

RESOLUTION R-2017-23

A RESOLUTION AUTHORIZING A CONTRACT WITH THE REGIONAL COUNCIL OF GOVERNMENTS FOR THE PURPOSE OF ADMINISTRATION AND COLLECTION OF THE MUNICIPAL INCOME TAX FOR THE VILLAGE OF WINDHAM.

WHEREAS, a Regional Council of Governments was created pursuant to Chapter 167 of the Ohio Revised Code to foster cooperation between the municipalities; and

WHEREAS, the Regional Council of Governments was primarily established to facilitate a central collection facility (now known as the Regional Income Tax Agency, hereinafter RITA) for the purpose of administering the income tax laws of the various participating member communities.

WHEREAS, the Regional Council of Governments has established a standard contract through which it provides administration and collection of income tax for all of its member communities, which agreement is identical for all the participating communities and which cannot be changed without the agreement of all the existing member communities; and

WHEREAS, the current agreement executed by all the participating communities contains a provision for new participants to pay a fee which will be used to offset the costs associated with starting the RITA, but which fee is not currently collected because the startup costs were paid in full many years ago; and

WHEREAS, the Regional Council of Governments has determined it is not practical or feasible to amend the current agreement to remove the existing contribution fee requirement because to do so would require the formal consent to the amendment from the approximately 228 existing members of the Council of Governments; and

WHEREAS, Chief Legal Counsel for the RITA, Amy L. Arrighi, has represented that the Regional Income Tax Agency has not collected the startup cost fee set forth under paragraph VI.B. of the attached agreement for over two decades and that the RITA has no present plan to begin to impose the fee now in spite of the contractual right to do so.

NOW THEREFORE BE IT RESOLVED by the Council of the Village of Windham, Portage County, Ohio, a majority or more of its members thereto concurring that:

SECTION 1: The Mayor and the Fiscal Officer are hereby authorized and directed to execute, on behalf of the Village of Windham a contract with the Regional Council of Governments for the administration and collection of the Village of Windham's income tax effective in July 2018, which agreement shall be in substantial conformity with the exhibit attached hereto and marked for identification as Exhibit "A" and as amended by Resolution #2008-5 of Board of Trustees of the RITA which is attached hereto and marked for identification as Exhibit "B".

SECTION 2: The Council hereby acknowledges, accepts, and recognizes the application of the Regional Income Tax Agency Income Tax Rules & Regulations enacted by RITA effective January 6, 2016, which is attached hereto and marked for identification as Exhibit "C", to the interpretation and administration of the Village of Windham Income Tax Code, which acknowledgement, acceptance and recognition is with the express understanding that in the event of a conflict between the RITA Rules & Regulations and the Village of Windham Income Tax Code, the provisions of the Windham Income Tax Code shall supersede.

SECTION 3: The Fiscal Officer of the Village of Windham is hereby appointed and approved as the representative to the Council of Governments.

SECTION 4: It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council and that the deliberations of the Council and any of its committees that resulted in such formal action were in meetings open to the public sale in compliance with all legal requirements

including Section 121.22 of the Revised Code of the State of Ohio.

Passed on First Reading: December 19, 2017

Vote of Council: Ayes: 6
 Nays: 0

Mayor Deborah Blewitt

ATTEST:

Cheree Taylor, Fiscal Officer

Approved as to Form:

Thomas Reitz, Village Solicitor

**AGREEMENT FOR PARTICIPATION IN
A REGIONAL COUNCIL OF GOVERNMENTS**

This Agreement is made and entered into by and between certain municipal corporations in Cuyahoga County, Ohio, and other Ohio counties, who have become parties to this Agreement by causing either this Agreement or an identical copy of it to be signed by an officer duly authorized by the legislative authority of such municipal corporation.

WITNESSETH

The parties to this Agreement, wishing to participate in a Regional Council of Governments pursuant to Chapter 167 of the Ohio Revised Code, consisting of the municipal corporations who are parties to this Agreement, agree as follows:

I. NAME

The name of the Regional Council is "Regional Council of Governments."

II. PURPOSE

The purpose of the Council established is to foster cooperation between municipalities through sharing of facilities for their common benefit. This includes the establishment of a central collection facility for the purpose of administering the income tax laws of the various municipal corporations who are parties hereto and for the purpose of collecting income taxes on behalf of each such municipal corporation, doing all things allowed by law to accomplish such purpose.

III. ADMINISTRATIVE AUTHORITY

The Council is established and administered in the following manner:

A. Each municipal corporation which is a party to this Agreement has one (1) representative to a Council of Governments, who shall be appointed by the Chief Executive with the approval of City Council. Each municipal corporation shall similarly designate an alternate who may act in place of the representative in his absence.

B. Each member of the Council shall be entitled to one (1) vote on each item under consideration. Voting shall be done by members or alternates personally present and no proxy or absentia voting shall be allowed.

C. The Council shall elect a President, Secretary and Treasurer and such other officers as the Council may desire. All officers shall hold office for a term of one (1) year or until a successor is elected and qualified. Officers shall serve without compensation. The Council shall have the authority to adopt its own rules and by-laws to govern its proceedings.

IV. MUNICIPAL TAX COLLECTION AGENCY

The Council has established a "Municipal Tax Collection Agency" for the collection of municipal income tax revenues on behalf of the member municipalities.

A. The Agency hereby established shall be administered by a Board of Trustees composed of nine (9) persons, at least six (6) of whom shall be officers or employees of participating municipalities. Effective July 1, 1973, these nine (9) persons shall be divided into three groups of three persons each who shall serve overlapping terms. Three members shall be elected for a term of one (1) year, three members elected for a term of two (2) years, and three members elected for a term of three (3) years, beginning July 1, 1973. Thereafter as the terms of each group expire, three Trustees shall be elected for succeeding terms of three (3) years each. A majority of the Trustees shall constitute a quorum and affirmative action may be taken only by a majority of all the members elected to the Board of Trustees. The Trustees shall select annually one of its members to serve as Chairman, one to serve as Vice-Chairman, one to serve as Secretary, and one to serve as Treasurer. Trustees shall serve without compensation.

The Board shall establish its own by-laws which shall include the following:

1. Provision for regular and special meetings.
2. Provision for minutes of all Board meetings to be mailed to all Council representatives and to the Advisory Committee.

B. The members of the Board of Trustees shall be elected in the following manner. Each Municipal member of the Council of Governments may nominate an individual to serve on the Board. Such individual need not necessarily be a representative to the Council or an employee of the municipality which nominates him. The nominees will then be voted on by the Council with each representative having one vote for each vacancy on the Board. The number of nominees receiving the highest votes corresponding to the number of vacancies on the Board shall be deemed to have been elected to the Board by the Council, provided, however, that they receive at least thirty percent (30%) of the votes of those present and voting and subject to the provisions of Paragraph A herein above. If any one or more of the members so-elected does not receive thirty percent (30%), this election shall be void and a run-off election shall be held.

C. Any Trustee may be removed from office by the affirmative vote of two-thirds (2/3) of all the members of the Council at any regular or special meeting. In the event of the removal or resignation of any Trustee from office, the Council shall proceed immediately to elect his successor for the balance of his term.

D. The Board of Trustees shall be authorized to administer and enforce the income tax laws of each of the participating municipal corporations, party to this agreement, as its agent as set forth in the various ordinances. Each municipal corporation, however, retains its right to administer and enforce its own income tax laws coincidentally with the Board.

E. Said Board shall employ an Administrator and such assistants as it deems necessary to fulfill these obligations and the Board may delegate such of its duties, responsibilities and authority as it deems advisable to the Administrator. In addition to the duties and responsibilities required by the various Ordinances, the Board of Trustees, through its Administrator, shall be responsible for, but not limited to the following functions as hereinafter defined:

1. Compiling and furnishing taxpayer lists, which shall be revised, corrected, and re-issued annually.
2. Tax Forms shall be designed, provided, distributed and processed.
3. Billing of taxpayers, except accounts which are delinquent for a period of more than one (1) year shall also be forwarded to the participating government, which has jurisdiction of the subject matter for further action. Upon a request from such participating government, any extraordinary costs incurred by it in collecting delinquent accounts may be charged against the distribution of each participating government which benefits from said collection.
4. Examining and auditing income tax returns and records.
5. Notifying taxpayers of payments due and delinquencies.
6. Disbursing income tax collection to the various participants, as hereinafter provided.
7. Assembling a data processing bank of tax information and tax records. In this connection, the Board of Trustees is authorized to acquire the necessary equipment, by lease or purchase, and to engage the necessary personnel to assemble and maintain this data, and to charge the costs thereof in accordance with sound accounting principles and practices. Said costs shall be prorated to the participating governments in the manner hereinafter set forth in the allocation of costs. The Board of Trustees may also prorate to all the participants over a period of years the costs of major expenditures.

V. RESPONSIBILITIES OF THE PARTICIPANTS

A. Each of the participants in the Regional Council agrees to cooperate insofar as it is practicable to do so with the Board of Trustees or its employees in the following matters:

1. The adoption of compatible income tax provisions and rules and regulations for collection.
2. The granting of full faith and credit to the provisions of the other participants' ordinances and the implementation of such provisions where possible.
3. Furnishing of information or assistance which may be necessary to the successful operation of the Municipal Tax Collection Agency, including the requiring of wage withholding by employers within its jurisdiction for employees living within the jurisdiction of some other participating community.
4. The interchange of tax information and records necessary to the allocation of costs of the Agency or enforcement of its rules and regulations.
5. Sponsoring legal action necessary and desirable for the enforcement of the individual tax ordinances, including legal action necessitated due to audit procedures.

VI. ALLOCATION OF COSTS

A. Each participant to this Agreement agrees to share the costs of establishing this Regional Council of Governments and the Municipal Tax Collection Agency by contributing to the Agency that amount of money which bears the same proportion to the cost of such establishment as the 1970 Income Tax Revenues of the participating community bears to the 1970 Income Tax Revenues of all participating communities. At the initial meeting of the Council of municipal representatives, the Council shall determine the estimated cost of such establishment and each participating municipality agrees to forthwith contribute its share. In the event that such estimate is inadequate, each participating community agrees to take further action to supplement its contribution. Any funds not required shall be returned to the participating community or credited against its future costs of collection.

B. Any municipality which subsequently chooses to join the Council of Governments and to participate in the Municipal Tax Collection Agency shall be required to pay its proportionate share of the costs of establishment computed on the same basis used to compute the shares paid by the original members, as determined by the Board of Trustees, into the general operating fund of the Agency.

C After deduction of direct charges made to municipalities which request special information or extraordinary service, the remaining actual costs of tax collection shall be shared by the participants in the Agency according to the following formula:

1. The total cost of the Tax Collection Agency shall be multiplied by a factor consisting of the number of transactions processed for such participants as the same relates to the total number of transactions processed by said Agency.
2. Total cost of the Agency shall be multiplied by a factor consisting of the participant's percentage share of the total receipts collected by the Agency.
3. Add step 1 and step 2.
4. The sum of steps 1 and 2 (step 3) shall be divided by two and the figure so derived shall represent the participant's total cost.

This formula may be exemplified by the following equations:

Step 1.

$$\frac{\text{Total Cost} \times \text{No. of Participant's Transactions}}{\text{Total Number of Transactions}} = \$ \underline{\hspace{2cm}}$$

Step 2.

$$\frac{\text{Total Cost} \times \text{Participant's Total Receipts}}{\text{Total Agency Receipt}} = \$ \underline{\hspace{2cm}}$$

Step 3.

Add Step 1 and 2. = \$

Step 4.

Divide Step 3 by 2. Participant's Cost = \$

5. The term "Transaction" as used in the above formula includes any activity related to the processing, auditing and handling of forms or communications, the same to be weighted by an experience factor.

VII. DISTRIBUTION OF MONEY

A. The Board of Trustees shall keep all monies collected hereunder in the manner provided by law in a segregated and separate bank account. They shall keep records showing the amount of all income tax monies received by them together with all increments, additions and investment interest thereto. The Board of Trustees shall as far as practicable invest all monies received by them and the interest thereby received shall apply to reduce the total cost of operation of the Agency without regard to any allocation of such interest in participating municipalities.

B. On or before the tenth business day after the end of each month, the Board of Trustees shall settle with the participants for all monies collected by said Board on the participants' behalf, so far as this money can be identified and allocated to the proper participants together with any adjustments thereof. In the event that the monies collected by the Board of Trustees cannot be identified and therefore allocated, said Board shall distribute to the participant said monies with the next immediate monthly payment, after identification and allocation can be made. The Board of Trustees shall retain five percent (5%) of any tax monies to be distributed to the participant to apply toward each participant's respective share of the cost of the operation of the Municipal Tax Collection Agency. The Board of Trustees shall have the authority to amend or adjust the withholding percentage to reflect any changes in the cost of the administration of the Agency as revealed by the annual audit. Disbursements shall be made to all participants at the same time and at the same percentage.

C. At the end of the year, if the cumulative amount withheld from each monthly distribution of any participant shall exceed such participant's share of the annual cost of the operation of the Agency such excess shall be refunded to the respective participant. However, if the cumulative amount held from each distribution for any participant shall be less than such participant's share of the annual cost of the operation of the Agency, such deficiency shall be assessed against the respective participant. The distribution of tax monies to any participant shall be adjusted to reflect any such overpayment or deficiency.

VIII. ANNUAL AUDIT

The Board of Trustees shall cause an annual audit to be made of the operations of the Municipal Tax Collection Agency by an independent Certified Public Accounting firm of their choice for the purposes of verifying the correctness of all accounting procedures employed, all distributions of funds made, allocation of all costs and all reports submitted to the participants. The expenses of such audit shall be part of costs of the administration of the Municipal Tax Collection Agency. Copies of the audit in its entirety shall be furnished to all participants.

IX. BOARD OF REVIEW DECISIONS

A. It shall be the prerogative of the Board of Review of each of the parties hereto to make rulings and to decide appeals from all questions arising in their respective jurisdictions. Copies of all said rulings and opinions shall be filed with the Board of Trustees of the Agency.

B. The parties agree to the extent practicable to consider any prior decision on file with the Board of Trustees on similar questions rendered by the Board of Review of any party. Furthermore, the Board of Trustees shall have the right to request a re-hearing before any Board of Review that renders a decision which they deem incompatible with the operation of the Municipal Tax Collection Agency.

X. ADVISORY COMMITTEE

An Advisory Committee shall be established for the purpose of consulting and advising the Board of Trustees on problems of mutual interest to the participants. Such Advisory Committee shall consist of the respective tax administrators of the participants. Said Committee shall meet at least once a month in the office of the Agency or at any such time as a majority of the members of such Committee shall designate.

XI. CANCELLATION OF THE AGREEMENT

A. Any participant may withdraw from this Agreement for the operation of a Municipal Tax Collection Agency provided, however, that any such withdrawal shall be effective only on December 31st of any given year, and shall be preceded by written notice of withdrawal delivered to the Board of Trustees by registered mail or by personal service not later than July 1, prior to the effective date of such withdrawal. In the event that any participant should repeal its income tax ordinance, the obligations of this Agreement relative to auditing and distribution of funds shall continue in effect until final settlement has been made for all monies collected for the participant, prior to the effective date of such repeal.

B. In the event of the withdrawal for any reason by any participant, such information and records which have been created shall be returned by the Board of Trustees to the respective participant or alternate agency, if so directed, within a reasonable time after settlement has been made. All other rights, titles or interests of the participant to any of the property of the Agency arising out of this Agreement or otherwise, shall be deemed to be forfeited by such withdrawing participant.

C. This Agency may be dissolved by a majority of the parties hereto and in such an event, the Board of Trustees shall liquidate all of the assets of the Agency, pay all outstanding debts and distribute the remaining funds to the participants in the proportion that they share the total cost of the Agency as provided in Article VI.

XII. ADDITIONAL MEMBERS OF THE COUNCIL

In the event any municipality files an application to become a member of this Council of Governments, agreeing to abide by all of the terms and conditions set forth in this Agreement, and such application is approved by members of the Board of Trustees at any regular or special meeting, thereafter, such municipality shall be entitled to representation in the same manner hereinbefore provided for other municipalities.

(Adopted at the Regional Council of Governments Meeting of June 21, 2006/July 18, 2006 as reported at the Regional Income Tax Agency Board of Trustees Meeting July 20, 2006. Effective immediately).

XIII. ADDITIONAL ACTIVITIES

In the event that the Regional Council of Governments shall determine at any time to undertake cooperative activities other than the collection of municipal income taxes, no municipal corporation party to this Agreement shall be required to participate in the administration or cost of such activity without its prior consent. This section may be amended only through unanimous consent of the legislative bodies of all member municipal corporations.

XIV. AMENDMENTS

Except as provided in Article XIII above, this Agreement may be amended by majority vote of all members of the Regional Council of Governments at any regular or special meeting, provided copies of such proposed amendments are mailed to all members not less than thirty (30) days prior to such meeting.

XV. SEVERABILITY

In the event any part or portion of this Agreement shall be found to be contrary to law and thereby held to be null and void, all other provisions of the Agreement shall remain in full force and effect, and shall not be otherwise affected by any such ruling, finding or decision.

XVI. FACILITIES

Pursuant to R.C. 167.04, the Regional Council of Governments adopted the following by-law and amendment.

- A. This Regional Council of Governments is authorized, by and through its governing Board, the 9-member Board of Trustees, to purchase, lease, or construct, or otherwise provide for, facilities to house the operation of the Regional Income Tax Agency as authorized by R.C. 167.05. Any such action requires the affirmative vote of not less than 2/3 of the members elected to the Board.

- B. This by-law adopted April 8, 1997 and effective immediately.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed on the date indicated by signing this Agreement or identical copies of same.

Village/City of _____

Authorized by Ordinance No. _____

Effective Date of Ordinance _____

By _____
 Name Title

By _____
 Name Title

Date _____

Effective Date of Collection

ACCEPTED

 R.C.O.G. President

Date _____

Resolution #2008-5

A Resolution Reaffirming the Practices and Policies of the Board of Trustees With Respect to Settlement With Participants and Retainer Percentage

Whereas, Section VII.B. of the Agreement to Participate in a Regional Council of Governments (hereinafter, the "RCOG Agreement") provides that on or before the tenth business day after the end of each month, the Board of Trustees shall settle with the participants for all monies collected by said Board on the participants' behalf, so far as this money can be identified and allocated to the proper participants together with any adjustments thereof; and

Whereas, the Board of Trustees currently meets its settlement obligations under Section VII.B. of the RCOG Agreement by providing two distributions to the participants on or before the tenth business day of each month, unless a participant has requested in writing to receive only one distribution per month; and

Whereas, Section VII.B. of the RCOG Agreement further provides that the Board of Trustees shall retain five percent (5%) of any tax monies to be distributed to the participants, to apply to the participants' respective costs, and grants to the Board of Trustees the authority to amend or adjust the withholding percentage to reflect any changes in the cost of the administration of the Agency; and

Whereas, effective December 17, 1998, the Board of Trustees approved and adopted Policy #ADM-5BD providing for the reduction of the retainer percentage from 5% to 3% for then current members as well as future members, subject to the authority granted to the Board under the RCOG Agreement to make further adjustments to the retainer, and excepting those members whose retainer percentage was demonstrated to be below 3% as of the effective date of Policy #ADM-5BD; and

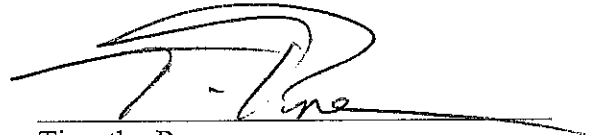
Whereas, effective December 18, 2003, the Board of Trustees approved and adopted Resolution #2003-6 establishing a procedure for increasing the retainer percentage of a member municipality at the request of any such member municipality; and

Whereas, the Board of Trustees desires to reaffirm its current practice of providing two distributions to participants on or before the tenth business day of each month and to reaffirm its current policy for withholding a retainer percentage, as set out in Policy #ADM-5BD and Resolution #2003-6, with such reaffirmations being subject to the Board of Trustees' on going authority under the applicable sections of the RCOG Agreement, and subject to the right of the Council of Governments to amend the applicable sections of the RCOG Agreement.

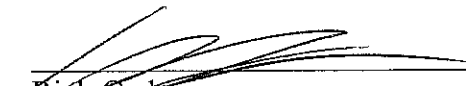
Now therefore, be it resolved by the Board of Trustees of the Regional Income Tax Agency that:

- Section 1. The Board of Trustees reaffirms, and shall continue, the practice of meeting its settlement obligations to the participants under the RCOG Agreement by providing two distributions to the participants on or before the tenth business day of each month, or at the same frequency as such participants are receiving distributions as of the date of this resolution.
- Section 2. The Board of Trustees reaffirms, and shall continue, the policies set forth in Policy #ADM-5BD, and Resolution #2003-6, setting the retainer percentage of 3% as stated therein, subject to the on going authority of the Board of Trustees under the applicable sections of the RCOG Agreement.
- Section 3. Nothing herein shall limit the authority of the Board of Trustees under the RCOG Agreement, or as the governing body of the RCOG, to amend such policies and practices in the future.
- Section 4. Nothing herein shall limit the authority of the participants to amend the applicable sections of the RCOG Agreement as provided in Section XIV of the RCOG Agreement.
- Section 5. This resolution shall take effect immediately.

Date Passed: November 20, 2008



Timothy Pope
Chairman of the Board of Trustees



Rick Carbone
Executive Director

REGIONAL INCOME TAX AGENCY

Income Tax Rules & Regulations

Effective January 1, 2016

Any place in these Rules & Regulations where the term this municipality appears, the name of any member municipality can be substituted.

The Administrator, as referred to in these Rules & Regulations, means the Regional Income Tax Agency (RITA).

<p>In the event of a conflict with these Rules & Regulations and any provision(s) of the Ordinance of <u>this municipality</u>, the Ordinance will supersede.</p>

SECTION 1

PURPOSES and ALLOCATION

The purposes for which this municipality's income tax is levied are the same as shown in Section [number] of Chapter [number].

The allocation of same is shown in Section [number] of Chapter [number].

SECTION 2

DEFINITIONS OF TERMS

(A) Any term used in these Rules and Regulations (rules and regs) that is not otherwise defined in these rules and regs has the same meaning as when used in a comparable context in laws of the United States relating to federal income taxation or in Title LVII of the ORC, unless a different meaning is clearly required. If a term used in these rules and regs that is not otherwise defined in these rules and regs is used in a comparable context in both the laws of the United States relating to federal income tax and in Title LVII of the ORC and the use is not consistent, then the use of the term in the laws of the United States relating to federal income tax shall control over the use of the term in Title LVII of the ORC.

(B) The singular shall include the plural, and the masculine shall include the feminine and the gender-neutral.

(C) As used in these rules and regs:

(1) "Adjusted federal taxable income," for a person required to file as a C corporation, or for a person that has elected to be taxed as a C corporation under (C)(24)(d) of this division, means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

(a) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.

(b) Add an amount equal to five percent (5%) of intangible income deducted under division (C)(1)(a) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in Section 1221 of the Internal Revenue Code;

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

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

(ii) Division (C)(1)(d)(i) of this section does not apply to the extent the income or gain is income or gain described in Section 1245 or 1250 of the Internal Revenue Code.

(e) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;

(f) In the case of a real estate investment trust or regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;

(g) Deduct, to the extent not otherwise deducted or excluded in computing federal taxable income, any income derived from a transfer agreement or from the enterprise transferred under that agreement under Section 4313.02 of the ORC;

(h)(i) Except as limited by divisions (C)(1)(h)(ii), (iii), and (iv) of this section, deduct any net operating loss incurred by the person in a taxable year beginning on or after January 1, 2017.

The amount of such net operating loss shall be deducted from net profit that is reduced by exempt income to the extent necessary to reduce municipal taxable income to zero, with any remaining unused portion of the net operating loss carried forward to not more than five consecutive taxable years following the taxable year in which the loss was incurred, but in no case for more years than necessary for the deduction to be fully utilized.

(ii) No person shall use the deduction allowed by division (C)(1)(h) of this section to offset

qualifying wages.

(iii)(a) For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, a person may not deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, more than fifty percent (50%) of the amount of the deduction otherwise allowed by division (C)(1)(h)(i) of this section.

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

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

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

(vi) In any return in which a net operating loss deduction is claimed, a schedule must be attached showing:

(a) Year in which net operating loss was sustained.

(b) Method of accounting and allocation used to determine the portion of net operating loss allocable to this municipality for losses incurred for tax years prior to 2017.

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

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

(i) Deduct any net profit of a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that net profit in the group's federal taxable income in accordance with division (V)(3)(b) of Section 5.

(j) Add any loss incurred by a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that loss in the group's federal taxable income in accordance with division (V)(3)(b) of Section 5.

If the taxpayer is not a C corporation, is not a disregarded entity that has made an election described in division (C)(48)(b) of this section, is not a publicly traded partnership that has made the election described in division (C)(24)(d) of this section, and is not an individual, the taxpayer shall compute adjusted federal taxable income under this section as if the taxpayer were a C corporation, except guaranteed payments and other similar amounts paid or accrued to a partner, former partner,

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

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

(2)(a) "**Assessment**" means a written finding by the Tax Administrator that a person has underpaid municipal income tax, or owes penalty and interest, or any combination of tax, penalty, or interest, to the municipal corporation that commences the person's time limitation for making an appeal to the Board of Tax Review pursuant to Section 21, and has "ASSESSMENT" written in all capital letters at the top of such finding.

(b) "Assessment" does not include a notice denying a request for refund issued under division (C)(3) of Section 9, a billing statement notifying a taxpayer of current or past-due balances owed to the municipal corporation, a Tax Administrator's request for additional information, a notification to the taxpayer of mathematical errors, or a Tax Administrator's other written correspondence to a person or taxpayer that does not meet the criteria prescribed by division (C)(2)(a) of this section.

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

(4) "**Board of Review**" means the entity created under ORC 718.11 constituted to hear appeals of municipal income tax matters.

(5) "**Calendar quarter**" means the three-month period ending on the last day of March, June, September, or December.

(6) "**Casino operator**" and "**casino facility**" have the same meanings as in Section 3772.01 of the ORC.

(7) "**Certified mail,**" "**express mail,**" "**United States mail,**" "**postal service,**" and similar terms include any delivery service authorized pursuant to Section 5703.056 of the ORC.

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

(9) "**Domicile**" means the true, fixed, and permanent home of a taxpayer and to which, whenever absent, the taxpayer intends to return. A taxpayer may have more than one residence but not more

than one domicile.

(10) "Employee" means an individual who is an employee for federal income tax purposes, and who works for income, qualifying wages, salary, commission or other type of compensation in the service of and under the control of an employer. The relationship of employer and employee exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished, but also as to the details and means by which that result is accomplished. Any person from whom an employer is required to withhold for federal income tax purposes shall prima facie be deemed an employee.

(11) "Employer" means an individual, association, corporation or other entity that is an employer for federal income tax purposes, and who or that employs one or more persons on an income, salary, qualifying wage, commission or other compensation basis, whether or not such employer is engaged in business or operated for a profit, and whether or not the entity is private or public. No rights, duties or obligations are imposed with respect to any such body not otherwise authorized by law.

A person who employs domestic help for such person's private residence shall not be considered an employer of the domestic for municipal income tax withholding purposes, and shall not be required to withhold and/or remit municipal income tax on behalf of the domestic help.

(12) "Exempt income" means all of the following:

(a) The military pay or allowances of members of the armed forces of the United States or members of their reserve components, including the national guard of any state. This exemption includes not only the military pay and allowances received by the member, but also the military pay and allowances, such as dependency allowances, received by another person by reason of the member's service.

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

(c) Social security benefits, railroad retirement benefits, unemployment compensation, pensions, retirement benefit payments, payments from annuities, and similar payments made to an employee or to the beneficiary of an employee under a retirement program or plan, disability payments received from private industry or local, state, or federal governments or from charitable, religious or educational organizations, and the proceeds of sickness, accident, or liability insurance policies. As used in division (C)(12)(c) of this section, "unemployment compensation" does not include supplemental unemployment compensation described in Section 3402(o)(2) of the Internal Revenue Code.

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

(e) Compensation paid under Section 3501.28 or 3501.36 of the ORC to a person serving as a

precinct election official to the extent that such compensation does not exceed \$1,000 for the taxable year. Such compensation in excess of \$1,000 for the taxable year may be subject to taxation by a municipal corporation. A municipal corporation shall not require the payer of such compensation to withhold any tax from that compensation.

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

(g) Alimony and child support received.

(h) Compensation for personal injuries or for damages to property from insurance proceeds or otherwise, excluding compensation paid for lost salaries or wages or compensation from punitive damages.

(i) Income of a public utility when that public utility is subject to the tax levied under Section 5727.24 or 5727.30 of the ORC. Division (C)(12)(i) of this section does not apply for purposes of Chapter 5745. of the ORC.

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

(k) Compensation or allowances excluded from federal gross income under Section 107 of the Internal Revenue Code. The exclusions apply only to an individual taxpayer that is duly ordained, commissioned, or licensed by a religious body constituting a church or church denomination, and having the authority to perform all sacraments of the church or religious body.

(l) Employee compensation that is not qualifying wages as defined in division (C)(35) of this section.

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

(n) An S corporation shareholder's share of net profits of the S corporation, other than any part of the share of net profits that represents wages as defined in Section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in Section 1402(a) of the Internal Revenue Code. This exemption does not apply if the voters of this municipality passed an S corporation ballot issue in 2003 or 2004 regarding taxation of S corporations.

(o) To the extent authorized under a resolution or ordinance adopted by this municipality before January 1, 2016, all or a portion of the income of individuals or a class of individuals under 18 years of age. The taxable portion of the year in which an individual turns 18 shall be determined

by the birth-date of the individual.

(p)(i) Except as provided in divisions (C)(12)(p)(ii), (iii), and (iv) of this section, qualifying wages described in division (C)(2) or (5) of Section 4 to the extent the qualifying wages are not subject to withholding for this municipality under either of those divisions.

(ii) The exemption provided in division (C)(12)(p)(i) of this section does not apply with respect to the municipal corporation in which the employee resided at the time the employee earned the qualifying wages.

(iii) The exemption provided in division (C)(12)(p)(i) of this section does not apply to qualifying wages that an employer elects to withhold under division (C)(4)(b) of Section 4.

(iv) The exemption provided in division (C)(12)(p)(i) of this section does not apply to qualifying wages if both of the following conditions apply:

(a) For qualifying wages described in division (C)(2) of Section 4, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employee's principal place of work is situated, or, for qualifying wages described in division (C)(5) of Section 4, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employer's fixed location is located;

(b) The employee receives a refund of the tax described in division (C)(12)(p)(iv)(a) of this section on the basis of the employee not performing services in that municipal corporation.

(q)(i) Except as provided in division (C)(12)(q)(ii) or (iii) of this section, compensation that is not qualifying wages paid to a nonresident individual for personal services performed in this municipality on not more than 20 days in a taxable year.

(ii) The exemption provided in division (C)(12)(q)(i) of this section does not apply under either of the following circumstances:

(a) The individual's base of operation is located in this municipality.

(b) The individual is a professional athlete, professional entertainer, or public figure, and the compensation is paid for the performance of services in the individual's capacity as a professional athlete, professional entertainer, or public figure. For purposes of division (C)(12)(q)(ii)(b) of this section, "professional athlete," "professional entertainer," and "public figure" have the same meanings as in Section 4 (C).

(iii) Compensation to which division (C)(12)(q) of this section applies shall be treated as earned or received at the individual's base of operation. If the individual does not have a base of operation, the compensation shall be treated as earned or received where the individual is domiciled.

(iv) For purposes of division (C)(12)(q) of this section, "base of operation" means the location where an individual owns or rents an office, storefront, or similar facility to which the individual regularly reports and at which the individual regularly performs personal services for compensation.

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

(s) Income of which the taxation is prohibited by the constitution or laws of the United States.

Any item of income that is exempt income of a pass-through entity under division (C) of this section is exempt income of each owner of the pass-through entity to the extent of that owner's distributive or proportionate share of that item of the entity's income.

(13) "Form 2106" means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code. An individual taxpayer that files this form for federal income tax purposes may also file it with this municipality, if applicable. The 2106 expenses must be apportioned to this municipality in the same manner to which the related income is apportioned.

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

(15) "Gross receipts" means the total revenue derived from sales, work done, or service rendered.

(16) "Income" means the following:

(a)(i) For residents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the resident, including the resident's distributive share of the net profit of pass-through entities owned directly or indirectly by the resident and any net profit of the resident, except as provided in (C)(24)(d) of this division.

(ii) For the purposes of division (C)(16)(a)(i) of this section:

(a) Any net operating loss of the resident incurred in the taxable year and the resident's distributive share of any net operating loss generated in the same taxable year and attributable to the resident's ownership interest in a pass-through entity shall be allowed as a deduction, for that taxable year and the following five taxable years, against any other net profit of the resident or the resident's distributive share of any net profit attributable to the resident's ownership interest in a pass-through entity until fully utilized, subject to division (C)(16)(a)(iv) of this section;

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

(iii) Division (C)(16)(a)(ii) of this section does not apply with respect to any net profit or net

operating loss attributable to an ownership interest in an S corporation unless shareholders' shares of net profits from S corporations are subject to tax in this municipality.

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

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

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

(d) Lottery, sweepstakes, gambling and sports winnings, winnings from games of chance, and prizes and awards. If the taxpayer is a professional gambler for federal income tax purposes, the taxpayer may deduct related wagering losses and expenses to the extent authorized under the Internal Revenue Code and claimed against such winnings.

(e) Intentionally left blank. This indicates that this municipality did not have a ballot issue in 2003 or 2004 regarding the taxation of S corporations.

(17) "Intangible income" means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Section 5701. of the ORC, and patents, copyrights, trademarks, tradenames, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings, gambling winnings, or other similar games of chance.

(18) "Internal Revenue Code" has the same meaning as in Section 5747.01 of the ORC.

(19) "Limited liability company" means a limited liability company formed under chapter 1705. of the ORC or under the laws of another state.

(20) "Municipal corporation" includes a joint economic development district or joint economic development zone that levies an income tax under Section 715.691, 715.70, 715.71, or 715.74 of the ORC.

(21)(a) "Municipal taxable income" means the following:

(i) For a person other than an individual, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or situated to this municipality under Section 3, and further reduced by any pre-2017 net operating loss carryforward available to the person for this municipality.

(ii)(a) For an individual who is a resident of this municipality, income reduced by exempt income to the extent otherwise included in income, then reduced as provided in division (C)(21)(b) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for this municipality.

(b) For an individual who is a nonresident of this municipality, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or situated to the municipal corporation under Section 3, then reduced as provided in division (C)(21)(b) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for this municipality.

(b) In computing the municipal taxable income of a taxpayer who is an individual, the taxpayer may subtract, as provided in division (C)(21)(a)(ii)(a) or (C)(21)(b) of this section, the amount of the individual's employee business expenses reported on the individual's form 2106 and that are specifically reportable on form 2106, and that the individual deducted for federal income tax purposes for the taxable year, subject to the limitation imposed by Section 67 of the Internal Revenue Code. For a resident taxpayer of this municipality, the taxpayer may deduct all such expenses allowed for federal income tax purposes but only to the extent the expenses do not relate to exempt income. For a nonresident of this municipality, the taxpayer may deduct such expenses only to the extent the expenses are related to the taxpayer's performance of personal services in this municipality and are not related to exempt income. Expenses shown on form 2106 are subject to review by this municipality.

(22) "Municipality" means the same as the [City/Village] of [municipality name]. If the terms are capitalized in these rules and regulations they are referring to [municipality name]. If not capitalized they refer to a municipal corporation other than [municipality name].

(23) "Net operating loss" means a loss incurred by a person in the operation of a trade or business. For a person who is not an individual, net operating loss must be calculated on an adjusted federal taxable income basis without regard to the deduction for net operating losses contained in ORC 718.01 E(8). "Net operating loss" does not include unutilized losses resulting from basis limitations, at-risk limitations, or passive activity loss limitations.

(24)(a) "Net profit" for a person other than an individual means adjusted federal taxable income.

(b)(i) "Net profit" for a person who is an individual means the individual's net profit required to be reported on schedule C, schedule E, or schedule F reduced by any net operating loss carried forward. For the purposes of division (C)(24)(b) of this section, the net operating loss carried forward shall be calculated and deducted in the same manner as provided in division (C)(1)(h) of this section.

(ii) "Net profit" for a person who is an individual also means ordinary gains and losses of the individual.

(c) For the purposes of these rules and regs, and notwithstanding division (C)(24)(a) of this section, net profit of a disregarded entity shall not be taxable as against that disregarded entity, but shall instead be included in the net profit of the owner of the disregarded entity.

(d) A publicly traded partnership (PTP) that is treated as a partnership for federal income tax purposes, and that is subject to tax on its net profits by this municipality, may elect to be treated as a C corporation for every municipality in which the PTP is subject to tax on its net profits. The election shall be made on the annual return for this municipality and for each such municipality. This municipality will treat the publicly traded partnership as a C corporation if the election is so made.

(25) "**Nonresident**" means an individual that is not a resident of this municipality.

(26) "**Ohio Business Gateway**" means the online computer network system, created under Section 125.30 of the ORC, that allows persons to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system.

(27) "**Other payer**" means any person, other than an individual's employer or the employer's agent, that pays an individual any amount included in the federal gross income of the individual. "Other payer" includes casino operators and video lottery terminal sales agents.

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

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

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

(31) "**Postal service**" means the United States postal service.

(32) "**Postmark date,**" "**date of postmark,**" and similar terms include the date recorded and marked in the manner described in division (B)(3) of Section 5703.056 of the ORC.

(33)(a) "**Pre-2017 net operating loss carryforward**" means any net operating loss incurred in a taxable year beginning before January 1, 2017, to the extent such loss was permitted, by a resolution or ordinance of this municipality that was adopted by this municipality before January 1, 2016, to be carried forward and utilized to offset income or net profit generated in this municipality in future taxable years.

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

(34) “Publicly traded partnership” means any partnership, an interest in which is regularly traded on an established securities market. A “publicly traded partnership” may have any number of partners.

(35) "Qualifying wages" means wages, as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:

(a) Deduct the following amounts:

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

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

(iii) Intentionally left blank. This indicates that nonqualified deferred compensation is not deducted *unless this municipality* has exempted nonqualified deferred compensation from taxation.

(iv) Intentionally left blank. This indicates that stock options are not deducted *unless this municipality* has exempted stock options from taxation.

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

(b) Add the following amounts:

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

(ii) Unless stock options are specifically exempted from tax by this municipality, any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option. Division (C)(35)(b)(ii) of this section applies only to those amounts constituting ordinary income.

(iii) Any amount not included in wages if the amount is an amount described in section 401(k), 403(b), or 457 of the Internal Revenue Code. Division (C)(35)(b)(iii) of this section applies only to employee contributions and employee deferrals.

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

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

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

(a) For the taxable year the amount is employee compensation that is earned outside the United States and that either is included in the taxpayer's gross income for federal income tax purposes or would have been included in the taxpayer's gross income for such purposes if the

taxpayer did not elect to exclude the income under Section 911 of the Internal Revenue Code;

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

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

(d) For any taxable year the amount has not otherwise been added to wages pursuant to either division (C)(35)(b) of this section or ORC Section 718.03, as that section existed before the effective date of H.B. 5 of the 130th General Assembly, March 23, 2015.

(36) "Related entity" means any of the following:

(a) An individual stockholder, or a member of the stockholder's family enumerated in Section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty percent (50%) of the value of the taxpayer's outstanding stock;

(b) A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, estates, trusts, or corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty percent (50%) of the value of the taxpayer's outstanding stock;

(c) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under division (C)(36)(d) of this section, provided the taxpayer owns directly, indirectly, beneficially, or constructively, at least fifty percent of the value of the corporation's outstanding stock;

(d) The attribution rules described in Section 318 of the Internal Revenue Code apply for the purpose of determining whether the ownership requirements in divisions (C)(36)(a) through (c) of this section have been met.

(37) "Related member" means a person that, with respect to the taxpayer during all or any portion of the taxable year, is either a related entity, a component member as defined in Section 1563(b) of the Internal Revenue Code, or a person to or from whom there is attribution of stock ownership in accordance with Section 1563(e) of the Internal Revenue Code except, for purposes of determining whether a person is a related member under this division, "twenty percent (20%)" shall be substituted for "five percent (5%)" wherever "five percent (5%)" appears in Section 1563(e) of the Internal Revenue Code.

(38) "Resident" means an individual who is domiciled in the municipal corporation as determined under Section 3(E).

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

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

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

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

(43) "**Single member limited liability company**" means a limited liability company that has one direct member.

(44) "**Small employer**" means any employer that had total revenue of less than \$500,000 during the preceding taxable year. For purposes of this division, "total revenue" means receipts of any type or kind, including, but not limited to, sales receipts; payments; rents; profits; gains, dividends, and other investment income; compensation; commissions; premiums; money; property; grants; contributions; donations; gifts; program service revenue; patient service revenue; premiums; fees, including premium fees and service fees; tuition payments; unrelated business revenue; reimbursements; any type of payment from a governmental unit, including grants and other allocations; and any other similar receipts reported for federal income tax purposes or under generally accepted accounting principles. "Small employer" does not include the federal government; any state government, including any state agency or instrumentality; any political subdivision; or any entity treated as a government for financial accounting and reporting purposes.

(45) "**Tax Administrator**" means the individual charged with direct responsibility for administration of an income tax levied by this municipality in accordance with these rules and regs. A "Tax Administrator" also includes the Regional Income Tax Agency.

(46) "**Tax return preparer**" means any individual described in Section 7701(a)(36) of the Internal Revenue Code and 26 C.F.R. 301.7701-15 .

(47) "**Taxable year**" means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.

(48)(a) "**Taxpayer**" means a person subject to a tax levied on income by a municipal corporation in accordance with these rules and regs. "Taxpayer" does not include a grantor trust or, except as provided in division (C)(48)(b)(i) of this section, a disregarded entity.

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

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

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

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

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

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

(ii) For purposes of division (C)(48)(b)(i)(e) of this section, a municipal corporation was the primary place of business of a limited liability company if, for the limited liability company's taxable year ending in 2003, its income tax liability was greater in that municipal corporation than in any other municipal corporation in Ohio, and that tax liability to that municipal corporation for its taxable year ending in 2003 was at least \$400,000.

(49) "Taxpayers' rights and responsibilities" means the rights provided to taxpayers in Sections 9, 12, 13, 19(B), 20, 21, and Sections 5717.011 and 5717.03 of the ORC, and the responsibilities of taxpayers to file, report, withhold, remit, and pay municipal income tax and otherwise comply with Chapter 718. of the ORC and resolutions, ordinances, and rules and regulations adopted by this municipality for the imposition and administration of a municipal income tax.

(50) "Video lottery terminal (VLT)" has the same meaning as in Section 3770.21 of the ORC.

(51) "Video lottery terminal sales agent" means a lottery sales agent licensed under Chapter 3770. of the ORC to conduct video lottery terminals on behalf of the state pursuant to Section 3770.21 of the ORC.

SECTION 3

IMPOSITION OF INCOME TAX

Individuals.

(A) For residents of this municipality, the income tax levied herein shall be on all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the resident, including the resident's distributive share of the net profit of pass-through entities owned directly or indirectly by the resident and any net profit of the resident. This is further detailed in the definition of income (Section 2 (C)(16)).

(1) Tax shall be levied on any resident of this municipality who is a member or employee of the Ohio General Assembly, including the Lieutenant Governor. The tax shall be levied on the income that is received as a result of services rendered as such member or employee and is paid from appropriated funds of this state. This tax can only be levied by the city of residence.

(2) Tax shall be levied by this municipality on the income of a judge sitting by assignment of the Chief Justice or on the income of a district court of appeals judge sitting in multiple locations within the district, received as a result of services rendered as a judge. This tax can only be levied by the municipality of residence.

(3) Tax shall be levied by this municipality on the income of the Chief Justice or a justice of the Supreme Court received as a result of services rendered as the chief justice or justice. This tax can only be levied by the municipality of residence and the City of Columbus, and is subject to this municipality's credit provisions.

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

(C)(1) For residents and nonresidents, income can be reduced to "Municipal Taxable Income" as defined in Section 2 (C)(21). Exemptions which may apply are specified in Section 2 (C)(12).

(2) Income, and other compensation, includes but is not limited to:

- (a) Tips received by waiters and others.
- (b) Bonuses.
- (c) Gifts or gratuities in connection with employment.
- (d) Compensation paid to domestic servants (see Section 4 (B)(12) for withholding requirement), casual employees and other types of employees.
- (e) Fellowships, grants or stipends paid to a graduate in the full amount, except that amount allocated in writing for tuition, books and laboratory fees shall be excluded.
- (f) Dismissal pay, severance pay, reduction-in-force pay, and other forms of termination pay.
- (g) Retirement and Other Plans – Employee contributions to retirement plans are neither excludable nor deductible by the employee. Withholding applies to the employee's full compensation unreduced by an employee's contribution to a retirement plan. The same rules apply with respect to other amounts withheld from employees and contributed to other types of plans.
- (h) Stock options given as compensation and when exercised. The tax is due to the municipality of the workplace and/or residence (i.e., if full credit is not given by the resident municipality) at the time of the purchase. The amount of taxable income is the difference between the price paid for the stock and the fair market value of the stock at the time of purchase.
- (i) Disqualifying disposition of an incentive stock option. The taxpayer is responsible for payment of the tax if, at the time of the disqualifying disposition, the municipal income tax was not withheld by the corporation with respect to whose stock the option has been issued.
- (j) Restricted stock given as compensation shall be taxed at the fair market value at the time all restrictions lapse.
- (k) Income from Pass-through Entities - initially taxed at entity level. In regard to Subchapter S Corporations, a distribution from a Subchapter S Corporation will be treated as wages if it was for services performed. If a taxpayer does not claim such compensation as wages, R.I.T.A. will treat the distribution as wages to the extent that it is a fair wage for the services performed.

(l) Royalty Income - Income earned by a taxpayer from a royalty interest in the production of an oil or gas well, whether managed, extracted or operated by the taxpayer individually or through an agent or other representative, shall be included in the computation of net profits.

(m) Deferred compensation.

(n) Profit-sharing plans.

(o) Income derived from finance and carrying charges associated with accounts receivable from customers.

(p) Federal form 1099-MISC income.

(q) Payments made to employees by an employer as vacation, personal, or holiday wages are taxable. Payments made to an employee by an employer directly under a wage continuation plan during periods of disability or sickness are also taxable. All payments made under this provision are deemed to be days spent in this municipality for purposes of taxation, and therefore are not allocable to other municipalities.

(r) Covenants not to compete and similar non-competition agreements.

Refundable credit for Nonqualified Deferred Compensation Plan.

(D)(1) As used in this division:

(a) "Nonqualified deferred compensation plan" means a compensation plan described in Section 3121(v)(2)(C) of the Internal Revenue Code.

(b) "Qualifying loss" means the amount of compensation attributable to a taxpayer's nonqualified deferred compensation plan, less the receipt of money and property attributable to distributions from the nonqualified deferred compensation plan. Full loss is sustained if no distribution of money and property is made by the nonqualified deferred compensation plan. The taxpayer sustains a qualifying loss only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to that nonqualified deferred compensation plan.

(c)(i) "Qualifying tax rate" means the applicable tax rate for the taxable year for the which the taxpayer paid income tax to this municipality with respect to any portion of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan.

(ii) If different tax rates applied for different taxable years, then the "qualifying tax rate" is a weighted average of those different tax rates. The weighted average shall be based upon the tax paid to this municipality each year with respect to the nonqualified deferred compensation plan.

(d) "Refundable credit" means the amount of this municipality income tax that was paid on the non-distributed portion, if any, of a nonqualified deferred compensation plan.

(2) If, in addition to this municipality, a taxpayer has paid tax to other municipal corporations with respect to the nonqualified deferred compensation plan, the amount of the credit that a taxpayer

may claim from each municipal corporation shall be calculated on the basis of each municipal corporation's proportionate share of the total municipal corporation income tax paid by the taxpayer to all municipal corporations with respect to the nonqualified deferred compensation plan.

(3) In no case shall the amount of the credit allowed under this section exceed the cumulative income tax that a taxpayer has paid to this municipality for all taxable years with respect to the nonqualified deferred compensation plan.

(4) The credit allowed under this division is allowed only to the extent the taxpayer's qualifying loss is attributable to:

(a) The insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan; or

(b) The employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation.

Domicile.

(E)(1)(a) An individual is presumed to be domiciled in this municipality for all or part of a taxable year if the individual was domiciled in this municipality on the last day of the immediately preceding taxable year or if the Tax Administrator reasonably concludes that the individual is domiciled in this municipality for all or part of the taxable year.

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

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

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

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

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

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

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

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

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

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

corporation where the educational institution is located;

(i) The number of contact periods the individual has with this municipality. For the purposes of this division, an individual has one "contact period" with this municipality if the individual is away overnight from the individual's abode located outside of this municipality and while away overnight from that abode spends at least some portion, however minimal, of each of two consecutive days in this municipality.

(3) Secondary factors that may be considered include the following:

(a) The location of financial institutions in which the individual or the individual's spouse have any accounts, including, but not limited to, checking, savings, certificates of deposit, or individual retirement accounts;

(b) The location of issuers of credit cards to the individual or the individual's spouse or of any other persons making installment loans to the individual or the individual's spouse;

(c) The location of institutional lenders which have made loans to, or which are guaranteed by, the individual or the individual's spouse;

(d) The location of investment facilities, brokerage firms, realtors, financial advisors, or consultants used by the individual or the individual's spouse;

(e) The location of either the insurance company that issued or the insurance agent that sold any policy of insurance to the individual or the individual's spouse, including, but not limited to, life, health, disability, automobile, or homeowner's insurance;

(f) The location of law firms, accounting firms, and similar professionals utilized by the individual or the individual's spouse for legal, tax, accounting, financial, or retirement services;

(g) The location of physicians, dentists, osteopaths, optometrists, or other health care providers, or veterinarians utilized by the individual or the individual's spouse;

(h) The location of organizations described in section 501(c) of the Internal Revenue Code to which the individual or the individual's spouse make contributions or other payments or in which they participate as a congregant, member, board member, committee member, adviser, or consultant;

(i) The location of burial plots owned by the individual or the individual's spouse;

(j) The location of business ventures or business entities in which the individual or the individual's spouse has a more than twenty-five 25 per cent ownership interest or in which the individual exercises, either individually or jointly, significant control over the affairs of the venture or entity;

(k) The recitation of residency or domicile in a will, trust, or other estate planning document;

(l) The location of the individual's friends, dependents as defined in section 152 of the Internal Revenue Code, and family members other than the individual's spouse, if the individual is not legally separated from the individual's spouse under a decree of divorce or separate maintenance as provided in section 7703(a)(2) of the Internal Revenue Code;

(m) The location of trustees, executors, guardians, or other fiduciaries named in estate planning documents of the individual or the individual's spouse;

(n) The location of all businesses at which the individual or the individual's spouse makes purchases of tangible personal property;

(o) The location where the individual married;

(p) The location or identity of recipients of political contributions made by the individual or the individual's spouse.

Businesses.

(F) This division applies to any taxpayer engaged in a business or profession in this municipality, unless the taxpayer is an individual who resides in this municipality or the taxpayer is an electric company, combined company, or telephone company that is subject to and required to file reports under Chapter 5745. of the ORC.

(1) Except as otherwise provided in division (F)(3) of this section, net profit from a business or profession conducted both within and without the boundaries of this municipality shall be considered as having a taxable situs in this municipality for purposes of municipal income taxation in the same proportion as the average ratio of the following:

(a) The average original cost of the real property and tangible personal property owned or used by the taxpayer in the business or profession in this municipality during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

As used in the preceding paragraph, tangible personal or real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight.

(b) Wages, salaries, and other compensation paid during the taxable period to individuals employed in the business or profession for services performed in this municipality to wages, salaries, and other compensation paid during the same period to individuals employed in the business or profession, wherever the individual's services are performed, excluding compensation from which taxes are not required to be withheld under Section 4 (C).

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

(2) The business allocation percentage shall be determined as follows:

(a) Step 1 - Ascertain the percentage which the average original cost of real and tangible personal property, including leasehold improvements owned or used in the business and situated within this municipality, is of the average original cost of all real and tangible personal property, including leasehold improvements owned or used in the business wherever situated, during the period covered by the return. The percentage of taxpayer's real and tangible personal property within this municipality is determined by dividing the average original cost of such property within this municipality (without deduction of any encumbrances) by the average original cost of all such property within and without this municipality. In determining such percentage, property rented by

the taxpayer, as well as real and tangible personal property owned by the taxpayer, must be considered.

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

(ii) Gross rent means the actual sum of money or other consideration payable, directly or indirectly, by the taxpayer for the use and possession of property and includes:

(a) 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.

(b) 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 this municipality is of the total wages, salaries, commissions and other compensation of all the taxpayer's employees within and without this municipality during the period covered by the return.

(i) Wages, salaries and other compensation may be computed on the cash or accrual basis. Wages, salaries, and other compensation shall be included to the extent that they represent qualifying wages.

(ii) In the case of an employee who performs services both within and without this municipality, the amount treated as compensation for services performed within this municipality 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 earned or received by him for the business attributable to his efforts within this municipality.

(b) In the case of an employee whose compensation depends on other than the volume of business transacted, the proportion of the total amount compensation received by him which is his for working time within this municipality of his total working time.

(iii) For the purpose of the computation, wages should include a reasonable amount attributable to the services of executives, officers, and owners (see Section 3 (F)(2)(b)(ii) hereof) for the amount treated as compensation for services performed within this municipality.

(iv) As used in division (F)(1)(b) of this section, "wages, salaries, and other compensation" includes only wages, salaries, or other compensation paid to an employee for services performed at any of the following locations:

(a) A location that is owned, controlled, or used by, rented to, or under the possession of

one of the following:

(i) The employer;

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

(iii) A vendor, customer, client, or patient of a person described in (F)(2)(b)(iv)(a)(ii) of this section, or a related member of such a vendor, customer, client, or patient.

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

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

(c) Step 3 - Ascertain the percentage which the gross receipts of the taxpayer derived from sales and rentals made and services performed in this municipality is of the total gross receipts wherever derived during the period covered by the return. In the application of the following sales determination factors, a carrier shall be considered the agent of the seller regardless of the FOB point or other conditions of the sale and the place at which orders are accepted or contracts legally consummated shall be immaterial. Solicitations of customers outside of this municipality by mail, telephone, or otherwise electronically from an office or place of business within this municipality shall not be considered a solicitation of sales outside this municipality. For the purposes of this division, receipts from sales and rentals made and services performed shall be situated to this municipality as follows:

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

(a) The property is shipped to or delivered within this municipality from a stock of goods located within this municipality.

(b) The property is delivered within this municipality from a location outside this municipality, provided the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within this municipality and the sales result from such solicitation or promotion.

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

(ii) Gross receipts from the sale of services shall be situated to this municipality to the extent that such services are performed in this municipality.

(iii) To the extent included in income, gross receipts from the sale of real property located in this municipality shall be situated to this municipality.

(iv) To the extent included in income, gross receipts from rents and royalties from real property located in this municipality shall be situated to this municipality.

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

(d) Step 4 - Add the percentages determined in accordance with Steps 1, 2 and 3, or such of the aforesaid percentages as may be applicable to the particular taxpayer's business, and divide the total so obtained by the number of percentages used in ascertaining said total. The result so obtained is the business 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 this municipality. A factor is excluded only when it does not exist anywhere.

(e) Step 5 - The business allocation percentage determined in Step 4 above shall be applied to the entire taxable net profits of the taxpayer wherever derived to determine the net profits allocable to this municipality.

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

(i) Separate accounting (i.e., books and records). If the Administrator approves the use of books and records as an alternative method, the following shall apply:

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

(b) If the books and records of the taxpayer are used as the basis for apportioning net profits, a statement must accompany the return explaining the manner in which such apportionment is made in sufficient detail to enable the Administrator to determine whether the net profits attributable to this municipality are apportioned with reasonable accuracy.

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

(ii) The exclusion of one or more of the factors;

(iii) The inclusion of one or more additional factors that would provide for a more fair apportionment of the income of the taxpayer to the municipal corporation;

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

(b) A taxpayer request to use an alternative apportionment method shall be in writing and shall accompany a tax return, timely filed appeal of an assessment, or timely filed amended tax return. Such written request accompanying a tax return or timely filed amended tax return must be addressed to the Business Manager and shall be attached as the first page of the tax return or timely filed amended tax return to which it applies. The taxpayer may use the requested alternative method unless the Tax Administrator denies the request in an assessment issued within the period prescribed by Section 12 (A).

(c) The Tax Administrator may require a taxpayer to use an alternative apportionment method as described in division (F)(3)(a) of this section, but only by issuing an assessment to the taxpayer within the period prescribed by Section 12 (A).

(d) Nothing in division (F)(3) of this section nullifies or otherwise affects any alternative apportionment arrangement approved by the Tax Administrator or otherwise agreed upon by both the Tax Administrator and taxpayer before January 1, 2016.

(4) The net profit received by an individual taxpayer from the rental of real estate owned directly by the individual, or by a disregarded entity owned by the individual, shall be subject to this municipality's tax only if the property generating the net profit is located in this municipality or if the individual taxpayer that receives the net profit is a resident of this municipality. This municipality shall allow such taxpayers to elect to use separate accounting for the purpose of calculating net profit situated under this division to the municipal corporation in which the property is located.

(5)(a) Commissions received by a real estate agent or broker relating to the sale, purchase, or lease of real estate shall be situated to the municipal corporation in which the real estate is located. Net profit reported by the real estate agent or broker shall be allocated to this municipality, if applicable, based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease of real estate located in this municipality to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.

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

(6) When calculating the ratios described in division (F)(1) of this section for the purposes of that

division or division (F)(2) of this section, the owner of a disregarded entity shall include in the owner's ratios the property, payroll, and gross receipts of such disregarded entity.

(7) Intentionally left blank. This indicates that stock options are not exempt from tax. If they are exempt, the following language applies:

If, in computing a taxpayer's adjusted federal taxable income, the taxpayer deducted any amount with respect to a stock option granted to an employee, and if the employee is not required to include in the employee's income any such amount or a portion thereof because it is exempted from taxation under divisions (C)(12) and (R)(1)(d) of section 718.01 of the Revised Code by a municipal corporation to which the taxpayer has apportioned a portion of its net profit, the taxpayer shall add the amount that is exempt from taxation to the taxpayer's net profit that was apportioned to that municipal corporation. In no case shall a taxpayer be required to add to its net profit that was apportioned to that municipal corporation any amount other than the amount upon which the employee would be required to pay tax were the amount related to the stock option not exempted from taxation.

This division applies solely for the purpose of making an adjustment to the amount of a taxpayer's net profit that was apportioned to a municipal corporation under this section.

SECTION 4

COLLECTIONS AT SOURCE

Withholding provisions.

(A)(1) Each employer, agent of an employer, or other payer located or doing business in this municipality shall withhold an income tax from the qualifying wages earned and/or received by each employee in this municipality. Except for qualifying wages for which withholding is not required under Section 3 or division (B)(4) or (6) of this section, the tax shall be withheld at the rate, specified in Section 3 of these rules and regs, of [insert percentage number]%. An employer, agent of an employer, or other payer shall deduct and withhold the tax from qualifying wages on the date that the employer, agent, or other payer directly, indirectly, or constructively pays the qualifying wages to, or credits the qualifying wages to the benefit of, the employee.

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

(B)(1) Except as provided in division (B)(2) of this section, an employer, agent of an employer, or other payer shall remit to the Tax Administrator of this municipality the greater of the income taxes deducted and withheld or the income taxes required to be deducted and withheld by the employer, agent, or other payer according to the following schedule:

(a) Taxes required to be deducted and withheld shall be remitted monthly to the Tax Administrator if the total taxes deducted and withheld or required to be deducted and withheld by the

employer, agent, or other payer on behalf of this municipality in the preceding calendar year exceeded \$2,399, or if the total amount of taxes deducted and withheld or required to be deducted and withheld on behalf of this municipality in any month of the preceding calendar quarter exceeded \$200.

Payment under division (B)(1)(a) of this section shall be made so that the payment is received by the Tax Administrator not later than 15 days after the last day of each month for which the tax was withheld.

(b) Any employer, agent of an employer, or other payer not required to make payments under division (B)(1)(a) of this section of taxes required to be deducted and withheld shall make quarterly payments to the Tax Administrator not later than the 15th day of the month following the end of each calendar quarter.

(c) Intentionally left blank. If, however, this municipality requires semi-monthly withholding, in accordance with this municipality's ordinance, then the "Intentionally left blank" language shall be replaced with the following:

Notwithstanding the provisions of Section (B)(1)(a) and (b) of this section, taxes required to be deducted and withheld shall be remitted semimonthly to the Tax Administrator if the total taxes deducted and withheld or required to be deducted and withheld on behalf of this municipality in the preceding calendar year exceeded \$11,999, or if in any month of the preceding calendar year exceeded \$1,000. Payment under division (B)(1)(c) of this section shall be made so that the payment is received by the Tax Administrator not later than one of the following: (i) if the taxes were deducted and withheld or required to be deducted and withheld during the first fifteen days of a month, the third banking day after the fifteenth day of that month; (ii) if the taxes were deducted and withheld or required to be deducted and withheld after the fifteenth day of a month and before the first day of the immediately following month, the third banking day after the last day of the month.

(2) If the employer, agent of an employer, or other payer is required to make payments electronically for the purpose of paying federal taxes withheld on payments to employees under Section 6302 of the Internal Revenue Code, 26 C.F.R. 31.6302-1, or any other federal statute or regulation, the payment shall be made by electronic funds transfer to the Tax Administrator of all taxes deducted and withheld on behalf of this municipality. The payment of tax by electronic funds transfer under this division does not affect an employer's, agent's, or other payer's obligation to file any return as required under this section.

(3) An employer, agent of an employer, or other payer shall make and file a return showing the amount of tax withheld by the employer, agent, or other payer from the qualifying wages of each employee and remitted to the Tax Administrator. A return filed by an employer, agent, or other payer under this division shall be accepted by the Tax Administrator and this municipality as the return required of a non-resident employee whose sole income subject to the tax under these rules and regs is the qualifying wages reported by the employee's employer, agent of an employer, or other payer.

(4) An employer, agent of an employer, or other payer is not required to withhold this municipality income tax with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of either the corporation with respect to whose stock the option has been issued or of such corporation's successor entity.

(5)(a) An employee is not relieved from liability for a tax by the failure of the employer, agent of an employer, or other payer to withhold the tax as required under these rules and regs or by the employer's, agent's, or other payer's exemption from the requirement to withhold the tax.

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

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

(7) Each employer, agent of an employer, or other payer required to withhold taxes is liable for the payment of that amount required to be withheld, whether or not such taxes have been withheld, and such amount shall be deemed to be held in trust for this municipality until such time as the withheld amount is remitted to the Tax Administrator.

(8) On or before the last day of February of each year, an employer shall file a withholding reconciliation return with the Tax Administrator listing:

(a) The names, addresses, and social security numbers of all employees from whose qualifying wages tax was withheld or should have been withheld for this municipality during the preceding calendar year;

(b) The amount of tax withheld, if any, from each such employee, the total amount of qualifying wages paid to such employee during the preceding calendar year;

(c) The name of every other municipal corporation for which tax was withheld or should have been withheld from such employee during the preceding calendar year;

(d) Any other information required for federal income tax reporting purposes on Internal Revenue Service form W-2 or its equivalent form with respect to such employee;

(e) Other information as may be required by the Tax Administrator.

(9) The officer or the employee of the employer, agent of an employer, or other payer with control or direct supervision of or charged with the responsibility for withholding the tax or filing the reports and making payments as required by this section, shall be personally liable for a failure to file a report or pay the tax due as required by this section. The dissolution of an employer, agent of an employer, or other payer does not discharge the officer's or employee's liability for a failure of the employer, agent of an employer, or other payer to file returns or pay any tax due. Further, the liquidation, bankruptcy, and reorganization such as merger, consolidation, acquisition, transfer or change in identity, form or organization does not discharge the officer's or employee's liability for a failure of the employer, agent of an employer, or other payer to file returns or pay any tax due.

(10) An employer is required to deduct and withhold this municipality income tax on tips and gratuities received by the employer's employees and constituting qualifying wages, but only to the extent that the tips and gratuities are under the employer's control. For the purposes of this division, a

tip or gratuity is under the employer's control if the tip or gratuity is paid by the customer to the employer for subsequent remittance to the employee, or if the customer pays the tip or gratuity by credit card, debit card, or other electronic means.

(11) The Tax Administrator shall consider any tax withheld by an employer at the request of an employee, when such tax is not otherwise required to be withheld by these rules and regs, to be tax required to be withheld and remitted for the purposes of this section.

(12) A person who employs domestic help for such person's private residence shall not be considered an employer of the domestic for municipal income tax withholding purposes, and shall not be required to withhold and/or remit municipal income tax on behalf of the domestic help.

(13) Overwithholding of former employees:

(a) If the overwithholding is discovered in the same month, the employer shall make the necessary adjustment directly with the employee and the amount to be reported on the Employer's Municipal Tax Withholding Statement (Form 11) as withheld shall be the corrected amount.

(b) If the overwithholding is discovered in a subsequent month of the same calendar year, the employer may make proper adjustment with the employee. In such case, the Employer's Municipal Tax Withholding Statement for the month in which the adjustment is made shall reflect the total amount actually withheld for the month and the amount of the adjustment deducted therefrom. Also, an amended Form 11 must be filed for the month in which the error occurred reflecting the adjustment.

(c) If the overwithholding is discovered in a subsequent month of the following calendar year, the employee must make and file a request for a refund. This request is to be filed on a form prescribed by and obtainable from the Tax Administrator.

(14) Overwithholding of former Employees:

(a) In the cases where an amount in excess of the tax has been withheld from an employee who is no longer employed by the employer, the Tax Administrator shall refund the amount of such excess withholding to the employer.

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

(15) Insufficient Withholding - If less than the amount of tax required to be deducted is withheld from the employee and is discovered in the same year, such deficiency shall be withheld from subsequent wages. If the employee/employer relationship has terminated, or if the underwithholding is discovered in a later year and the employee/employer relationship still exists, the employer shall notify the Administrator of such deficiency and the reason therefore, and payment shall be made by the employer in conformity with this section of these rules & regulations.

(16) All employers that provide any contractual service within this municipality, and who employ

subcontractors in conjunction with that service, shall provide this municipality the names and addresses of the subcontractors. The subcontractors shall be responsible for all income tax withholding requirements under this municipality's ordinance.

(17)(a) The Regional Income Tax Agency requires all Employers issuing 250 or more W-2's in any tax year to file W-2's on electronic media. Employers filing fewer than 250 W-2's are encouraged but are not required to remit W-2 forms electronically. All electronically submitted W-2's must conform to the Social Security Administration's (SSA) "Specifications for Filing Forms W-2 Electronically (EFW2)" guidelines which can be obtained from the social security administration internet page, www.ssa.gov/employer. RITA guidelines can be obtained from the RITA web site www.ritaohio.com. Also required to file on electronic media are employers with 250 or more 1099-MISC forms, and those employers currently filing 100 or more 1099-MISC forms electronically with SSA. Employers not required to file 1099-MISC forms electronically shall file paper copies of the 1099-MISC forms, or shall file a list of all 1099-MISC forms issued by the employer. The list shall include all information contained on each 1099-MISC form issued.

(b) Those employers using Form W-2 furnished commercially may submit a copy of such commercial W-2 providing the copy furnished to this municipality through its agent, the Regional Income Tax Agency, clearly shows the information required in Section 4 (B)(8).

(c) Those employers not using Form W-2 furnished commercially may obtain forms upon request from the Administrator.

(d) 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 shall show the employee's full name, last known address, social security number, gross amount of qualifying wages paid during the year and the amount of municipal income tax withheld for this municipality.

(e) Upon written request made to the Administrator on or before the due date set forward in Section 4 (B)(8) of the Regulations, in a format to be prescribed by the Administrator, the information included in Section 4 (B)(8) of these Regulations may be submitted electronically at www.ritaohio.com or by CD-ROM, DVDs, or on paper. USB Drives will not be accepted.

Occasional Entrant - Withholding.

(C)(1) As used in this division:

(a) "Employer" includes a person that is a related member to or of an employer.

(b) "Fixed location" means a permanent place of doing business in this state, such as an office, warehouse, storefront, or similar location owned or controlled by an employer.

(c) "Principal place of work" means the fixed location to which an employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location, "principal place of

work" means the worksite location in this state to which the employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location or worksite location, "principal place of work" means the location in this state at which the employee spends the greatest number of days in a calendar year performing services for or on behalf of the employee's employer.

If there is not a single municipal corporation in which the employee spent the "greatest number of days in a calendar year" performing services for or on behalf of the employer, but instead there are two or more municipal corporations in which the employee spent an identical number of days that is greater than the number of days the employee spent in any other municipal corporation, the employer shall allocate any of the employee's qualifying wages subject to division (C)(2)(a)(i) of this section among those two or more municipal corporations. The allocation shall be made using any fair and reasonable method, including, but not limited to, an equal allocation among such municipal corporations or an allocation based upon the time spent or sales made by the employee in each such municipal corporation. A municipal corporation to which qualifying wages are allocated under this division shall be the employee's "principal place of work" with respect to those qualifying wages for the purposes of this section.

For the purposes of this division, the location at which an employee spends a particular day shall be determined in accordance with division (C)(2)(b) of this section, except that "location" shall be substituted for "municipal corporation" wherever "municipal corporation" appears in that division.

(d) "Professional athlete" means an athlete who performs services in a professional athletic event for wages or other remuneration.

(e) "Professional entertainer" means a person who performs services in the professional performing arts for wages or other remuneration on a per-event basis.

(f) "Public figure" means a person of prominence who performs services at discrete events, such as speeches, public appearances, or similar events, for wages or other remuneration on a per-event basis.

(g) "Worksite location" means a construction site or other temporary worksite in this state at which the employer provides services for more than 20 days during the calendar year. "Worksite location" does not include the home of an employee.

(2)(a) Subject to divisions (C)(3), (5), and (6) of this section, an employer is not required to withhold this municipality income tax on qualifying wages paid to an employee for the performance of personal services in this municipality if the employee performed such services in this municipality on 20 or fewer days in a calendar year, unless one of the following conditions applies:

(i) The employee's principal place of work is located in this municipality.

(ii) The employee performed services at one or more presumed worksite locations in this municipality. For the purposes of this division, "presumed worksite location" means a construction site or other temporary worksite in this municipality at which the employer provides or provided services that can reasonably be, or would have been, expected by the employer to last more than 20 days in a calendar year. Services can "reasonably be expected by the employer to last more than 20

days" if either of the following applies at the time the services commence:

(a) The nature of the services are such that it will require more than 20 days of the services to complete the services;

(b) The agreement between the employer and its customer to perform services at a location requires the employer to perform the services at the location for more than 20 days.

(iii) The employee is a resident of this municipality and has requested that the employer withhold tax from the employee's qualifying wages as provided in Section 4.

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

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

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

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

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

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

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

(3) If the principal place of work of an employee is located in another Ohio municipal corporation that imposes an income tax, the exception from withholding requirements described in division (C)(2)(a) of this section shall apply only if, with respect to the employee's qualifying wages described in that division, the employer withholds and remits tax on such qualifying wages to that municipal corporation.

(4)(a) Except as provided in division (C)(4)(b) of this section, if, during a calendar year, the number of days an employee spends performing personal services in this municipality exceeds the 20-day threshold, the employer shall withhold and remit tax to this municipality for any subsequent

days in that calendar year on which the employer pays qualifying wages to the employee for personal services performed in this municipality.

(b) An employer required to begin withholding tax for this municipality under division (C)(4)(a) of this section may elect to withhold tax for this municipality for the first 20 days on which the employer paid qualifying wages to the employee for personal services performed in this municipality.

(5) If an employer's fixed location is this municipality and the employer qualifies as a small employer as defined in Section 2, the employer shall withhold municipal income tax on all of the employee's qualifying wages for a taxable year and remit that tax only to this municipality, regardless of the number of days which the employee worked outside the corporate boundaries of this municipality.

To determine whether an employer qualifies as a small employer for a taxable year, the employer will be required to provide the Tax Administrator with the employer's federal income tax return for the preceding taxable year.

(6) Divisions (C)(2)(a) and (4) of this section shall not apply to the extent that the Tax Administrator and an employer enter into an agreement regarding the manner in which the employer shall comply with the requirements of Section 4.

Casino/racino – withholding

For any RITA member that requires withholding tax from casinos and/or racinos, the provisions which follow shall be applicable.

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

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

(C) Amounts deducted and withheld by a casino operator for this municipality are held in trust for the benefit of this municipality.

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

during the preceding month.

(2) Annually, on or before the 31st day of January, a casino operator shall file an annual return electronically with the Tax Administrator of this municipality in which the casino facility is located, indicating the total amount deducted and withheld during the preceding calendar year. The casino operator shall remit electronically with the annual return any amount that was deducted and withheld and that was not previously remitted. If the name, address, or social security number of a person or the amount deducted and withheld with respect to that person was omitted on a monthly return for that reporting period, that information shall be indicated on the annual return.

(3) Annually, on or before the 31st day of January, a casino operator shall issue an information return to each person with respect to whom an amount has been deducted and withheld during the preceding calendar year. The information return shall show the total amount of municipal income tax deducted from the person's winnings during the preceding year. The casino operator shall provide to the Tax Administrator a copy of each information return issued under this division. The Tax Administrator may require that such copies be transmitted electronically.

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

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

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

(b) A certificate from the Tax Administrator indicating that no amounts are due.

If the successor fails to withhold purchase money, the successor is personally liable for the payment of the amounts deducted and withheld and penalties and interest thereon.

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

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

(E) Amounts deducted and withheld by a video lottery sales agent are held in trust for the benefit of this municipality.

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

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

(3) A video lottery sales agent shall maintain a record of all receipts issued under division (E) of this section and shall make those records available to the Tax Administrator upon request. Such records shall be maintained in accordance with section 5747.17 of the ORC and any rules adopted pursuant thereto.

(4) Annually, on or before the 31st day of January, each video lottery terminal sales agent shall file an annual return electronically with the Tax Administrator of this municipality in which the facility is located indicating the total amount deducted and withheld during the preceding calendar year. The video lottery sales agent shall remit electronically with the annual return any amount that was deducted and withheld and that was not previously remitted. If the name, address, or social security number of a person or the amount deducted and withheld with respect to that person was omitted on a monthly return for that reporting period, that information shall be indicated on the annual return.

(5) Annually, on or before the 31st day of January, a video lottery sales agent shall issue an information return to each person with respect to whom an amount has been deducted and withheld during the preceding calendar year. The information return shall show the total amount of municipal income tax deducted and withheld from the person's prize award by the video lottery sales agent during the preceding year. A video lottery sales agent shall provide to the Tax Administrator of this municipality a copy of each information return issued under this division. The Tax Administrator may require that such copies be transmitted electronically.

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

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

(1) A receipt from the Tax Administrator showing that the amounts deducted and withheld and

penalties and interest thereon have been paid;

(2) A certificate from the Tax Administrator indicating that no amounts are due.

If the successor fails to withhold purchase money, the successor is personally liable for the payment of the amounts deducted and withheld and penalties and interest thereon.

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

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

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

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

(I) Amounts deducted and withheld on behalf of a municipal corporation shall be allowed as a credit against payment of the tax imposed by this municipality and shall be treated as taxes paid for purposes of section 718.08 of the ORC. This division applies only to the person for whom the amount is deducted and withheld.

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

SECTION 5

ANNUAL RETURNS

(A) An annual this municipality income tax return shall be completed and filed by every individual taxpayer eighteen (18) years of age or older, and any taxpayer that is not an individual, for each taxable year for which the taxpayer is subject to the tax, whether or not a tax is due thereon.

(1) The Tax Administrator may accept on behalf of all nonresident individual taxpayers a return filed by an employer, agent of an employer, or other payer under Section 4 of these rules and regs when the nonresident individual taxpayer's sole income subject to the tax is the qualifying wages reported by the employer, agent of an employer, or other payer, and no additional tax is due this municipality.

(2) Retirees having no Municipal Taxable Income for this municipality income tax purposes may file with the Tax Administrator a written exemption from these filing requirements on a form prescribed by the Tax Administrator. The written exemption shall indicate the date of retirement and

the entity from which retired. The exemption shall be in effect until such time as the retiree receives Municipal Taxable Income taxable to this municipality, at which time the retiree shall be required to comply with all applicable provisions of this ordinance/chapter.

(B) If an individual is deceased, any return or notice required of that individual shall be completed and filed by that decedent's executor, administrator, or other person charged with the property of that decedent.

(C) If an individual is unable to complete and file a return or notice required by this municipality, the return or notice required of that individual shall be completed and filed by the individual's duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual.

(D) Returns or notices required of an estate or a trust shall be completed and filed by the fiduciary of the estate or trust.

(E) This municipality shall permit spouses to file a joint return. Both spouses are liable jointly and severally for payment of the tax associated with the joint return. A tax return shall be deemed a joint return whenever the facts indicate that the taxpayers intended to have the filed tax return be a joint return. Conclusive indications of such intention include when both spouses have signed the tax return, when the return reports both spouses' income, or when the return reports both spouses' income but only one signed the return.

(F)(1) Each return required to be filed under this division shall contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer. The return shall include the taxpayer's social security number or taxpayer identification number. Each return shall be verified by a declaration under penalty of perjury.

(2) The Tax Administrator shall require a taxpayer who is an individual to include, with each annual return, and amended return, copies of the following documents: all of the taxpayer's Internal Revenue Service form W-2, "Wage and Tax Statements," including all information reported on the taxpayer's federal W-2, as well as taxable wages reported or withheld for any municipal corporation; the taxpayer's Internal Revenue Service form 1040; and, with respect to an amended tax return, any other documentation necessary to support the adjustments made in the amended return. An individual taxpayer who files the annual return required by this section electronically is not required to provide paper copies of any of the foregoing to the Tax Administrator unless the Tax Administrator requests such copies after the return has been filed.

(3) The Tax Administrator may require a taxpayer that is not an individual to include, with each annual net profit return, amended net profit return, or request for refund required under this section, copies of only the following documents: the taxpayer's Internal Revenue Service form 1041, form 1065, form 1120, form 1120-REIT, form 1120F, or form 1120S, and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return.

A taxpayer that is not an individual and that files an annual net profit return electronically through the Ohio Business Gateway or in some other manner shall either mail the documents required under this division to the Tax Administrator at the time of filing or, if electronic submission is available, submit the documents electronically through the Ohio Business Gateway.

(4) After a taxpayer files a tax return, the Tax Administrator may request, and the taxpayer shall provide, any information, statements, or documents required by this municipality to determine and verify the taxpayer's municipal income tax liability. The requirements imposed under division (F) of this section apply regardless of whether the taxpayer files on a generic form or on a form prescribed by the Tax Administrator.

(G)(1)(a) Except as otherwise provided in these rules and regs, each individual income tax return required to be filed under this section shall be completed and filed as required by the Tax Administrator on or before the date prescribed for the filing of state individual income tax returns under division (G) of Section 5747.08 of the ORC. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to this municipality. No remittance is required if the net amount due is ten dollars or less.

(b) Except as otherwise provided in this municipality's ordinance, each annual net profit return required to be filed under this section by a taxpayer that is not an individual shall be completed and filed as required by the Tax Administrator on or before the fifteenth day (15th) of the fourth month following the end of the taxpayer's taxable year. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to this municipality. No remittance is required if the net amount due is ten dollars or less.

(2) Any taxpayer that has duly requested an automatic six-month extension for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of this municipality's income tax return. The extended due date of this municipality's income tax return shall be the 15th day of the tenth month after the last day of the taxable year to which the return relates. An extension of time to file under this division is not an extension of the time to pay any tax due unless the Tax Administrator grants an extension of that date.

(a) A copy of the federal extension request shall be included with the filing of this municipality's income tax return.

(b) A taxpayer that has not requested or received a six-month extension for filing the taxpayer's federal income tax return may submit a written request that the Tax Administrator grant the taxpayer a six-month extension of the date for filing the taxpayer's this municipality income tax return. If the request is received by the Tax Administrator on or before the date this municipality income tax return is due, the Tax Administrator shall grant the taxpayer's requested extension.

(3) If the state tax commissioner extends for all taxpayers the date for filing state income tax returns under division (G) of Section 5747.08 of the ORC, a taxpayer shall automatically receive an extension for the filing of this municipality's income tax return. The extended due date of this municipality's income tax return shall be the same as the extended due date of the state income tax return.

(4) If the Tax Administrator considers it necessary in order to ensure the payment of the tax imposed by this municipality, the Tax Administrator may require taxpayers to file returns and make payments otherwise than as provided in this division, including taxpayers not otherwise required to file annual returns.

(5) To the extent that any provision in this division (G) of this section conflicts with any provision in divisions (N), (O), (P), or (Q) of this section, the provisions in divisions (N), (O), (P), or (Q) prevail.

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

(H)(1) For taxable years beginning after 2015, this municipality shall not require a taxpayer to remit tax with respect to net profits if the net amount due is ten dollars or less.

(2) Any taxpayer not required to remit tax to this municipality for a taxable year pursuant to division (H)(1) of this section shall file with this municipality an annual net profit return under division (F)(3) of this section.

(I) The date or prescribed period or filed by which payments or other documents shall be considered as having been made timely are as follows:

(1) If a payment is required to be made by electronic funds transfer, the payment is considered to be made when the payment is credited to an account designated by the Tax Administrator for the receipt of tax payments, except that, when a payment made by electronic funds transfer is delayed due to circumstances not under the control of the taxpayer, the payment is considered to be made when the taxpayer submitted the payment. This division shall not apply to payments required to be made under division (B)(1)(a) of Section 4 or provisions for semi-monthly withholding.

(2) If any payment required to be made, and/or any report, claim, statement, or other document required to be filed, within a prescribed period or on or before a prescribed date, is delivered after that period or that date by United States mail to the Tax Administrator or other municipal official to which the payment is required to be made, and/or to which the report, claim, statement, or other document is required to be filed, the date of the postmark stamped on the cover in which the payment, report, claim, statement, or other document, is mailed shall be deemed to be the date of delivery or the date of payment. "The date of postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.

(J) Taxes withheld for this municipality by an employer, the agent of an employer, or other payer as described in Section 4 shall be allowed to the taxpayer as credits against payment of the tax imposed on the taxpayer by this municipality, unless the amounts withheld were not remitted to this municipality and the recipient colluded with the employer, agent, or other payer in connection with the failure to remit the amounts withheld.

(K)(1) Each return required by this municipality to be filed in accordance with this division shall include a box that the taxpayer may check to authorize another person, including a tax return preparer who prepared the return, to communicate with the Tax Administrator about matters pertaining to the return.

(2) The return or instructions accompanying the return shall indicate that by checking the box the taxpayer authorizes the Tax Administrator to contact the preparer or other person concerning questions that arise during the examination or other review of the return and authorizes the preparer

or other person only to provide the Tax Administrator with information that is missing from the return, to contact the Tax Administrator for information about the examination or other review of the return or the status of the taxpayer's refund or payments, and to respond to notices about mathematical errors, offsets, or return preparation that the taxpayer has received from the Tax Administrator and has shown to the preparer or other person.

(3) When income tax returns, reports, or other documents include the signature of a tax return preparer, the Tax Administrator shall accept a facsimile of such a signature in lieu of a manual signature.

(L) The Tax Administrator shall accept for filing a generic form of any income tax return, report, or document required by this municipality, provided that the generic form, once completed and filed, contains all of the information required by ordinance, resolution, or rules and regulations adopted by this municipality or the Tax Administrator, and provided that the taxpayer or tax return preparer filing the generic form otherwise complies with the provisions of these rules and regs and of this municipality's ordinance, resolution, or rules and regulations governing the filing of returns, reports, or documents.

Filing via Ohio Business Gateway.

(M)(1) Subject to the eligibility requirements of the Ohio Business Gateway, any taxpayer subject to municipal income taxation with respect to the taxpayer's net profit from a business or profession may file this municipality's income tax return, estimated municipal income tax return, or extension for filing a municipal income tax return, and may make payment of amounts shown to be due on such returns, by using the Ohio Business Gateway.

(2) Any employer, agent of an employer, or other payer may report the amount of municipal income tax withheld from qualifying wages, and may make remittance of such amounts, by using the Ohio Business Gateway.

(3) Nothing in this section affects the due dates for filing employer withholding tax returns.

(4) This municipality shall not be required to pay any fee or charge for the operation or maintenance of the Ohio Business Gateway.

(5) The use of the Ohio Business Gateway by municipal corporations, taxpayers, or other persons pursuant to this division does not affect the legal rights of this municipality or taxpayers as otherwise permitted by law. This state shall not be a party to the administration of this municipality income taxes or to an appeal of this municipality income tax matters, except as otherwise specifically provided by law.

(6)(a) The state tax commissioner shall adopt rules establishing:

(i) The format of documents to be used by taxpayers to file returns and make payments through the Ohio Business Gateway; and

(ii) The information taxpayers must submit when filing municipal income tax returns through the Ohio Business Gateway.

The state tax commissioner shall not adopt rules under this division that conflict with the requirements of section 718.05 of the ORC.

(b) The state tax commissioner shall consult with the Ohio Business Gateway steering committee before adopting the rules described in division (M)(6)(a) of this section.

(7) Nothing in this section shall be construed as limiting or removing the authority of this municipality to administer, audit, and enforce the provisions of its municipal income tax.

Extension for service in or for the armed forces.

(N) Each member of the national guard of any state and each member of a reserve component of the armed forces of the United States called to active duty pursuant to an executive order issued by the president of the United States or an act of the congress of the United States, and each civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces, may apply to the Tax Administrator of this municipality for both an extension of time for filing of the return and an extension of time for payment of taxes required by this municipality during the period of the member's or civilian's duty service, and for 180 days thereafter. The application shall be filed on or before the one hundred eightieth day after the member's or civilian's duty terminates. An applicant shall provide such evidence as the Tax Administrator considers necessary to demonstrate eligibility for the extension.

(O)(1) If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the Tax Administrator shall enter into a contract with the applicant for the payment of the tax in installments that begin on the 181st day after the applicant's active duty or service terminates. The Tax Administrator may prescribe such contract terms as the Tax Administrator considers appropriate.

(2) If the Tax Administrator determines that an applicant is qualified for an extension under this section, the applicant shall neither be required to file any return, report, or other tax document nor be required to pay any tax otherwise due this municipality before the 181st day after the applicant's active duty or service terminates.

(3) Taxes paid pursuant to a contract entered into under (O)(1) of this division are not delinquent. The Tax Administrator shall not require any payments of penalties or interest in connection with those taxes for the extension period.

(P)(1) Nothing in this division denies to any person described in this division the application of divisions (N) and (O) of this section.

(2)(a) A qualifying taxpayer who is eligible for an extension under the Internal Revenue Code shall receive both an extension of time in which to file any return, report, or other tax document and an extension of time in which to make any payment of taxes required by a municipal corporation in accordance with these rules and regs. The length of any extension granted under division (P)(2)(a) of this section shall be equal to the length of the corresponding extension that the taxpayer receives under the Internal Revenue Code. As used in this division, "qualifying taxpayer" means a member of the national guard or a member of a reserve component of the armed forces of the United States called to active duty pursuant to either an executive order issued by the president of the United States

or an act of the congress of the United States, or a civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces.

(b) Taxes whose payment is extended in accordance with division (P)(2)(a) of this section are not delinquent during the extension period. Such taxes become delinquent on the first day after the expiration of the extension period if the taxes are not paid prior to that date. The Tax Administrator shall not require any payment of penalties or interest in connection with those taxes for the extension period. The Tax Administrator shall not include any period of extension granted under division (P)(2)(a) of this section in calculating the penalty or interest due on any unpaid tax.

(Q) For each taxable year to which division (N), (O), or (P) of this section applies to a taxpayer, the provisions of divisions (O)(2) and (3) of this section, as applicable, apply to the spouse of that taxpayer if the filing status of the spouse and the taxpayer is married filing jointly for that year.

Consolidated municipal income tax return.

(R) As used in this section:

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

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

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

(4) "Incumbent local exchange carrier" has the same meaning as in Section 4927.01 of the ORC.

(5) "Local exchange telephone service" has the same meaning as in Section 5727.01 of the ORC.

(S)(1) For taxable years beginning on or after January 1, 2016, a taxpayer that is a member of an affiliated group of corporations may elect to file a consolidated municipal income tax return for a taxable year if at least one member of the affiliated group of corporations is subject to this municipality's income tax in that taxable year, and if the affiliated group of corporations filed a consolidated federal income tax return with respect to that taxable year. The election is binding for a five-year period beginning with the first taxable year of the initial election unless a change in the reporting method is required under federal law. The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing consolidated municipal income tax returns under division (S)(2) of this section or a taxpayer receives permission from the Tax Administrator. The Tax Administrator shall approve such a request when, within the Tax Administrator's sole discretion, there is good cause shown by the taxpayer.

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

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

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

(U) A taxpayer shall prepare a consolidated this municipality income tax return in the same manner as is required under the United States department of treasury regulations that prescribe procedures for the preparation of the consolidated federal income tax return required to be filed by the common parent of the affiliated group of which the taxpayer is a member.

(V)(1) Except as otherwise provided in divisions (V)(2), (3), and (4) of this section, corporations that file a consolidated municipal income tax return shall compute adjusted federal taxable income, as defined in Section 2, by substituting "consolidated federal taxable income" for "federal taxable income" wherever "federal taxable income" appears in that division and by substituting "an affiliated group of corporation's" for "a C corporation's" wherever "a C corporation's" appears in that division.

(2) No corporation filing a consolidated this municipality income tax return shall make any adjustment otherwise required under Section 2 (C)(1) to the extent that the item of income or deduction otherwise subject to the adjustment has been eliminated or consolidated in the computation of consolidated federal taxable income.

(3) If the net profit or loss of a pass-through entity having at least eighty percent (80%) of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, the corporation filing a consolidated this municipality income tax return shall do one of the following with respect to that pass-through entity's net profit or loss for that taxable year:

(a) Exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in divisions (R) through (Y) of Section 5, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to this municipality. If the entity's net profit or loss is so excluded, the entity shall be subject to taxation as a separate taxpayer on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable

income of the affiliated group.

(b) Include the pass-through entity's net profit or loss in the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in divisions (R) through (Y) of Section 5, include the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to this municipality. If the entity's net profit or loss is so included, the entity shall not be subject to taxation as a separate taxpayer on the basis of the entity's net profits that are included in the consolidated federal taxable income of the affiliated group.

(4) If the net profit or loss of a pass-through entity having less than eighty percent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, all of the following shall apply:

(a) The corporation filing the consolidated municipal income tax return shall exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purposes of making the computations required in divisions (R) through (Y) of Section 5, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to this municipality;

(b) The pass-through entity shall be subject to this municipality income taxation as a separate taxpayer in accordance with these rules and regs on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(W) Corporations filing a consolidated this municipality income tax return shall make the computations required under divisions (R) through (Y) of Section 5 by substituting "consolidated federal taxable income attributable to" for "net profit from" wherever "net profit from" appears in that section and by substituting "affiliated group of corporations" for "taxpayer" wherever "taxpayer" appears in that section.

(X) Each corporation filing a consolidated this municipality income tax return is jointly and severally liable for any tax, interest, penalties, fines, charges, or other amounts imposed by this municipality in accordance with these rules and regs on the corporation, an affiliated group of which the corporation is a member for any portion of the taxable year, or any one or more members of such an affiliated group.

(Y) Corporations and their affiliates that made an election or entered into an agreement with this municipality before January 1, 2016, to file a consolidated or combined tax return with this municipality may continue to file consolidated or combined tax returns in accordance with such election or agreement for taxable years beginning on and after January 1, 2016.

Application of payments; Currency and checks.

(Z)(1) If any taxpayer or other debtor owes multiple debts and makes any single, partial payment to this municipality with respect to such debts, such municipality shall apply such payment in accordance with the debtor's directions. Otherwise, this municipality shall apply partial payments to the taxpayer's oldest unpaid tax debt, then to his oldest interest debt, and then to his oldest penalty

debt.

(2) Payments must be made in U.S. currency.

(3) Checks:

(a) The term "checks" shall include personal checks, bank checks, money orders and other such instruments for the payment of money which may be handled as cash items by the Federal Reserve Banks. The payment must be drawn on a solvent savings & loan or commercial bank or other recognized financial institution located within one of the twelve U.S. Federal Reserve Districts.

(b) If any check or money order in payment of any amount receivable under these rules and regulations, other than those provided for under (Z)(3)(c) hereof, is not duly paid, there shall be charged to the person who tendered such check, upon notice and demand by the Tax Administrator, an amount equal to the processing fee(s) incurred due to the "bad check".

(c) If any check in payment of any amount receivable under rules and regulations, is drawn on a financial institution not located within one of the twelve Federal Reserve Districts and results in a processing fee charged to RITA, there shall be charged to the person who tendered such check, upon notice and demand by the Tax Administrator, in the same manner as tax, an amount equal to such processing fee.

SECTION 6

CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES.

(A)(1) The credit, if any, provided to residents for municipal tax paid elsewhere on the same income taxable under this municipality's ordinance is as stated in this municipality's income tax ordinance.

(2) The credit allowed to resident individuals for the taxable net profits (if any), on business income for taxable years 2016 and later shall be calculated as follows:

(a) Annual profits and losses from business activities owned by the taxpayer and earned in this municipality and/or outside of this municipality (collectively known as "jurisdictions") shall be netted (i.e. offset) in order to calculate the resultant amount of current year taxable net profits to this municipality.

If this municipality provides a residence tax credit and the results of (A)(2)(a) produced a positive resultant amount of current year taxable net profits, then proceed to section (A)(2)(b) to compute the allowable credit. If the result is negative, no credit is allowed under this section.

(b)(i) Add the current year business net profits from each jurisdiction that had taxable current year net profits. Do not include in this total a jurisdiction with current year business activities that resulted in a net loss for that jurisdiction.

(ii) If the taxpayer has multiple business activities in the current year within one jurisdiction, those business activity current year profits and losses must be offset to determine that jurisdiction's resultant current year taxable business net profits, if any. If the offsetting results in positive taxable income, that jurisdiction is deemed to have "taxable current year net profits". This offset calculation must be done for each jurisdiction in which the taxpayer has multiple business activities.

(iii) Each jurisdiction which has taxable current year net profits (either from a single business activity within the jurisdiction, or after application of (A)(2)(b)(ii)) shall divide that jurisdiction's taxable current year net profits by the sum of all jurisdictions' current year taxable net profits determined in (A)(2)(b)(i) and (ii) to determine that jurisdiction's percentage of the total.

(c) The resultant amount of current year taxable net profits determined in (A)(2)(a) shall be multiplied by each jurisdiction's percentage share calculated in (A)(2)(b)(iii), and that result shall be multiplied by the respective jurisdiction's tax rate, if any, to determine the amount of tax paid to that jurisdiction that may be eligible for credit from this municipality.

(d) This municipality shall then apply the credit rate (whether 100% or a reduced credit) and any credit limit, as stated in this municipality's ordinance, to the amount calculated in (A)(2)(c) for each jurisdiction to determine the amount of credit this municipality shall allow for purposes of this section.

(B) This municipality shall grant a credit against its tax on income to a resident of this municipality who works in a joint economic development zone created under Section 715.691 or a joint economic development district created under Section 715.70, 715.71, or 715.72 of the ORC to the same extent that it grants a credit against its tax on income to its residents who are employed in another municipal corporation.

(C) If the amount of tax withheld or paid to the other municipality is less than the amount of tax required to be withheld or paid to the other municipality, then for purposes of division (A) of this section, "the income, qualifying wages, commissions, net profits or other compensation" subject to tax in the other municipality shall be limited to the amount computed by dividing the tax withheld or paid to the other municipality by the tax rate for that municipality.

(D) Intentionally left blank. This indicates that this municipality does not give credit for county income taxes.

(Revised June 14, 2016)

SECTION 7

ESTIMATED TAXES

(A) As used in this section:

(1) "Estimated taxes" means the amount that the taxpayer reasonably estimates to be the

taxpayer's tax liability for this municipality's income tax for the current taxable year.

(2) "Tax liability" means the total taxes due to this municipality for the taxable year, after allowing any credit to which the taxpayer is entitled, and after applying any estimated tax payment, withholding payment, or credit from another taxable year.

(B)(1) Every taxpayer shall make a declaration of estimated taxes for the current taxable year, on the form prescribed by the Tax Administrator, if the amount payable as estimated taxes is \$200 or more. For the purposes of this section:

(a) Taxes withheld for this municipality from qualifying wages shall be considered as paid to this municipality in equal amounts on each payment date unless the taxpayer establishes the dates on which all amounts were actually withheld, in which case they shall be considered as paid on the dates on which the amounts were actually withheld.

(b) An overpayment of tax applied as a credit to a subsequent taxable year is deemed to be paid on the date of the postmark stamped on the cover in which the payment is mailed or, if the payment is made by electronic funds transfer, the date the payment is submitted. As used in this division, "date of the postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.

(c) If applicable to this municipality, taxes withheld by a casino operator or by a lottery sales agent under section 718.031 of the ORC are deemed to be paid to this municipality for which the taxes were withheld on the date the taxes are withheld from the taxpayer's winnings.

(2) Taxpayers filing joint returns shall file joint declarations of estimated taxes. A taxpayer may amend a declaration under rules prescribed by the Tax Administrator. A taxpayer having a taxable year of less than twelve months shall make a declaration under rules prescribed by the Tax Administrator.

(3) The declaration of estimated taxes shall be filed on or before the date prescribed for the filing of municipal income tax returns under division (G) of Section 5 or on or before the fifteenth (15th) day of the fourth month after the taxpayer becomes subject to tax for the first time.

(4) Taxpayers reporting on a fiscal year basis shall file a declaration on or before the fifteenth (15th) day of the fourth month after the beginning of each fiscal year or period.

(5) The original declaration or any subsequent amendment may be increased or decreased on or before any subsequent quarterly payment day as provided in this section.

(C)(1) The required portion of the tax liability for the taxable year that shall be paid through estimated taxes made payable to this municipality, including the application of tax refunds applied as credits to estimated taxes and withholding on or before the applicable payment date, shall be as follows:

(a) On or before the fifteenth (15th) day of the fourth month after the beginning of the taxable year, twenty-two and one-half percent (22.5%) of the tax liability for the taxable year;

(b) On or before the fifteenth (15th) day of the sixth month after the beginning of the taxable

year, forty-five percent (45%) of the tax liability for the taxable year;

(c) On or before the fifteenth (15th) day of the ninth month after the beginning of the taxable year, sixty-seven and one-half percent (67.5%) of the tax liability for the taxable year;

(d) On or before the fifteenth (15th) day of the twelfth month of the taxable year, ninety percent (90%) of the tax liability for the taxable year.

(2) When an amended declaration has been filed, the unpaid balance shown due on the amended declaration shall be paid in equal installments on or before the remaining payment dates.

(3) On or before the fifteenth (15th) day of the fourth month of the year following that for which the declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due shall be paid with the return in accordance with Section 5.

(D)(1) In the case of any underpayment of any portion of a tax liability, penalty and interest may be imposed pursuant to Section 18 upon the amount of underpayment for the period of underpayment, unless the underpayment is due to reasonable cause as described in division (E) of this section. The amount of the underpayment shall be determined as follows:

(a) For the first payment of estimated taxes each year, twenty-two and one-half percent (22.5%) of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

(b) For the second payment of estimated taxes each year, forty-five percent (45%) of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

(c) For the third payment of estimated taxes each year, sixty-seven and one-half percent (67.5%) of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

(d) For the fourth payment of estimated taxes each year, ninety percent (90%) of the tax liability, less the amount of taxes paid by the date prescribed for that payment.

(2) The period of the underpayment shall run from the day the estimated payment was required to be made to the date on which the payment is made. For purposes of this section, a payment of estimated taxes on or before any payment date shall be considered a payment of any previous underpayment only to the extent the payment of estimated taxes exceeds the amount of the payment presently required to be paid to avoid any penalty.

(E) An underpayment of any portion of tax liability determined under division (D) of this section shall be due to reasonable cause and the penalty imposed by this section shall not be added to the taxes for the taxable year if any of the following apply:

(1) The amount of estimated taxes that were paid equals at least ninety percent (90%) of the tax liability for the current taxable year, determined by annualizing the income received during the year up to the end of the month immediately preceding the month in which the payment is due.

(2) The amount of estimated taxes that were paid equals at least one hundred percent of the tax liability shown on the return of the taxpayer for the preceding taxable year, provided that the immediately preceding taxable year reflected a period of twelve months and the taxpayer filed a

return with this municipality under Section 5 for that year.

(3) The taxpayer is an individual who resides in this municipality but was not domiciled there on the first day of January of the calendar year that includes the first day of the taxable year.

SECTION 8

ROUNDING OF AMOUNTS

A person may round to the nearest whole dollar all amounts the person is required to enter on any return, report, voucher, or other document required under these rules and regs. Any fractional part of a dollar that equals or exceeds fifty cents shall be rounded to the next whole dollar, and any fractional part of a dollar that is less than fifty cents shall be dropped. If a person chooses to round amounts entered on a document, the person shall round all amounts entered on the document.

SECTION 9

REQUESTS FOR REFUNDS

(A) As used in this section, "withholding tax" has the same meaning as in Section 18.

(B) Upon receipt of a request for a refund, the Tax Administrator, in accordance with this section, shall refund to employers, agents of employers, other payers, or taxpayers, with respect to any income or withholding tax levied by this municipality:

(1) Overpayments of ten dollars or more;

(2) Amounts paid erroneously if the refund requested is ten dollars or more.

(C)(1) Except as otherwise provided in these rules and regs, requests for refund shall be filed with the Tax Administrator, on the form prescribed by the Tax Administrator within three years after the tax was due or paid, whichever is later. The Tax Administrator may require the requestor to file with the request any documentation that substantiates the requestor's claim for a refund.

(2) On filing of the refund request, the Tax Administrator shall determine the amount of refund due and certify such amount for payment. Except as provided in division (C)(3) of this section, the Tax Administrator shall issue an assessment to any taxpayer whose request for refund is fully or partially denied. The assessment shall state the amount of the refund that was denied, the reasons for the denial, and instructions for appealing the assessment.

(3) If the Tax Administrator denies in whole or in part a refund request included within the taxpayer's originally filed annual income tax return, or RITA form 10-A, or a similar request for refund, the Tax Administrator shall notify the taxpayer, in writing, of the amount of the refund that was denied, the reasons for the denial, and instructions for requesting an assessment that may be appealed under Section 21.

(D) A request for a refund that is received after the last day for filing specified in division (C) of this section shall be considered to have been filed in a timely manner if any of the following situations exist:

(1) The request is delivered by the postal service, and the earliest postal service postmark on the cover in which the request is enclosed is not later than the last day for filing the request.

(2) The request is delivered by the postal service, the only postmark on the cover in which the request is enclosed was affixed by a private postal meter, the date of that postmark is not later than the last day for filing the request, and the request is received within seven days of such last day.

(3) The request is delivered by the postal service, no postmark date was affixed to the cover in which the request is enclosed or the date of the postmark so affixed is not legible, and the request is received within seven days of the last day for making the request.

(E) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment until the date of the refund of the overpayment, except that if any overpayment is refunded within 90 days after the final filing date of the annual return or 90 days after the completed return is filed, whichever is later, no interest shall be allowed on the refund. For the purpose of computing the payment of interest on amounts overpaid, no amount of tax for any taxable year shall be considered to have been paid before the date on which the return on which the tax is reported is due, without regard to any extension of time for filing that return. Interest shall be paid at the interest rate described in Section 18 (A)(4).

(F) Refunds for days worked out of this municipality are available only to non-residents, and refunds shall be computed by dividing total wages by total days worked in order to determine an average daily wage. The work year shall be considered two hundred sixty (260) days. Saturdays and Sundays shall not normally be considered workdays. Wage continuation plans of any type (including, but not limited to, vacation days, holidays, personnel days, and sick days) are deemed to be days spent in this municipality for purposes of refund calculations. Additions, deletions, or other changes to the method for calculating refunds shall be at the discretion of the Administrator.

(G) Overpayments will either be refunded or credited to the taxpayer's current year's liability at his option, except that where taxes are owed for any previous years overpayments shall be applied in the order in which such taxes became due before any refund is made or credit granted. Where no election has been made by the taxpayer, overpayments of any year's taxes shall be applied as follows:

1. To taxes, penalty or interest owed for any previous years.
2. To his current estimated tax liability (and any excess refunded).

SECTION 10

SECOND MUNICIPALITY IMPOSING TAX AFTER TIME PERIOD ALLOWED FOR REFUND

(A) Income tax that has been deposited with this municipality, but should have been deposited with another municipality, is allowable by this municipality as a refund but is subject to the three-year

limitation on refunds.

(B) Income tax that was deposited with another municipality but should have been deposited with this municipality is subject to recovery by this municipality. If this municipality's tax on that income is imposed after the time period allowed for a refund of the tax or withholding paid to the other municipality, this municipality shall allow a nonrefundable credit against the tax or withholding this municipality claims is due with respect to such income or wages, equal to the tax or withholding paid to the first municipality with respect to such income or wages.

(C) If this municipality's tax rate is less than the tax rate in the other municipality, then the nonrefundable credit shall be calculated using this municipality's tax rate. However, if this municipality's tax rate is greater than the tax rate in the other municipality, the tax due in excess of the nonrefundable credit is to be paid to this municipality, along with any penalty and interest that accrued during the period of nonpayment.

(D) Nothing in this section permits any credit carryforward.

SECTION 11

AMENDED RETURNS

(A)(1) If a taxpayer's tax liability shown on the annual tax return for this municipality changes as a result of an adjustment to the taxpayer's federal or state income tax return, the taxpayer shall file an amended return with this municipality. The amended return shall be filed on a form required by the Tax Administrator. A taxpayer may not change the method of accounting or apportionment of the net profits, nor the method of filing, after the due date for filing the original return.

(2) If a taxpayer intends to file an amended consolidated municipal income tax return, or to amend its type of return from a separate return to a consolidated return based on the taxpayer's consolidated federal income tax return, or to amend its type of return from a consolidated return to a separate return, the taxpayer shall notify the Tax Administrator before filing the amended return. Nothing in this division shall require the Tax Administrator to accept such amended returns.

(B)(1) In the case of an underpayment, the amended return shall be accompanied by payment of any additional tax due, together with any penalty and interest thereon. If the tax, penalty and interest shown to be due is ten dollars or less, no payment need be made. The amended return shall reopen those facts, figures, computations, or attachments from a previously filed return that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return only:

(i) to determine the amount of tax that would be due if all facts, figures, computations, and attachments were reopened; or,

(ii) if the applicable statute of limitations for civil actions or prosecutions under Section 12 has not expired for a previously filed return.

(2) The additional tax to be paid shall not exceed the amount of tax that would be due if all facts,

figures, computations, and attachments were reopened; i.e., the payment shall be the lesser of the two amounts.

(C)(1) In the case of an overpayment, a request for refund may be filed under this division within the period prescribed by division (D) of this section for filing the amended return, even if it is filed beyond the period prescribed in that division if it otherwise conforms to the requirements of that division. If the amount of the refund is less than ten dollars, no refund need be paid by this municipality. A request filed under this division shall claim refund of overpayments resulting from alterations only to those facts, figures, computations, or attachments required in the taxpayer's annual return that are affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return, unless it is also filed within the time prescribed in Section 9.

(2) The amount to be refunded shall not exceed the amount of refund that would be due if all facts, figures, computations, and attachments were reopened. All facts, figures, computations, and attachments may be reopened to determine the refund amount due by inclusion of all facts, figures, computations, and attachments.

(D) Within 60 days after the final determination of any federal or state tax liability affecting the taxpayer's this municipality's tax liability, that taxpayer shall make and file an amended this municipality return showing income subject to this municipality income tax based upon such final determination of federal or state tax liability. The taxpayer shall pay any additional this municipality income tax shown due thereon or make a claim for refund of any overpayment, unless the tax or overpayment is less than ten dollars.

SECTION 12

LIMITATIONS

(A)(1)(a) Civil actions to recover municipal income taxes and penalties and interest on municipal income taxes shall be brought within the later of:

- (i) Three years after the tax was due or the return was filed, whichever is later; or
- (ii) One year after the conclusion of the qualifying deferral period, if any.

(b) The time limit described in division (A)(1)(a) of this section may be extended at any time if both the Tax Administrator and the employer, agent of the employer, other payer, or taxpayer consent in writing to the extension. Any extension shall also extend for the same period of time the time limit described in division (C) of this section.

(2) As used in this section, "qualifying deferral period" means a period of time beginning and ending as follows:

(a) Beginning on the date a person who is aggrieved by an assessment files with the Board of Tax Review the request described in Section 21. That date shall not be affected by any subsequent decision, finding, or holding by any administrative body or court that the Board of Tax Review did not have jurisdiction to affirm, reverse, or modify the assessment or any part of that assessment.

(b) Ending the later of the sixtieth day after the date on which the final determination of the Board of Tax Review becomes final or, if any party appeals from the determination of the Board of Tax Review, the sixtieth day after the date on which the final determination of the Board of Tax Review is either ultimately affirmed in whole or in part or ultimately reversed and no further appeal of either that affirmation, in whole or in part, or that reversal is available or taken.

(B) Prosecutions for an offense made punishable under a resolution or ordinance imposing an income tax shall be commenced within three years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five percent (25%) or more of income required to be reported, prosecutions may be commenced within six years after the commission of the offense.

(C) A claim for a refund of municipal income taxes shall be brought within the time limitation provided in Section 9.

(D)(1) Notwithstanding the fact that an appeal is pending, the petitioner may pay all or a portion of the assessment that is the subject of the appeal. The acceptance of a payment by this municipality does not prejudice any claim for refund upon final determination of the appeal.

(2) If upon final determination of the appeal an error in the assessment is corrected by the Tax Administrator, upon an appeal so filed or pursuant to a final determination of the Board of Tax Review, of the Ohio board of tax appeals, or any court to which the decision of the Ohio board of tax appeals has been appealed, so that the resultant amount due is less than the amount paid, a refund will be paid in the amount of the overpayment as provided by Section 9, with interest on that amount as provided by division (E) of Section 9.

(E) No civil action to recover this municipality income tax or related penalties or interest shall be brought during either of the following time periods:

(1) The period during which a taxpayer has a right to appeal the imposition of that tax or interest or those penalties;

(2) The period during which an appeal related to the imposition of that tax or interest or those penalties is pending.

SECTION 13

AUDITS

(A) At or before the commencement of an audit, the Tax Administrator shall provide to the taxpayer a written description of the roles of the Tax Administrator and of the taxpayer during the audit and a statement of the taxpayer's rights, including any right to obtain a refund of an overpayment of a tax. At or before the commencement of an audit, the Tax Administrator shall inform the taxpayer when the audit is considered to have commenced.

(B) Except in cases involving suspected criminal activity, the Tax Administrator shall conduct an audit of a taxpayer during regular business hours and after providing reasonable notice to the

taxpayer. A taxpayer who is unable to comply with a proposed time for an audit on the grounds that the proposed time would cause inconvenience or hardship must offer reasonable alternative dates for the audit.

(C) At all stages of an audit by the Tax Administrator, a taxpayer is entitled to be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner. The Tax Administrator shall prescribe a form by which a taxpayer may designate such a person to assist or represent the taxpayer in the conduct of any proceedings resulting from actions by the Tax Administrator. If a taxpayer has not submitted such a form, the Tax Administrator may accept other evidence, as the Tax Administrator considers appropriate, that a person is the authorized representative of a taxpayer.

A taxpayer may refuse to answer any questions asked by the person conducting an audit until the taxpayer has an opportunity to consult with the taxpayer's attorney, accountant, bookkeeper, or other tax practitioner.

This division does not authorize the practice of law by a person who is not an attorney.

(D) A taxpayer may record, electronically or otherwise, the audit examination.

(E) The failure of the Tax Administrator to comply with a provision of this section shall neither excuse a taxpayer from payment of any taxes owed by the taxpayer nor cure any procedural defect in a taxpayer's case.

(F) If the Tax Administrator fails to substantially comply with the provisions of this section, the Tax Administrator, upon application by the taxpayer, shall excuse the taxpayer from penalties and interest

SECTION 14

SERVICE OF ASSESSMENT

(A) As used in this section:

(1) "Last known address" means the address the Tax Administrator has at the time a document is originally sent by certified mail, or any address the Tax Administrator can ascertain using reasonable means such as the use of a change of address service offered by the postal service or an authorized delivery service under Section 5703.056 of the ORC.

(2) "Undeliverable address" means an address to which the postal service or an authorized delivery service under Section 5703.056 of the ORC is not able to deliver an assessment of the Tax Administrator, except when the reason for non-delivery is because the addressee fails to acknowledge or accept the assessment.

(B) Subject to division (C) of this section, a copy of each assessment shall be served upon the person affected thereby either by personal service, by certified mail, or by a delivery service authorized under Section 5703.056 of the ORC. With the permission of the person affected by an assessment, the Tax Administrator may deliver the assessment through alternative means as provided in this section, including, but not limited to, delivery by secure electronic mail.

(C)(1)(a) If certified mail is returned because of an undeliverable address, the Tax Administrator shall utilize reasonable means to ascertain a new last known address, including the use of a change of address service offered by the postal service or an authorized delivery service under Section 5703.056 of the ORC. If the Tax Administrator is unable to ascertain a new last known address, the assessment shall be sent by ordinary mail and considered served. If the ordinary mail is subsequently returned because of an undeliverable address, the assessment remains appealable within 60 days after the assessment's postmark.

(b) Once the Tax Administrator or other this municipality official, or the designee of either, serves an assessment on the person to whom the assessment is directed, the person may protest the ruling of that assessment by filing an appeal with the local board of tax review within 60 days after the receipt of service. The delivery of an assessment of the Tax Administrator under division (C)(1)(a) of this section is prima facie evidence that delivery is complete and that the assessment is served.

(2) If mailing of an assessment by the Tax Administrator by certified mail is returned for some cause other than an undeliverable address, the Tax Administrator shall resend the assessment by ordinary mail. The assessment shall show the date the Tax Administrator sends the assessment and include the following statement:

"This assessment is deemed to be served on the addressee under applicable law ten days from the date this assessment was mailed by the Tax Administrator as shown on the assessment, and all periods within which an appeal may be filed apply from and after that date."

Unless the mailing is returned because of an undeliverable address, the mailing of that information is prima facie evidence that delivery of the assessment was completed ten days after the Tax Administrator sent the assessment by ordinary mail and that the assessment was served.

If the ordinary mail is subsequently returned because of an undeliverable address, the Tax Administrator shall proceed under division (C)(1)(a) of this section. A person may challenge the presumption of delivery and service under this division in accordance with division (D) of this section.

(D)(1) A person disputing the presumption of delivery and service under division (C) of this section bears the burden of proving by a preponderance of the evidence that the address to which the assessment was sent by certified mail was not an address with which the person was associated at the time the Tax Administrator originally mailed the assessment. For the purposes of this section, a person is associated with an address at the time the Tax Administrator originally mailed the assessment if, at that time, the person was residing, receiving legal documents, or conducting business at the address; or if, before that time, the person had conducted business at the address and, when the assessment was mailed, the person's agent or the person's affiliate was conducting business at the address. For the purposes of this section, a person's affiliate is any other person that, at the time the assessment was mailed, owned or controlled at least 20 percent, as determined by voting rights, of the addressee's business.

(2) If a person elects to appeal an assessment on the basis described in division (D)(1) of this section, and if that assessment is subject to collection and is not otherwise appealable, the person must do so within 60 days after the initial contact by the Tax Administrator or other this municipality

official, or the designee of either, with the person. Nothing in this division prevents the Tax Administrator or other official from entering into a compromise with the person if the person does not actually file such an appeal with the local board of tax review.

(E) Nothing in this section prohibits the Tax Administrator or the Tax Administrator's designee from delivering an assessment by personal service.

(F) Collection actions taken upon any assessment being appealed under division (C)(1)(b) of this section, including those on which a claim has been delivered for collection, shall be stayed upon the pendency of an appeal under this section.

SECTION 15

ADMINISTRATION OF CLAIMS

(A) As used in this section, "claim" means a claim for an amount payable to this municipality that arises pursuant to this municipality's income tax imposed in accordance with these rules and regs.

(B) Nothing in these rules and regs prohibits the Tax Administrator from doing either of the following if such action is in the best interests of this municipality:

(1) Compromise a claim;

(2) Extend for a reasonable period the time for payment of a claim by agreeing to accept monthly or other periodic payments.

(C) The Tax Administrator's rejection of a compromise or payment-over-time agreement proposed by a person with respect to a claim shall not be appealable.

(D) The Tax Administrator may consider the following standards when ascertaining with respect to a claim whether a compromise or payment-over-time agreement is in the best interests of the municipal corporation:

(1) There exists a doubt as to whether the claim can be collected.

(2) There exists a substantial probability that, upon payment of the claim and submission of a timely request for refund with respect to that payment, the Tax Administrator would refund an amount that was illegally or erroneously paid.

(3) There exists an economic hardship such that a compromise or agreement would facilitate effective tax administration.

(4) There exists a joint liability among spouses, one of whom is an innocent spouse, provided that any relief under this standard shall only affect the claim as to the innocent spouse. A spouse granted relief under section 6015 of the Internal Revenue Code with regard to any income item is rebuttably presumed to be an innocent spouse with regard to that income item to the extent that income item is included in or otherwise affects the computation of a municipal income tax or any penalty or interest on that tax.

(5) Any other reasonable standard that the Tax Administrator establishes.

(E) A compromise or payment-over-time agreement with respect to a claim shall be binding upon and shall be to the benefit of only the parties to the compromise or agreement, and shall not eliminate or otherwise affect the liability of any other person.

(F) A compromise or payment-over-time agreement with respect to a claim shall be void if the taxpayer defaults under the compromise or agreement or if the compromise or agreement was obtained by fraud or by misrepresentation of a material fact. Any amount that was due before the compromise or agreement and that is unpaid shall remain due, and any penalties or interest that would have accrued in the absence of the compromise or agreement shall continue to accrue and be due.

SECTION 16

TAX INFORMATION CONFIDENTIAL

(A) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by these rules and regs is confidential, and no person shall access or disclose such information except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of this municipality as authorized by these rules and regs. The Tax Administrator or a designee thereof may furnish copies of returns filed or otherwise received under these rules and regs and other related tax information to the internal revenue service, the state tax commissioner, and tax administrators of other municipal corporations.

(B) This section does not prohibit this municipality from publishing or disclosing statistics in a form that does not disclose information with respect to particular taxpayers.

SECTION 17

FRAUD

No person shall knowingly make, present, aid, or assist in the preparation or presentation of a false or fraudulent report, return, schedule, statement, claim, or document authorized or required by this municipality's ordinance or state law to be filed with the Tax Administrator, or knowingly procure, counsel, or advise the preparation or presentation of such report, return, schedule, statement, claim, or document, or knowingly change, alter, or amend, or knowingly procure, counsel or advise such change, alteration, or amendment of the records upon which such report, return, schedule, statement, claim, or document is based with intent to defraud this municipality or the Tax Administrator.

SECTION 18

INTEREST AND PENALTIES

(A) As used in this section:

(1) "Applicable law" means these rules and regs, the resolutions, ordinances, codes, directives, instructions, and rules adopted by this municipality provided they impose or directly or indirectly address the levy, payment, remittance, or filing requirements of this municipality.

(2) "Federal short-term rate" means the rate of the average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of three years or less, as determined under Section 1274 of the Internal Revenue Code, for July of the current year.

(3) "Income tax," "estimated income tax," and "withholding tax" means any income tax, estimated income tax, and withholding tax imposed by this municipality pursuant to applicable law, including at any time before January 1, 2016.

(4) "Interest rate as described in division (A) of this section" means the federal short-term rate, rounded to the nearest whole number percent, plus five percent. The rate shall apply for the calendar year next following the July of the year in which the federal short-term rate is determined in accordance with division (A)(2) of this section.

(5) "Return" includes any tax return, report, reconciliation, schedule, and other document required to be filed with the Tax Administrator or this municipality by a taxpayer, employer, any agent of the employer, or any other payer pursuant to applicable law, including at any time before January 1, 2016.

(6) "Unpaid estimated income tax" means estimated income tax due but not paid by the date the tax is required to be paid under applicable law.

(7) "Unpaid income tax" means income tax due but not paid by the date the income tax is required to be paid under applicable law.

(8) "Unpaid withholding tax" means withholding tax due but not paid by the date the withholding tax is required to be paid under applicable law.

(9) "Withholding tax" includes amounts an employer, any agent of an employer, or any other payer did not withhold in whole or in part from an employee's qualifying wages, but that, under applicable law, the employer, agent, or other payer is required to withhold from an employee's qualifying wages.

(B)(1) This section applies to the following:

(a) Any return required to be filed under applicable law for taxable years beginning on or after January 1, 2016;

(b) Income tax, estimated income tax, and withholding tax required to be paid or remitted to this municipality on or after January 1, 2016.

(2) This section does not apply to returns required to be filed or payments required to be made before January 1, 2016, regardless of the filing or payment date. Returns required to be filed or payments required to be made before January 1, 2016, but filed or paid after that date shall be subject

to the ordinances and/or rules and regulations, as adopted before January 1, 2016, of this municipality to which the return is to be filed or the payment is to be made.

(C) Should any taxpayer, employer, agent of the employer, or other payer for any reason fails, in whole or in part, to make timely and full payment or remittance of income tax, estimated income tax, or withholding tax or to file timely with this municipality any return required to be filed, the following penalties and interest shall apply:

(1) Interest shall be imposed at the rate described in division (A) of this section, per annum, on all unpaid income tax, unpaid estimated income tax, and unpaid withholding tax.

(2)(a) With respect to unpaid income tax and unpaid estimated income tax, this municipality may impose a penalty equal to fifteen percent (15%) of the amount not timely paid.

(b) With respect to any unpaid withholding tax, this municipality may impose a penalty equal to fifty percent (50%) of the amount not timely paid.

(3) With respect to returns other than estimated income tax returns, this municipality may impose a penalty of \$25 for each failure to timely file each return, regardless of the liability shown thereon for each month, or any fraction thereof, during which the return remains unfiled regardless of the liability shown thereon. The penalty shall not exceed \$150 for each failure.

(D) Nothing in this section requires this municipality to refund or credit any penalty, amount of interest, charges, or additional fees that this municipality has properly imposed or collected before January 1, 2016.

(E) Nothing in this section limits the authority of this municipality to abate or partially abate penalties or interest imposed under this section when the Tax Administrator determines, in the Tax Administrator's sole discretion, that such abatement is appropriate.

(F) By the 31st day of October of each year this municipality shall publish the rate described in division (A) of this section applicable to the next succeeding calendar year.

(G) This municipality may impose on the taxpayer, employer, any agent of the employer, or any other payer this municipality's post-judgment collection costs and fees, including attorney's fees.

SECTION 19

AUTHORITY OF TAX ADMINISTRATOR; VERIFICATION OF INFORMATION

Authority.

(A) Nothing in these rules and regs shall limit the authority of the Tax Administrator to perform any of the following duties or functions, unless the performance of such duties or functions is expressly limited by a provision of the ORC:

(1)(a) Exercise all powers whatsoever of an inquisitorial nature as provided by law, including, the right to inspect books, accounts, records, memorandums, and federal and state income tax returns, to

examine persons under oath, to issue orders or subpoenas for the production of books, accounts, papers, records, documents, and testimony, to take depositions, to apply to a court for attachment proceedings as for contempt, to approve vouchers for the fees of officers and witnesses, and to administer oaths.

(b) The powers referred to in this division of this section shall be exercised by the Tax Administrator only in connection with the performance of the duties respectively assigned to the Tax Administrator under this municipality's income tax ordinance;

(2) Appoint agents and prescribe their powers and duties;

(3) Confer and meet with officers of other municipal corporations and states and officers of the United States on any matters pertaining to their respective official duties as provided by law;

(4) Exercise the authority provided by law, including orders from bankruptcy courts, relative to remitting or refunding taxes, including penalties and interest thereon, for any reason overpaid. In addition, the Tax Administrator may investigate any claim of overpayment and, if the Tax Administrator finds that there has been an overpayment, make a written statement of the Tax Administrator's findings, and approve and issue a refund payable to the taxpayer, the taxpayer's assigns, or legal representative as provided in these rules and regs;

(5) Exercise the authority provided by law relative to consenting to the compromise and settlement of tax claims;

(6) Exercise the authority provided by law relative to the use of alternative apportionment methods by taxpayers in accordance with Section 3;

(7)(a) Make all tax findings, determinations, computations, and orders the Tax Administrator is by law authorized and required to make and, pursuant to time limitations provided by law, on the Tax Administrator's own motion, review, re-determine, or correct any tax findings, determinations, computations, or orders the Tax Administrator has made.

(b) If an appeal has been filed with the Board of Tax Review or other appropriate tribunal, the Tax Administrator shall not review, re-determine, or correct any tax finding, determination, computation, or order which the Tax Administrator has made, unless such appeal or application is withdrawn by the appellant or applicant, is dismissed, or is otherwise final;

(8) Destroy any or all returns or other tax documents in the manner authorized by law;

(9) Enter into an agreement with a taxpayer to simplify the withholding obligations described in Section 4.

Verification of accuracy of returns and determination of liability.

(B)(1) The Tax Administrator, or any authorized agent or employee thereof may examine the books, papers, records, and federal and state income tax returns of any employer, taxpayer, or other person that is subject to, or that the Tax Administrator believes is subject to, the provisions of these rules and regs for the purpose of verifying the accuracy of any return made or, if no return was filed, to ascertain the tax due under these rules and regs. Upon written request by the Tax Administrator or a

duly authorized agent or employee thereof, every employer, taxpayer, or other person subject to this section is required to furnish the opportunity for the Tax Administrator, authorized agent, or employee to investigate and examine such books, papers, records, and federal and state income tax returns at a reasonable time and place designated in the request.

(2) The records and other documents of any taxpayer, employer, or other person that is subject to, or that the Tax Administrator believes is subject to, the provisions of these rules and regs shall be open to the Tax Administrator's inspection during business hours and shall be preserved for a period of six years following the end of the taxable year to which the records or documents relate, unless the Tax Administrator, in writing, consents to their destruction within that period, or by order requires that they be kept longer. The Tax Administrator may require any person, by notice served on that person, to keep such records as the Tax Administrator determines necessary to show whether or not that person is liable, and the extent of such liability, for the income tax levied by this municipality or for the withholding of such tax.

(3) The Tax Administrator may examine under oath any person that the Tax Administrator reasonably believes has knowledge concerning any income that was or would have been returned for taxation or any transaction tending to affect such income. The Tax Administrator may, for this purpose, compel any such person to attend a hearing or examination and to produce any books, papers, records, and federal and state income tax returns in such person's possession or control. The person may be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner at any such hearing or examination. This division does not authorize the practice of law by a person who is not an attorney.

(4) No person issued written notice by the Tax Administrator compelling attendance at a hearing or examination or the production of books, papers, records, or federal or state income tax returns under this section shall fail to comply.

Identification information.

(C)(1)(a) Nothing in these rules and regs prohibits the Tax Administrator from requiring any person filing a tax document with the Tax Administrator to provide identifying information, which may include the person's social security number, federal employer identification number, or other identification number requested by the Tax Administrator. A person required by the Tax Administrator to provide identifying information that has experienced any change with respect to that information shall notify the Tax Administrator of the change before, or upon, filing the next tax document requiring the identifying information.

(b) When transmitting or otherwise making use of a tax document that contains a person's social security number, the Tax Administrator shall take all reasonable measures necessary to ensure that the number is not capable of being viewed by the general public, including, when necessary, masking the number so that it is not readily discernible by the general public. The Tax Administrator shall not put a person's social security number on the outside of any material mailed to the person.

(2)(a) If the Tax Administrator makes a request for identifying information and the Tax Administrator does not receive valid identifying information within 30 days of making the request, nothing in these rules and regs prohibits the Tax Administrator from imposing a penalty upon the person to whom the request was directed pursuant to Section 18, in addition to any applicable

penalty described in Section 99.

(b) If a person required by the Tax Administrator to provide identifying information does not notify the Tax Administrator of a change with respect to that information as required under division (C) of Section 19 within 30 days after filing the next tax document requiring such identifying information, nothing in these rules and regs prohibits the Tax Administrator from imposing a penalty pursuant to Section 18.

(c) The penalties provided for under divisions (C)(2)(a) and (b) of this section may be billed and imposed in the same manner as the tax or fee with respect to which the identifying information is sought and are in addition to any applicable criminal penalties described in Section 99 for a violation of Section 17 and any other penalties that may be imposed by the Tax Administrator by law.

SECTION 20

REQUEST FOR OPINION OF THE TAX ADMINISTRATOR

(A) An "opinion of the Tax Administrator" means an opinion issued under this section with respect to prospective municipal income tax liability. It does not include ordinary correspondence of the Tax Administrator.

(B) A taxpayer may submit a written request for an opinion of the Tax Administrator in accordance with these Rules and Regulations as to whether or how certain income, source of income, or a certain activity or transaction will be taxed. The written response of the Tax Administrator shall be an "opinion of the Tax Administrator" and shall bind the Tax Administrator, in accordance with divisions (C), (G), and (H) of this section, provided all of the following conditions are satisfied:

(1) The taxpayer's request fully and accurately describes the specific facts or circumstances relevant to a determination of the taxability of the income, source of income, activity, or transaction, and, if an activity or transaction, all parties involved in the activity or transaction are clearly identified by name, location, or other pertinent facts.

(2) The request relates to a tax imposed by this municipality in accordance with these rules and regs.

(3) The Tax Administrator's response is signed by the Tax Administrator and designated as an "opinion of the Tax Administrator."

(C) An opinion of the Tax Administrator shall remain in effect and shall protect the taxpayer for whom the opinion was prepared and who reasonably relies on it from liability for any taxes, penalty, or interest otherwise chargeable on the activity or transaction specifically held by the Tax Administrator's opinion to be taxable in a particular manner or not to be subject to taxation for any taxable years that may be specified in the opinion, or until the earliest of the following dates:

(1) The effective date of a written revocation by the Tax Administrator sent to the taxpayer by certified mail, return receipt requested. The effective date of the revocation shall be the taxpayer's date of receipt or one year after the issuance of the opinion, whichever is later;

(2) The effective date of any amendment or enactment of a relevant section of the ORC, uncodified state law, or this municipality's income tax ordinance that would substantially change the analysis and conclusion of the opinion of the Tax Administrator;

(3) The date on which a court issues an opinion establishing or changing relevant case law with respect to the ORC, uncodified state law, or this municipality's income tax ordinance;

(4) If the opinion of the Tax Administrator was based on the interpretation of federal law, the effective date of any change in the relevant federal statutes or regulations, or the date on which a court issues an opinion establishing or changing relevant case law with respect to federal statutes or regulations;

(5) The effective date of any change in the taxpayer's material facts or circumstances;

(6) The effective date of the expiration of the opinion, if specified in the opinion.

(D) A taxpayer is not relieved of tax liability for any activity or transaction related to a request for an opinion that contained any misrepresentation or omission of one or more material facts.

(E) If the Tax Administrator provides written advice under this section, the opinion shall include a statement that:

(1) The tax consequences stated in the opinion may be subject to change for any of the reasons stated in division (C) of this section;

(2) It is the duty of the taxpayer to be aware of such changes.

(F) The Tax Administrator may refuse to offer an opinion on any request received under this section. Such refusal is not subject to appeal.

(G) This section binds the Tax Administrator only with respect to opinions of the Tax Administrator issued on or after January 1, 2016.

(H) An opinion of the Tax Administrator binds the Tax Administrator only with respect to the taxpayer for whom the opinion was prepared and does not bind the Tax Administrator of any other municipal corporation.

(I) The Tax Administrator shall make available the text of all opinions issued under this section, except those opinions prepared for a taxpayer who has requested that the text of the opinion remain confidential. In no event shall the text of an opinion be made available until the Tax Administrator has removed all information that identifies the taxpayer and any other parties involved in the activity or transaction.

(J) An opinion of the Tax Administrator issued under this section is not subject to appeal.

SECTION 21

BOARD OF TAX REVIEW

(A)(1) The Board of Tax Review shall consist of three members. Two members shall be appointed by the legislative authority of this municipality, but such appointees may not be employees, elected officials, or contractors with this municipality at any time during their term or in the five years (which applies only to these two appoints) immediately preceding the date of appointment. One member shall be appointed by the [position name of the official] of this municipality. This member may be an employee of this municipality, but may not be the director of finance or equivalent officer, or the Tax Administrator or other similar official or an employee directly involved in municipal tax matters, or any direct subordinate thereof.

(2) The term for members of the Board of Tax Review this municipality shall be two years. There is no limit on the number of terms that a member may serve if the member is reappointed by the legislative authority. The board member appointed by the [position name of the official] of this municipality shall serve at the discretion of the administrative official.

(3) Members of the Board of Tax Review appointed by the legislative authority may be removed by the legislative authority by majority vote for malfeasance, misfeasance, or nonfeasance in office. To remove such a member, the legislative authority must give the member a copy of the charges against the member and afford the member an opportunity to be publicly heard in person or by counsel in the member's own defense upon not less than ten days' notice. The decision by the legislative authority on the charges is final and not appealable.

(4) A member of the Board of Tax Review who, for any reason, ceases to meet the qualifications for the position prescribed by this section shall resign immediately by operation of law.

(5) A vacancy in an unexpired term shall be filled in the same manner as the original appointment within 60 days of when the vacancy was created. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. No vacancy on the Board of Tax Review shall impair the power and authority of the remaining members to exercise all the powers of the Board of Tax Review.

(6) If a member is temporarily unable to serve on the Board of Tax Review due to a conflict of interest, illness, absence, or similar reason, the legislative authority or top administrative official that appointed the member shall appoint another individual to temporarily serve on the Board of Tax Review in the member's place. The appointment of such an individual shall be subject to the same requirements and limitations as are applicable to the appointment of the member temporarily unable to serve.

(B) Whenever the Tax Administrator issues an assessment, the Tax Administrator shall notify the taxpayer in writing at the same time of the taxpayer's right to appeal the assessment, the manner in which the taxpayer may appeal the assessment, and the address to which the appeal should be directed.

(C) Any person who has been issued an assessment may appeal the assessment to the Board of Tax Review by filing a request with the Board of Tax Review. The request shall be in writing, shall specify the reason or reasons why the assessment should be deemed incorrect or unlawful, and shall be filed within 60 days after the taxpayer receives the assessment.

(D) The Board of Tax Review shall schedule a hearing to be held within 60 days after receiving an appeal of an assessment under division (C) of this section, unless the taxpayer requests additional time to prepare or waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the Board of Tax Review and may be represented by an attorney at law, certified public accountant, or other representative. The Board of Tax Review may allow a hearing to be continued as jointly agreed to by the parties. In such a case, the hearing must be completed within 120 days after the first day of the hearing unless the parties agree otherwise.

(E) The Board of Tax Review may affirm, reverse, or modify the Tax Administrator's assessment or any part of that assessment. The Board of Tax Review shall issue a final determination on the appeal within 90 days after the Board of Tax Review's final hearing on the appeal, and send a copy of its final determination by ordinary mail to all of the parties to the appeal within 15 days after issuing the final determination. The taxpayer or the Tax Administrator may appeal the Board of Tax Review's final determination as provided in Section 5717.011 of the ORC.

(F) The Board of Tax Review created pursuant to this section shall adopt rules governing its procedures and shall keep a record of its transactions. Such records are not public records available for inspection under Section 149.43 of the ORC. Hearings requested by a taxpayer before a Board of Tax Review created pursuant to this section are not meetings of a public body subject to Section 121.22 of the ORC.

SECTION 22

AUTHORITY TO CREATE RULES AND REGULATIONS

Nothing in these rules and regs prohibits the legislative authority of this municipality, or the Tax Administrator pursuant to authority granted to the Tax Administrator by resolution or ordinance, to adopt rules to administer an income tax imposed by this municipality in accordance with these rules and regs. Such rules shall not conflict with or be inconsistent with any provision of these rules and regs. Taxpayers are hereby required to comply with the Rules and Regulations as they are required to comply with Chapter [*number*] of this municipality's income tax ordinance.

All rules adopted under this section shall be published and posted on the internet.

SECTION 23

RENTAL AND LEASED PROPERTY

(A) All property owners of real property located in this municipality, who rent or otherwise lease the same, or any part thereof, to any person for residential dwelling purposes, including apartments, rooms and other rental accommodations, during any calendar year, or part thereof, commencing with the effective date of this section, shall file with the Tax Administrator on or before the January 31 first following such calendar year a written report disclosing the name, address and also telephone number, if available, of each tenant known to have occupied on December 31 during such calendar

year such apartment, room or other residential dwelling rental property.

(B) The Tax Administrator may order the appearance before him, or his duly authorized agent, of any person whom he believes to have any knowledge of the name, address, telephone number and/or email address of any tenant of residential rental real property in this municipality. The Tax Administrator, or his duly authorized agent, is authorized to examine any person, under oath, concerning the name, address, telephone number and/or email address of any tenant of residential real property located in this municipality. The Tax Administrator, or his duly authorized agent, may compel the production of papers and records and the attendance of all personal before him, whether as parties or witnesses, whenever he believes such person has knowledge of the name, address, telephone number and/or email address of any tenant of residential real property in this municipality.

(C) Any property owner or person that violates one or more of the following shall be subject to Section 99 of these rules and regs:

(1) Fails, refuses or neglects to timely file a written report required by subsection (a) hereof; or

(2) Makes an incomplete or intentionally false written report required by subsection (a) hereof;
or

(3) Fails to appear before the Tax Administrator or any duly authorized agent and to produce and disclose any tenant information pursuant to any order or subpoena of the Tax Administrator as authorized in this section; or

(4) Fails to comply with the provisions of this section or any order or subpoena of the Tax Administrator.

SECTION 24

SAVINGS CLAUSE

These rules and regs shall not apply to any person, firm or corporation, or to any property as to whom or which it is beyond the power of this municipality's Council to impose the tax herein provided for. Any sentence, clause, section or part of these rules and regs or any tax against or exception granted any individual or any of the several groups of persons, or forms of income specified herein if found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of these rules and regs and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of these rules and regs. It is hereby declared to be the intention of this municipality's Council that these rules and regs would have been adopted had such unconstitutional, illegal or invalid sentence, or part hereof, not been included therein.

SECTION 25

COLLECTION OF TAX AFTER TERMINATION OF ORDINANCE

(A) This chapter shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of said taxes levied hereunder in the aforesaid periods are fully paid and any and all suits and prosecutions for the collection of said taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Section 12 and Section 99 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 Section 4 of this ordinance as though the same were continuing.

SECTION 26

ADOPTION OF RITA RULES AND REGULATIONS

This municipality hereby adopts the Regional Income Tax Agency (RITA) Rules & Regulations, including amendments that may be made from time to time, for use as this municipality's Income Tax Rules and Regulations. In the event of a conflict with any provision(s) of this municipality Income Tax Ordinance and the RITA Rules & Regulations, the Ordinance will supersede. Until and if the contractual relationship between this municipality and RITA ceases, Section 26 will supersede all other provisions regarding promulgation of rules and regulations by the Tax Administrator.

SECTION 99

VIOLATIONS; PENALTIES

(A) Whoever violates Section 17, division (A) of Section 16, or Section 4 by failing to remit this municipality income taxes deducted and withheld from an employee, shall be guilty of a misdemeanor of the first degree and shall be subject to a fine of not more than \$1,000 or imprisonment for a term of up to six months, or both. If the individual that commits the violation is an employee, or official, of this municipality, the individual is subject to discharge from employment or dismissal from office.

(B) Any person who discloses information received from the Internal Revenue Service in violation of division (A) of Section 16 shall be guilty of a felony of the fifth degree and shall be subject to a fine of not more than \$5,000 plus the costs of prosecution, or imprisonment for a term not exceeding five years, or both. If the individual that commits the violation is an employee, or official, of this municipality, the individual is subject to discharge from employment or dismissal from office.

(C) Each instance of access or disclosure in violation of division (A) of Section 16 constitutes a separate offense.

(D) If not otherwise specified herein, no person shall:

- (1) Fail, neglect or refuse to make any return or declaration required by this ordinance;

(2) File any incomplete or false return;

(3) Fail, neglect or refuse to pay the tax, penalties or interest imposed by these rules and regs;

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

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

(6) Refuse to disclose to the Tax Administrator any information with respect to the income or net profits of a taxpayer;

(7) Fail to comply with the provisions of this ordinance or any order or subpoena of the Tax Administrator authorized hereby;

(8) 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;

(9) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by these rules and regs.

(E) Any person who violates any of the provisions in Section 99 (D) shall be subject to the penalties provided for in Section 99 (A) of these rules and regs.