The tax imposed on resident associations or other unincorporated entities is upon the entities rather than the individual members or owners thereof.
- C. The tax imposed by the City of Warren is imposed on all resident unincorporated entities having net profits attributable to the City of Warren 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 one or more persons all of whom are residents of the City of Warren and having all income allocable to said community or having any income allocable to other municipalities not levying a similar tax, shall disregard the method of allocation provided for in the ordinance and pay to the resident community, the tax on the entire net profits thereof. Payment of the tax by the entity on the entire net profits thereof shall constitute payment of all the tax due from the owners or members thereof on their distributive shares of the entity net profits and no separate returns or declarations of estimated tax need to be filed by the owners or members of the entity if such persons have no other taxable income. A return and declaration of estimated tax shall be required from any owner or member having taxable income other than such distributive share of the net profits of such entity.

2:04 Resident's Distributive Share of Profits of a Resident Unincorporated Business Entity, Not Attributable To The City Of Warren

In the case of a resident individual who is a member, partner, owner or part owner of a resident unincorporated entity, there is imposed an annual tax on such individual's distributive share of net profits earned during the effective period of the tax ordinance not attributable to the City of Warren under the method of allocable to another taxing municipality credit for tax due or paid such other taxing municipality shall be claimed in accordance with this ordinance.

2:05 Non-resident Unincorporated Business

- A. In the case of non-resident unincorporated businesses, professions, enterprises, undertakings, or other activities conducted, operated, engaged in, prosecuted or carried on, there is imposed an annual tax on the net profits earned during the effective period of the ordinance attributable to the City of Warren under the formula or separate accounting method provided for in the ordinance.
- B. The tax imposed on non-resident unincorporated entities owned by one or more persons is upon the entities rather than the individual members or owners thereof, irrespective of where the members or owners reside.

2:06 Resident's Share of Profits of A Non-Resident Unincorporated Business Entity Not Attributable To The City Of Warren

In the case of a resident individual who is a member, partner, owner or part owner of a non-resident unincorporated entity, there is imposed an annual tax on such individual's distributive share of net profits earned during the effective period of the ordinance not attributable to the city where the entity is located under the method of determination of allocation as provided for in the tax ordinance and not taxed against the entity. Provided, however, that such resident shall be entitled to credit for tax paid another taxing municipality in accordance with this ordinance.

2:07 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 Warren, there is imposed an annual tax on the net profits earned during the effective period of the ordinance attributable to the City of Warren 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 Warren, the provisions of Article 3:00 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.

2:08 Effective Period of Tax

- A. The tax imposed by this ordinance shall be levied, collected and paid with respect to salaries, wages, bonuses, incented payments, commissions, fees and other compensation earned during the effective period of the ordinance.
- B. The tax imposed by this ordinance, with respect to net profits of trade, businesses, professions, enterprises, undertaking and other activities is on the net profits earned during the effective period of the ordinance.

2:09 Amplification

In the amplifications of the definition contained in Article 1 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 the Federal Internal Revenue Service (providing such method does not conflict with any provisions of the ordinance).
 - 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, rental from real and tangible personal property, and other compensation for work or services performed or rendered as well as income form 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 and necessary expenses of doing business, including reasonable compensation paid employees, shall be allowed but no deduction may be claimed for salary or withdrawal of a proprietor or of the partners, members, or other owners of an unincorporated business or enterprise.
 - A. If not claimed as part of the cost of goods sold or elsewhere in the return field, there may be claimed and allowed a reasonable deduction for depreciation, depletion, obsolescence, losses resulting from theft or casualty, not compensated by insurance or otherwise of property used in the trade or business, but the amount may not exceed that recognized for the purpose of the Federal Income Tax. Provided, however, that loss on the sale, exchange or other disposition of depreciable property or real estate, used in the taxpayer's business shall not be allowed as a deductible expense.
 - B. Current amortization of emergency facilities under the provisions of the Internal Revenue Code, if recognized as such for Federal Income purposes, may be included as an expense deduction hereunder.
 - C. 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.
 - D. Bad debts in a reasonable amount may be allowed in the year ascertained worthless and charged off; or 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.
 - E. Only taxes directly connected with the business may be claimed as a deduction. If for any reason the income from property is not subject to the tax, then taxes on and other expenses of said property are not deductible. In any event, the following taxes are not deductible from Income:
 1. The tax under the ordinance;
 2. Federal or other taxes based upon income;
 3. gift, estate or inheritance taxes; and
 4. Taxes or assessment for direct benefits or improvements to property which tend to appreciate the value thereof.
 - F. In general, non-taxable income and expenses incurred in connection therewith are not to be considered in determining net profits.
 - G. If the taxpayer reports income that is non-taxable under the ordinance and such amounts are deducted in order to reconcile the City of Warren's tax 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 of such non-taxable income.
 - H. Corporate contributions not to exceed five percent made to qualified charitable organizations recognized as such by the Internal Revenue Service will be permitted as a business expense.
 - I. Expenses deductible on federal form 2106, subject to the 2% limitation as well as the audit of the Tax Administrator.

3:01 Separate Accounting Method

- A. The net profits allocable to the City of Warren from business, professional, or other activities conducted in the City of Warren by corporation or unincorporated entities shall 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 as attributable to that part of his activities conducted within the City of Warren.

- 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 is attributable to the City of Warren are apportioned with reasonable accuracy.
- C. In determining the income allocable to the City of Warren from the books and records of a taxpayer an adjustment may be made for the contributions made to the production of such income by headquarters is within or without the City of Warren.

3:02 Business Allocation Percentage Method (To Be Used If Unable To Conform To Article 3:01 Hereof)

A. Step 1

Ascertain the percentage which the average net book value of real and tangible personal property, including leasehold improvements, owned or used in the business and situated within the City of Warren is of the average net book value of all real and tangible personal property, including leasehold improvements, owned or used in the business wherever situated, during the period covered by the return. Average net book value of property may be computed on a monthly, quarterly, semiannual, 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 Warren. In determining such percentage, property rented to the taxpayer as well as real and tangible personal property owned by taxpayer must be considered.
 - A. 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).
 - B. 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:
 - 1. 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;
 - 2. Any amount payable as additional rent or in lieu of rent such as interest, taxes, insurance, repairs, or other amounts required to be paid by the terms of a lease or other arrangement.

B. Step 2:

Ascertain the percentage which the total wages, salaries, commissions and other compensation of employees within the City of Warren is of the total wages, salaries, commissions and other compensation of all the taxpayer's employees within and outside the City of Warren during the period covered by the return.

- 1. Salaries and reasonable compensation paid owners or credited to the account of owners or partners during the period covered by the return are considered wages for the purpose of this computation.
- 2. Wages, salaries, and other compensation shall be computed on the cash or accrual basis in accordance with the method of accounting used in the computation of the entire net income of the taxpayer.
- 3. In the case of an employee who performs services both within and without the City of Warren, the amount treated as compensation for served performed within the City shall be deemed to be:
 - A. In the case of an employee whose compensation depends directly on the volume of business secured by him, such as a salesman on a commission basis, the amount received by him for the business attributable to his efforts within the City of Warren.

- B. 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 Warren bears to value of all his services; and
 - C. In the case of an employee compensated on a time basis, the proportion of the total amount received by him which is working time within the City of Warren is of his total working time.
- C. Step 3:
Ascertain the percentage which the gross receipts of the taxpayer derived from sales made and services rendered in the City of Warren is of the total gross receipts wherever derived during the period covered by the return. (See Article 3:04 and 3:05 hereof)

3:03 Substitute Method

- A. In the event a just and equitable result cannot be obtained under the formula, the Board, upon application of the taxpayer or the Administrator, 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 Board to substitute other factors in the formula or to use a different method to allocate net profits must be made in writing not less than sixty (60) days before the end of the taxable year and shall state the specific grounds on which the substitution of factors or use of a different method is requested and the relief sought to be obtained. A copy thereof shall be served at the time of filing upon the taxpayer or Administrator as the case may be. No specific form need be followed in making such application.

Once a taxpayer had filed under a substitute method, he must continue to file until given permission to change. 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.

3:04 Sales Made In The Community

- A. All sales made through retail stores locating within the City of Warren to purchasers within or without the City of Warren except such of said sales to purchasers outside the City of Warren that are directly attributable to regular solicitations made outside the City of Warren personally by taxpayer's employees.
- B. All sales of tangible personal property delivered to purchases within the City of Warren is shipped or delivered from an office, store, warehouse, factory or place of storage located within the City of Warren.
- C. All sales of tangible personal property delivered to purchasers within the City of Warren even though transported from a point outside of the City of Warren if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City of Warren and the sale is directly or indirectly the result of such solicitation.
- D. All sales of tangible personal property shipped from an office, store, warehouse, factory or place of storage within the City of Warren to purchasers outside of the City of Warren if the taxpayer is not, through its own employees regularly engaged in the solicitation or promotion of sales at the place of delivery.
- E. Charges for work done or services performed incident to a sale, whether or not included in the price of the property shall be considered gross receipts from such sales.
- F. In the application of the foregoing subparagraphs a carrier shall be considered the agent of the seller regardless of the FOB point or other conditions of the sale; and the place at which orders are accepted or contacts legally consummated shall be immaterial. Solicitation of customers outside to the City of Warren by mail or phone from an office or place of business within the City of Warren shall not be considered a solicitation of sales outside of the City of Warren.

3:05 Total Allocation

A. Step 4:

Add the percentage determined in accordance with Steps 1, 2 and 3 in Article 3:02 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, a factor shall not be excluded from the computation merely because said factor is found to be allocable entirely outside of the City of Warren. A factor is excluded only when it does not exist anywhere.

B. 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 allocable to the City of Warren.

3:06 Rentals

- 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 \$200.00 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 rental properties shall be subject to the 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 fluctuation percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds \$200.00 per month, provided, further, that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in the crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds \$200.00 per month; and provided, further, that the person who operated a licensed rooming house shall be considered in business whether or not the gross income exceeds \$200.00 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 \$200.00 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 in to 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 allowed by the Internal Revenue Service for Federal Income tax purposes.
- G. Owners of rental property who are non-residents of the City of Warren whether individuals or business entities, are subject to tax only on the income from real property located in the City

of Warren and, in determining whether gross monthly rentals exceed \$200.00, shall take into consideration only the income from such properties located within the City of Warren.

- H. Owners of rental property who are residents of the City of Warren are subject to tax on the net income from rentals, regardless of the location of the real property owned excepting that, if any such property is located in and subject to a municipal income tax by another taxing municipality, credit shall be claimed for tax due or paid such other taxing municipality.
- I. Owners of rental property who are residents of said City of Warren may offset net losses against net profits from all rental property located within the City of Warren and any other municipality which does not levy a similar tax. Net profits and losses from City of Warren property and/or property in a nontaxing 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 Warren that the property is located in, may offset net losses against net profits only between rental properties located in the City of Warren.
- K. Corporations owning or managing real estate are taxable only on the portion of income derived from property located in the City of Warren.
- L. Any person receiving rental income from commercial property, farm property, or a license rooming house irrespective of the rental amount limitation \$200.00 must file a return whether or not there is any tax due.

3:07 Operating Loss Carry Forward

- 1. If a net operating loss has been sustained in any taxable year such losses may not be carried forward or backward to any other year.

Article III

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

4:01 Income, Members of Armed Forces and Certain Institutions

- A. 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 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, shall also be exempt from tax.
- B. The income of religious, fraternal, charitable, scientific literacy, 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.

4:02 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 Workers Compensation benefits.

4:03 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 matter of compensation for services rendered, pensions, disability benefits (not under a wage continuation plan), and retirement benefits 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. Disability benefits include the proceeds of health and accident insurance and similar benefits. Benefits under a wage continuation plan are not exempt. Death benefits, pension, retirement benefits 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 although not subject to withholding. Payments for longevity are not exempt.
- B. Gifts not in connection with services rendered or work performed, are exempt.
 - 1. Religious Offerings. These items, which are goodwill offerings made by individuals for the performance of religious ceremonies such as baptisms, weddings, funeral, etc. received by clergymen are considered unearned income and are not taxable.
 - 2. Cash or property received under a will or under Statute of Descent and Distribution is not taxable.

4:04 Receipts of Certain Organizations and Associations

Receipts from seasonal or casual 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.

4:05 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.

4:06 Natural Persons Under Age 16

Personal earnings of any natural person 16 years of age are exempt from the tax imposed by the ordinance.

4:07 Personal Injuries 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.

4:08 Interest, Dividends and Other Revenue from Intangible Property

Interest, dividends and other revenue from intangible property are exempt from the tax imposed by the ordinance.

4:09 Involuntary Conversation and Other Exemptions

Gains from involuntary conversation, cancellation of indebtedness, interest on Federal obligations, items of income already taxed by the State of Ohio from which the City of Warren 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) are exempted from the tax imposed by the ordinance.

4:10 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 States or their political subdivisions to impose net income tax on income derived from interstate commerce, are exempt from the tax imposed by the ordinance.

4:11 Taxation Prohibited By 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.

4:12 General

No person shall be exempted 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.

4:13 Unreimbursed Employee Expenses

Expenses deductible on federal form 2106, subject to the 2% limitation as well as the audit and approval of the Tax Administrator.

4:14 Parsonage Allowance

A parsonage allowance, an amount paid to a “minister of the gospel” in the form of a rental allowance as part of a minister’s compensation, or the rental value of a home furnished to the minister as compensation. This exemption takes effect January 1, 2003.

5:01 Dates and Requirements for Filing

- A. On or before April 15th, of the year following the effective date of the ordinance and on or before April 15th of each year thereafter, every person subject to the rate and income taxable provisions of the ordinance shall, except as herein 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 be due.
- B. If the return is made for a fiscal year or any period less than a year, said return shall be made within three and one-half (3-1/2) months from the end of each fiscal year or other period.
- C. Every person subject to the provisions of the rate and income taxable section of the ordinance shall, except as herein 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 use of real and tangible 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.
- D. A taxpayer shall, whether or not a tax be due thereon and whether or not taxes have been deducted or withheld from a taxpayer will make and file a return on or before April 15, of the year following the effective date of this ordinance and on or before April 15 of each year thereafter.
- E. Only an employee who had incurred business expenses as permitted by Federal regulation (i.e. Form 2106) from gross wages, salaries, or commissions, must file a return along with the Federal Form 2106 as provided by the Administrator, in order to claim such deductions even though all or part of such wages, salaries, or commissions are subject to withholding.

- F. 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 losses cannot be offset against the wage or non-business income, losses are to be treated in accordance with Article 3:07 of these regulations.
- G. Except as otherwise provided, the tax is on the unincorporated business, partnership, or association as an entity, whether resident or non-resident, and a return is required disclosing the net profits allocable to the City of Warren and the tax paid thereon. However, any owner, or partner of an unincorporated business is required to file a return and the tax thereon to his community of resident on such income allocable outside of the City of Warren and not previously subject to tax in accordance with Articles 2:04 and 2:06 hereof.
- H. Trustees of trust and executors and administrators of estates having taxable income are required to file and pay the tax thereon.

5:02 Information required and Reconciliation with Federal Returns

- A. 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.
- B. Where figures of total income, total deductions, and net profits are included as shown by a Federal return then any items of income as are not subject to municipal tax and unallowable expenses shall be eliminated in determining net income subject to municipal tax. The fact that any taxpayer is not required to file a Federal tax return does not relieve him from filing a municipal income tax return provided he had income as defined in the rate and income taxable provisions of the ordinance.
- C. If a change in federal income tax liability, as finally determined by the Federal Internal Revenue Service or by a judicial decision, results in an additional amount of tax payable to the City of Warren, a report of such change shall be filed by the taxpayer within three (3) months from the final determination of the Federal tax liability.
- D. If a change in Federal income tax liability results in a reduction of taxes owed and paid to the City of Warren, a claim for refund shall be filed with the Administrator.
- E.

5:03 Extensions

Upon written request of the taxpayer made on or before the date for filing the return, and for good cause shown, 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. Whenever he deems such necessary, the Administrator may require a tentative return accompanied by payment of the estimated tax. No penalty will be assessed in those cases in which the return is filed and the final tax paid within the period as extended provided all other filing and payment requirements of the ordinance have been met. Schedules and statements needed to support tax returns are to be filed within the time limits set forth for filling the tax returns.

5:04 Consolidated Returns

- A. Consolidated returns may be filed by a group of corporations who are affiliated through stock ownership. For a subsidiary corporation to be included in a consolidated return, 89% 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.
- B. Once a consolidated return has been filed for any taxable year the consolidated group must continue to file consolidated returns in subsequent years unless:
 - 1. Permission in writing is granted by the Administrator to file separate returns; or
 - 2. 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

3. 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.
- C. 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 may subsidiaries which were members of the group for the entire year, plus the income of each subsidiary which becomes a member of the group during the year for the period beginning with the date it became a member of the affiliated group. For the period prior to the time any subsidiary became a member of the group, separate returns must be filed for that subsidiary. When a subsidiary ceases to be a member of the affiliated group, the consolidated return must include the income of such subsidiary for the period during which it was a member of the group; but for the period after it ceases to be a member, separate returns must be filed. If a corporation has been a member of the affiliated group for less than one month of the taxable year of the group, it may be considered as not being part of the group.

Similarly, a subsidiary may be considered as being a member of the affiliated group during the entire taxable year of the group if the period during which it was not a member of the group does not exceed one month.

If a subsidiary is a member of the consolidated group for only part of a taxable year, the income considered to be earned in such fractional part of the year shall be that portion of the net income for the entire year which the actual number of calendar days it was a member of the group bears to the total number of days in the taxable year, except when actual figures are available.

- D. 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 fraction (Step 1 of the formula) shall be determined on the basis of the average net book value of the property during the period such corporation was member however, shall be computed at eight (*) times the annual rent. The gross receipts and wage fractions shall be based on the actual figures.
- E. 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.
- F. 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.
- G. 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.

5:05 Allocation of Net Profits – By Administrator

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 Warren 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 Warren.

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

5:06 Amended Returns

- A. 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 the ordinance, such amended return shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.
- B. Within three (3) months from the final determination of any Federal tax liability affecting the taxpayer's municipal tax liability, such taxpayer shall make and file an amended municipal income tax return showing income subject to the municipal income 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.

6:01 Payment With Return

- A. The payment due at the time of filing the return shall be the amount of the tax:
 - 1. Withheld by the employer from employee wages pursuant to the provisions of the ordinance;
 - 2. The amount due on a Declaration of Estimated Income Tax after taking into consideration any overpayment of previous years' tax which has not been otherwise applied, less amounts paid previously on said declaration.
- B. Except as otherwise provided, should the return indicate an overpayment of the tax to which the City of Warren is entitled under the provisions of the ordinance, such overpayment may be applied against subsequent liability or, at the election of the taxpayer and so indicated on the return, such overpayment (or portion thereof) shall be refunded. Provided, however, that no additional taxes or refunds of less than Five Dollars (\$5.00) shall be collected or refunded. Provided, further, that an application for refund arising from an overpayment as a result of a reciprocity credit should be made with the taxing municipality to which the tax has been remitted.
- C. Whenever the ordinance or these regulations require filing a return or payment of tax to the Administrator. Or to the City of Warren, such returns and/or payments for the City of Warren shall be made directly to City of Warren, Income Tax Division, 391 Mahoning Avenue, NW, Warren, Ohio 44483.

6:02 Withholding-Collection At Source

- A. Each employer within or doing business within the City of Warren who employs one or more persons on a salary, wage, commission, or other compensation basis shall deduct at the time of the payment of such salary, wage, commission or other compensation, the tax of two percent (2.0%) of the gross salaries, wages, commissions or other compensation due by the said employer to said employee, and shall, on or before the last day of the month following the close of each calendar quarter, make a return and pay to the City Treasurer the amount of taxes so deducted; provided, that an employer who withholds Two Hundred Fifty Dollars (\$250.00) or more in any month, pursuant to this section shall be required to remit such amount with the forms so prescribed, on or before the thirtieth (30th) day following the close of the calendar month within which the tax was withheld. Said return shall be on a form or forms prescribed by or acceptable to the City Treasurer and shall be subject to the rules and regulations prescribed by the City Treasurer.
 - 1. The gross amount of all salaries, wages, bonuses, incentive payments, commissions or other form of compensation paid to employees who are residents of the City of Warren regardless of the place where the services are rendered.
- B. All employers within or doing business within taxing communities are required to make the collections and deductions in this Article specified, regardless of the fact that the services on account of which any particular deduction is required as to residents of the taxing community were performed at a place of business of any such employer situated outside said taxing community.

Employers who do not maintain a permanent office or place of business in the City of Warren, but who are subject to tax on net profits under the ordinance, are considered to be employees within the City of Warren subject to the requirement of withholding.

- C. The mere fact that the tax is not withheld will not relieve the employee of the responsibility of filing a return and paying the tax on the compensation received.
- D. Commissions and fees paid to professional men, brokers, and others who are independent contractors and not employees of the payer, are not subject to withholding or collection of the tax at the source. Such taxpayers must in all instances file returns and pay the tax pursuant of the provisions of the ordinance requiring quarterly reporting and payments.
- E. In the case of employees who are non-residents of the City of Warren, the amount to deducted is the current rate of tax on the compensation paid with respect to personal services rendered in the City of Warren.

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

- 1. 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.
 - 2. If it is impossible to apportion the earnings as provided above, because of (a) the peculiar nature of the services of the employee or (b) the unusual basis of compensation, apportionment shall be made in accordance with the facts and the tax deducted and withheld accordingly. With respect to each such employee (or group of employees similarly or identically circumstanced) the employer shall furnish the Administrator a detailed statement of facts.
 - 3. The occasional entry into the City of Warren of a non-resident employee who performs the regular duties for which he is employed almost entirely, outside such municipality, but also enters such municipality for the purpose of reporting, receiving instructions, accounting, etc., shall be charged a minimum percentage for time inside the city.
 - 4. In apportioning the earnings of an employee, an employer may accept the written reports of his employee as to any of the items set forth in 1, 2, and 3 above. However, the employer shall be responsible for any material error in allocation as to employment within the City of Warren.
 - 5. A non-resident whose place of business or employer is inside the city limits of Warren but who has occasion to work at times outside the City of Warren on business related matters may file with the City of Warren Income Tax Division for a refund of the tax withheld for those days and only those days worked outside the City of Warren. (See Section 8:02, Refunds of Taxes Erroneously Paid for refund procedures.)
 - 6. Wage continuation programs (such as sick leave) are deemed to be a direct result of employment with a resident employer and are subject to the tax. It is not considered a refundable item.
- F. 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 the commissions also).
 - G. 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 II of these regulations.
 - H. 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.

6:03 Collection At Source-Return And Payment OF Tax Withheld And Status Of Employers

- A. Every employer is deemed to be a Trustee of the City of Warren 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.
 Except as otherwise provided, every such employer required to deduct and withhold the tax at the source is liable directly to the City of Warren for the payment of such tax whether actually collected by such employer or not.
 Any tax deducted and withheld is to be considered paid to the City of Warren whether or not the employer actually remits the tax to the City of Warren, for purposes of determining employee payments or credits.
- B. 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.
- C. On or before the 31st day of January, following any calendar year in which such deductions have been made by any employer, such employer shall file with the Administrator, in the form prescribed by the Administrator, an information return for each employee from whom 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.
- D. For the convenience of employers, such information return shall be made in one of three ways at the election of each employer, as follows:
 - 1. those employers using Form W-2 furnished commercially may submit a copy of such commercial W-2 providing the copy furnished clearly shows the information required in Subsection C immediately preceding;
 - 2. 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.
- E. In addition to such information returns, and at the time the same are filed, such employer shall file with the Administrator Form R W/H 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.

6:04 Declaration Of Estimated Tax (Tax On Income Not Collected At Source)

- A. Requirement Of Filing
 - 1. A declaration of estimated tax shall be filed by every taxpayer who anticipates receiving taxable income not subject to withholding.
 - 2. 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, or he may use the same figures used for estimating the Federal Income Tax adjusted to exclude any income or deductions not taxable or permissible under this ordinance. 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 15 of each year or within three and one-half (3-1/2) months of the date the taxpayer becomes subject to the tax for the first time.
- C. Form Of Filing
 - 1.
 - A. Such declaration of estimated tax shall be filed on a form furnished by or obtainable from the Administrator.
 - 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 date. Such amendment may be made on the regular declaration form or on quarterly billing forms.

D. Dates Of Payment

1. Such declaration of estimated tax to be paid the City by individuals shall be accompanied by a payment of:

- A. Not more than twenty-two and one-half percent (22 ½ %) of the taxpayer's estimated tax liability for the current year and shall be remitted on or before April 15th.
- B. Not more than forty-five percent (45%) of the taxpayer's estimated tax liability for the current year and shall be remitted on or before July 31st.
- C. Not more than sixty-seven and one-half percent (67 ½ %) of the taxpayer's estimated tax liability for the current year and shall be remitted on or before October 31st.
- D. Not more than ninety percent (90%) of the taxpayer's estimated tax liability for the current year and shall be remitted on or before January 31st.

For non-individual taxpayers, such declaration of estimated tax to be paid the City shall be accompanied by a payment of:

- A. Not more than twenty-two and one-half percent (22 ½ %) of the taxpayer's estimated tax liability for the current year and shall be remitted on or before April 15th.
- B. Not more than forty-five percent (45%) of the taxpayer's estimated tax liability for the current year and shall be remitted on or before June 15th.
- C. Not more than sixty-seven and one-half percent (67 ½ %) of the taxpayer's estimated tax liability for the current year and shall be remitted on or before September 15th.
- D. Not more than ninety percent (90%) of the taxpayer's estimated tax liability for the current year and shall be remitted on or before January 15th.

1. The estimated tax may be paid in full with the first declaration of estimated tax in each tax year or in equal installments on or before the 15th day of the fourth, sixth, ninth and twelfth months 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 the event an amended declaration of estimated tax has been filed, the unpaid balance shown due thereon shall be paid in equal installments over the remaining payment dates.

E. Final Returns Required

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.

7:01 Interest

A. All taxes imposed and monies withheld by employers under the provisions of this ordinance and remaining unpaid after they have become due shall bear interest in addition to the amount of the unpaid tax or withholdings, at the rate of six percent (18%) per annum.

7:02 Penalties

A. In addition to interest as provided in Paragraph A hereof, penalties for non-payment of taxes and monies required to be withheld by employers under the provisions of this ordinance are hereby imposed as follows:

1. In the case of taxpayers upon whom such taxes are imposed, one percent (1%) of the amount of the unpaid tax for each month or fraction thereof if paid during the first three (3) months after said taxes become due, five percent (5%) of the amount of the unpaid tax if paid during the next three (3) months, and ten percent (10%) of the

amount of the unpaid tax if paid later than six (6) months after the same have become due; provided, that penalty shall not be assessed on an additional tax assessment made by the City Treasurer when a return has been filed in good faith and the tax paid thereon within the time prescribed herein; and provided further, that neither penalty nor interest shall be assessed on any additional tax assessment resulting from a Federal audit, providing an amended return is filed and the additional tax is paid within three (3) months after the final determination of the Federal tax liability.

2. In the case of employers required to withhold taxes from employees under the provisions of this ordinance, five percent (5%) of the unpaid withholding if paid during the first (1st) month after the same becomes due, ten percent (10%) of the unpaid withholding if paid during the second (2nd) or third (3rd) months after the same becomes due and fifteen percent (15%) of the unpaid withholding if paid more than three (3) months after the same becomes due.
- B. Upon recommendation of the City Treasurer, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the City Treasurer to recommend abatement of penalty and interest, the Board of Review may nevertheless abate penalty or interest, or both.
 - C. The Tax Administrator may abate penalty and interest, or both, for good cause shown, but in no event shall the abatement of the penalty and interest exceed one thousand dollars (\$1,000). The Tax Administrator will have the option to forward all appeals for abatement of penalty and interest of one thousand dollars (\$1,000) or less to the Board of Review.
 - D. In addition to any other charges for interest and/or penalties which may be applicable, a charge of Twenty-Five dollars (\$25.00) 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.
 - E. A late filing fee of \$30.00 shall be applied for all returns filed beyond the due date.
 - F. All partial payments shall be applied to oldest tax years first with payments applied in the following order: (1) Penalties & Interest (2) Tax

7:03 Exceptions

- A. 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.
- B. 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.
- C. A taxpayer or employer shall have thirty (30) days after receipt of notice of any proposed imposition of interest and penalties within which to file a written protest or explanation with the Administrator.
If no protest or explanation is filed within the prescribed time, the proposed imposition of interest and penalties shall become and be the final assessment. Upon filing of a written protest or explanation, the Administrator shall determine the assessment which may or may not be the same as the proposed assessment.

7:04 Violations-Penalties

- A. Any taxpayer or person who shall:
 1. Fail, neglect, or refuse to make any return or declaration requires 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 employees or remit such withholding to the City Treasurer; or
5. Refuse to permit the City Treasurer or any duly authorized agent or employee to examine his books, records, papers and Federal Income tax returns relating to the income or net profits of a taxpayer; or
6. Fail to appear before the City Treasurer and to produce his books, records, papers or Federal Income Tax returns relating to the income or net profits of a taxpayer upon order of subpoena of the City Treasurer; or
7. Refuse to disclose to the City Treasurer 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 City Treasurer authorized hereby; or
9. Give to an employer false information as to his true name, correct social security number and residence address, or fail to promptly notify an employer of any change in residence address and date thereof; or
10. Fail to use ordinary diligence in maintaining proper records of employees' residence address, total wages paid and City of Warren tax withheld, or to knowingly give the City Treasurer false information; or
11. Attempt to do any thing whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this ordinance.

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

- B. All prosecutions under this Section must be commenced within five (5) years from the time of the offense complained of, except in the case of failure to file a return, or in the case of filing a false or fraudulent return, in which event the limitation of time within which prosecution must be commenced shall be ten (10) years from the dated the return was due or the date the false or fraudulent return was files.
- C. The failure of any employer or taxpayer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, return or declaration, from filing such form, or from paying the tax.

8:01 Unpaid Taxes Recoverable As Other Debts

- A. All taxes imposed by the ordinance and not paid when due become, together with interest and penalties thereon, a debt due the municipality from the taxpayer and are recoverable as are other debts by civil suit. Employers who are required, under Section (Collection at Source) or the ordinance, to withhold and remit the taxes required to be withheld at the source, and who fail to withhold and/or remit, become liable to the municipality in a civil action to enforce the payment of the debt created by such failure.
- B. No additional assessment shall be made by the Administrator after three (3) years form the time the return was due or filed, whichever is later. Provided, however, there shall be no period of limitation on such additional assessment 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 omission of a substantial portion of income subject to this tax.
- C. In those cases in which the commissioner of Internal Revenue and the taxpayer have executed a waiver of the Federal Statute of Limitation, the period within which an assessment may be made by the Administrator is extended to one (1) year form the time of final determination of Federal tax Liability.

8:02 Refunds Of Taxes Erroneously Paid

- A. Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date of which such payment was made, or the return was due, or three (3) months after the determination of the Federal Income tax Liability, whichever is later.
- B. 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.
- C. Overpayments will be either refunded or credited to the taxpayers 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;
 - 1. To penalties and interest balances for any previous years.
 - 2. To taxes owed for any previous years in the order which such taxes become due.
 - 3. To his current estimated tax liability.

8:03 Limitation

- A. Where the total amount due or refund claim for a tax year is less than Five Dollars (\$5.00) such amount shall not be collected or refunded.

9:01 Duties Of The City Treasurer

- A. It shall be the duty of the City Treasurer to collect and receive the tax imposed by this ordinance, in the manner prescribed by this ordinance, from the taxpayers. It shall also be his duty to keep an accurate record for a minimum of five (5) years showing the amount received by him from each taxpayer required to file a declaration and/or make a return and the date of said receipt.
- B. Said City Treasurer or his 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 administration and enforcement of the provisions of this ordinance, including provisions for the re-examination and correction of returns and payments.
- C. In any case where a taxpayer had failed to file a return or had filed a return which does not show the proper amount of tax due, the City Treasurer shall fix the amount of tax actually due the City from the taxpayer and shall send to such taxpayer by regular mail a written statement showing the amount of tax so fixed, together with interest and penalties thereon, if any.

10:01 Investigative Powers Of The City Treasurer Penalty For Divulging Confidential Information

- A. The City Treasurer, 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 the tax for the purpose of verifying the accuracy of any return made, or, if no return was 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 upon written request by the City Treasurer, or his duly authorized agent or employee, the means, facilities, and opportunity for making such examinations and investigations as are hereby authorized.
- B. The City Treasurer or his administrator is hereby authorized to order any person to appear at the office of the City Income Tax and 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, 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 of such examination by any employer or person subject or presumed to be subject to the tax, or by any officer agent or employees of a person subject to the tax or required to withhold tax, or the failure of any person to comply with the provisions of this Section or with an order or subpoena of the City Treasurer authorized punishable as provided in Article 7 hereof.

- D. Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this ordinance shall be confidential, except for official purposes, or except in accordance with proper judicial order. Any person divulging such information in violation of this ordinance, shall, upon conviction therefore, be deemed guilty of a misdemeanor and shall be subject to a fine or penalty of not more than Five Hundred Dollars (\$500.00) or imprisoned for not more than six (6) months, or both. Each disclosure shall constitute a separate offense.

11:01 Board of Review

- A. A Board of Review, consisting of the City Solicitor, the Mayor and the City Treasurer is hereby created. All rules and regulations and amendments or change thereto, which are adopted by the City Treasurer 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. The City Solicitor shall be Chairman of the Board of Review, and the City Treasurer shall serve as Secretary thereof. A majority of the members of the Board of Review, and shall constitute a quorum. The Board of Review shall adopt its own procedural rules and shall keep a record of its transactions.
- C. All hearings by the Board may be conducted privately, and the provisions of Article 10 hereof with reference to the confidential character of such information required to be disclosed by the ordinance shall apply to such matters as may be heard before the Board of Review on appeal.
- D. Any person dissatisfied with any ruling or decision of the City Treasurer which is made under the authority conferred by this ordinance may appeal therefrom to the Board of Review within thirty (30) days from the announcement of such ruling or decision of the City Treasurer, and the Board of Review shall, on hearing, having jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof.
- E. Any person dissatisfied with any ruling or decision of the Board of Review may appeal therefrom to a court of competent jurisdiction within the thirty (30) days from the announcement of such ruling or decision.

12:01 Credit For Tax Paid To Other Political Subdivisions

- A. Every individual taxpayer who resides in the City of Warren but receives net profits, salaries, wages, commissions, or other personal service compensation for work done, or services performed or rendered outside of said City of Warren, if it be made to appear that he has paid an income tax on such net profits, salary, wages, commission, or other compensation to another municipality of political subdivision. The credit shall not exceed the tax assessed by this ordinance on such net profits, salary, wages, commission, or compensation earned in such other municipality of political subdivision where such tax is paid.
- B. This article does not apply to proprietorships, corporations, partnerships or any unincorporated business entity or activity.
- C. Rentals are considered a business activity and are not subject to the reciprocity provisions of the taxpayer relief and reciprocity provisions of the Income Tax Ordinance.