

ARTICLE 1

Section 1 of the Ordinance deals only with the purpose for which the tax collected will be used.

ARTICLE II

DEFINITIONS

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

ASSOCIATION means a partnership, cooperative, limited partnership, or any other form of unincorporated enterprise owned by two or more Persons.

BOARD means the Board of Review provided for by Section 13 of the Ordinance.

BUSINESS means an enterprise, cooperative activity profession or undertaking of any nature conducted for profit or ordinarily conducted for profit whether by an individual, partnership, Association, Corporation or any other entity. The ordinary administration of a decedent's estate by the executor or administrator, and the mere custody, supervision, and management of trust property under passive trust, whether inter vivos or testamentary, unaccompanied by the actual operation of a Business as herein defined shall not be construed as the operation of a Business.

BUREAU means the Office Administering the Income Tax Ordinance.

BUSINESS APPORTIONMENT means the portion of Net Profits to be apportioned to Williamsburg as having been made in Williamsburg either under separate accounting method, or under the three factor formula of property, payroll, and sales, provided for in Section 3 of the Ordinance.

CAPITAL GAINS – The Net Profit from the sale of any real or personal property if (a) such property has been owned by the taxpayer for more than one year; and (b) the taxpayer is not regularly engaged in the business of selling such kind or character of property.

CORPORATION means a Corporation or joint stock Association having ten or more shareholders under the laws of the United States, the State of Ohio, or any other state, territory, or foreign county or dependency.

EMPLOYEE means one who works for wages, salary, commission or other type of compensation in the service of an Employer. Any Person upon whom an Employer is required to withhold for either Federal income or Social Security or on whose account payments are made under the Ohio Workmen's Compensation law shall prima facie be an Employee.

EMPLOYER means an individual, partnership, Association, Corporation (including a Corporation not for profit), governmental agency, board, body, bureau, department, subdivision, or unit or any other entity, who or that employs one or more Persons on a salary, wage, commission or other compensation basis whether or not such Employer is engaged in Business. It does not include a Person who employs only domestic help for such Person's private residence.

FISCAL YEAR means an accounting period of twelve (12) months, or less, ending on any day other than December 31<sup>st</sup>. Only Fiscal Years accepted by the Internal Revenue Service for Federal income tax purposes may be used for Municipal tax purposes.

FLOATER means an Employee who does not work at a Place of Business of his Employer and/or who regularly works in two or more Taxing Municipalities during a year.

FORM 2106 means Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Service Code.

GENERIC FORM means an electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation's tax on income.

GROSS RECEIPTS – Total income of taxpayer from whatever source derived.

GROUND RENTS means payments made by a lessee to a lessor under a perpetual lease hold where the lessor neither pays the taxes on the property nor performs services of any type with respect to the property.

INTANGIBLE INCOME means income of any of the following types: income yield, interest, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701. Of the Ohio Revised Code.

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

INTERNET means the international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork known as the world wide web.

ITINERANT means any Non-Resident employed in the Municipality for a period of less than four (4) weeks in any calendar year or who works in the Municipality an average of less than six (6) hours per week.

MUNICIPALITY means Village of Williamsburg, Ohio.

NET PROFITS means the net gain from the operations including capital gains of a business, profession, or enterprise after provision for all ordinary and necessary expenses, except contributions, and except taxes imposed by the Ordinance and Federal and other taxes based on income, paid or accrued in accordance with the accounting system used by the Taxpayer for Federal income tax purposes and, in the case of an Association, without deduction of salaries paid to partners or other owners.

NON-RESIDENT means a Person, whether an individual, Association, Corporation or other entity, domiciled outside Village of Williamsburg.

OTHER PAYER means any person that pays an individual any item included in the taxable income of the individual, other than the individual's employer or that employer's agent.

THE ORDINANCE means Ordinance No. 555, enacted by the Council of Williamsburg and any amendments and supplements.

PERSON means every natural Person, partnership, fiduciary, Association, Corporation or other entity. Whenever used in a clause prescribing or imposing a penalty, the term PERSON as applied to any Association shall mean the partners or members thereof, and as applied to a Corporation, the officers thereof, and in the case of any unincorporated entity or Corporation not having any partner, member or officer within this Municipality of Williamsburg, an Employee or agent of such unincorporated entity or corporation who can be found within the corporate limits of this Municipality.

PLACE OF BUSINESS means any BONA FIDE office (other than a mere statutory office), factory, warehouse, or other space which is occupied and used by the Taxpayer in carrying on any Business activity individually or through one or more of his employees.

PRINCIPAL PLACE OF BUSINESS: In the case of an Employer having its headquarters activities at a Place of Business within a Taxing Municipality, the term shall mean the Place of Business at which the headquarters is situated. In the case of an Employer not having its headquarters activities at a Place of Business within a taxing Municipality, the term shall mean the largest Place of Business located in a Taxing Municipality.

RESIDENT means a person, whether an individual, Association, Corporation or other entity domiciled in the Municipality of Williamsburg. In the case of an individual, continuous residence within the Municipality of Williamsburg for six (6) months or more shall prima facie constitute domiciliary residence.

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

SCHEDULE C means Internal Revenue Service Schedule C filed by a taxpayer pursuant to the Internal Revenue Code.

TAXABLE INCOME means wages, salaries and other compensation paid by an Employer or Employers before deductions of any kind, and the Net Profits from the operation of a Business, profession or other enterprise or activity adjusted in accordance with the provisions of the Ordinance and these regulations.

TAX ADMINISTRATOR means the Tax Commissioner or the Deputy Tax Commissioner appointed to administer the Municipality's Income Tax Ordinance and to direct the operation of the Municipal Income Tax Bureau.

TAX YEAR means the calendar year, or the Fiscal Year, used as the basis on which Net Profits are to be computed under the Ordinance, and in the case of a return for a fractional part of a year, the period for which such return is required to be made.

TAXING MUNICIPALITY means a municipality levying a tax on income earned by Non-Residents working within such municipality and on income earned by its Residents.

TAXPAYER means an individual, Association, Corporation or other entity required by the Ordinance to file a return and/or to pay a tax.

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

### ARTICLE III

#### IMPOSITION OF TAX

##### A. BASES:

###### 1. Resident Employee

a. In the case of Residents, an annual tax of one percent (1%) is imposed on all salaries, wages,

commissions, and other compensation. For the purpose of determining the tax on the earnings of Resident Taxpayers under Section 3, paragraph A-1 of the Ordinance, the sources of the earnings and the place or places in or at which the services were rendered, are immaterial. All such earnings wherever earned or paid are taxable.

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

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

.01 An officer, director or Employee of a Corporation (including charitable and other nonprofit organizations), joint stock association, or joint stock company;

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

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

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

.05 An Employee of any other entity or Person, whether based upon hourly, daily, weekly, semi-monthly, monthly, annual, unit of production or piece work rates; and whether paid by an individual, partnership, Association, Corporation (including charitable and other non-profit Corporations), governmental administration, agency, authority, board, body, branch, bureau, department, division, sub-division, section or unit, or any other entity.

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

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

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

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

.3 Fees, unless such fees are properly includable as part of the Net Profits of a trade, Business, profession, or enterprise regularly carried on by an unincorporated entity owned or partly owned by said individual and such Net Profits are subject to the tax under Section 3, paragraph A-3 or the Ordinance.

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

.5 Payments made to an employee by an employer as vacation pay, or wages under any other wage continuation plan during periods of absence from work are taxable when paid.

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

.7 Other compensation shall include, but not be limited to:

(a.) Sick pay whether paid by the employer to the employee or through a third party.

(b.) Severance pay.

(c.) Supplemental unemployment pay.

(d.) Employee contributions to retirement plans whether or not picked up by the employer.

(e.) Amounts deferred for federal income tax purposes by an employer or for an employee, such deferrals being taxable at the time of payment, whether payment is made to the

employee or to a third party.

(f.) Employer paid premiums for group term life insurance to the extent taxable for federal income tax purposes.

(g.) Fellowships, scholarships, stipends, and grants, to the extent taxable for federal income tax purposes.

(h.) The ordinary income portion of a stock option or employee stock purchase plan to the extent that it is includable on the taxpayer's federal income tax return.

(i.) Incentive payments, no matter how described, including, but not limited to, payments to induce early retirement.

(j.) Payments received by an employee under a wage continuation plan during periods of absence from work.

(k.) Contributions by an employee or on behalf of an employee, from gross wages, into an employee or third party trust or pension plan as permitted by any provision of the Internal Revenue Code which may be excludable from gross wages for federal income tax purposes. (401K plans and the like).

(l.) The value of employer sponsored plans which permit the participant to reduce his taxable income for federal tax purposes. Such reduction does not cause the gross salary or wage to lose its character as a gross wage or salary subject to the provisions of Section 3(A).

(m.) Income from a guaranteed annual wage contract.

(n.) Lump sum distribution from qualified pension and profit sharing trusts not pursuant to employees retirement.

(o.) IRA contributions.

(p.) Simplifies employee pension plans (SEPP).

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

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

2. Non-Resident Employee:

a. In case of individuals who are not residents, there is imposed under Section 3, paragraph A-2 of the Ordinance, a tax of one percent (1%) on all salaries, wages, commissions, and other compensation earned for work done or services performed or rendered within the Municipality, whether such compensation or remuneration is received or earned directly through an agent and whether paid in cash or in property. The location of the place from which payment is made is immaterial.

b. The items subject to tax under Section, paragraph A-2 of the Ordinance are the same as those listed and defined in Article III-A. For the methods of computing the extent of such work or services performed within the Municipality, in cases involving compensation for personal services partly within and partly without the Municipality, see Article VI-A, 6.

3. a. Imposition of tax on Net Profits of Resident Unincorporated Businesses:

1. In the case of Resident unincorporated business, professions, enterprises, undertakings or other entities conducted, operated, engaged in, prosecuted or carried on, irrespective of whether such taxpayer has an office or place of business in the Municipality there is imposed an annual tax of one percent (1%) on the net profits attributable to the Municipality, under the formula of separate accounting method provided for in Section 3B of the Ordinance, derived from sales made, work done or any services performed or rendered and business or other activities conducted in the Municipality. For the method of computing professional profits attributable to the Municipality, see apportionment percentage method Article III-B 2.

2. The tax imposed on Resident Associations or other unincorporated entities owned by two or more Persons is upon the entities rather than the individual members or owners thereof, but the tax imposed on an unincorporated Resident entity owned by one Person is upon the individual owner. (For tax on that part of a Resident owner's distributive share of Net Profits not taxed against the entity, see Article III-A. 3b).

3. The tax imposed by Section 3, paragraph A-3a of the Ordinance is imposed on all Resident

unincorporated entities having Net Profits attributable to the Municipality under the method of apportionment provided for in the Ordinance, regardless of where the owner or owners of such Resident unincorporated Business entity reside. See Article III-B-2-c. 1.

4. Resident associations owned by two or more Persons all of whom are Residents of the Municipality may disregard the method of apportionment provided for in the Ordinance and pay the tax on their entire Net Profits thereof. In such case, the tax paid by the entity shall constitute all tax due from the owners or members of the entity for their distributive share of such Net Profits; however, an additional return shall be required from any such owner of member having Taxable Income other than the distributive share of the Net Profits from the entity. See Article XV for credits.

5. The tax imposed shall not apply to income derived within the Municipality by any person from interstate commerce if the only business activities within the State of Ohio by or on behalf of such person, are either, or both the following:

- a. Solicitation of orders by such person, or his representative, in the State of Ohio for sales of intangible personal property, which orders are sent outside of the State of Ohio for approval or rejection, and, if approved, are filled by shipment or delivery from a point outside the State of Ohio; and
- b. the solicitation of orders by such person, or his representative in the State of Ohio, in the name of or for the benefit of a prospective customer of such person, if orders by such customer to such person to enable such customer to fill orders resulting from such solicitations are orders described in paragraph a. above; provided, however, that the provisions of this sub-section shall not apply to any corporation which is incorporated under the laws of the State of Ohio or any individual who is domiciled in or a resident of the State of Ohio. For the purpose of this sub-section a person shall not be considered to have engaged in a business activity within the State of Ohio during any taxable year merely by reason of sales in the State of Ohio, or the solicitation of orders for sales within the State of Ohio, of tangible personal property on behalf of such person by one or more independent contractors, or by reason of the maintenance of an office within the State of Ohio by one or more independent contractors whose activities on behalf of such person in the State of Ohio consist solely of making sales, or soliciting orders for sales of tangible personal property. For the purposes of this sub-section the term "independent contractor" means a commission agent, broker, or other independent contractor who is engaged in selling, or soliciting orders for sales of tangible personal property for more than one principal and who holds himself out as such in the regular course of his business activities. For the purpose of this sub-section, the term "representative" does not include an independent contractor.

3. b. Imposition of Tax on Resident's Distributive Share of Profits of a Resident's Unincorporated Business Entity, Not Attributable to this Municipality.

.1 A Resident individual who is sole owner of a Resident unincorporated entity shall disregard the Business Apportionment formula and pay the tax on the entire Net Profits of his Resident unincorporated Business entity. See Article XV.

.2 In the case of a Resident individual partner or part owner of a Resident unincorporated entity there is imposed a tax of one percent (1%), on such individual's distributive share of Net Profits earned during the effective period of the Ordinance not attributable to the Municipality, under the method of apportionment provided for in Section 3 of the Ordinance, and not taxed against the entity. See Article XV.

4. a. Imposition of Tax on Net Profits of Non-Resident Unincorporated Businesses:

.1 In the case of Non-Resident associations or other Non-Resident unincorporated entities, whether or not they have an office or any Place of Business in the Municipality, there is imposed a tax of one percent (1%) on the Net Profits attributable to the Municipality under the method of apportionment provided for under Section 3 of the Ordinance.

.2 The tax imposed on Non-Resident associations or other Non-Resident unincorporated entities owned by two or more Persons is upon the entities rather than the individual members or owners thereof. (For tax on that part of a Resident owner's distributive share of Net Profits not taxed against the entity, see Article III-A, 4b).

.3 The tax imposed by Section 3, paragraph A-3a of the Ordinance is imposed on all Non-Resident associations and other Non-Resident unincorporated entities having Net Profits

attributable to the Municipality under the method of apportionment provided for in the Ordinance, regardless of where the owner or owners of such Non-Resident unincorporated business or Resident associations, etc., reside.

.4 Non-Resident unincorporated entities owned by two or more persons all of whom are Residents of this Municipality may elect to disregard the method of apportionment provided for in the Ordinance and pay the tax on their entire Net Profits.

In such case, the tax paid by the entity shall constitute all tax due from the owners or members of the entity for their distributive share of the Net Profits; however, a return shall be required from such owner or member having Taxable income other than the distributive share of the Net Profit from the entity. (See Article XV for credits.)

4. b. Imposition of Tax on Residents' Share of Profits of a Non-Resident Unincorporated Business Entity Not Attributable to this Municipality. (See Article XV for Credits.)

.1 A Resident individual who is sole owner of a Non-Resident unincorporated business entity shall disregard the Business Apportionment formula and pay the tax on the entire Net Profits of his unincorporated entity.

.2 In the case of a Resident individual partner or part owner of a Non-Resident unincorporated entity, there is imposed on and after November 1, 1980, an annual tax of one percent (1%) of such individual's distributive share of Net Profits not attributable to the Municipality under the method of apportionment provided for in Section 3 of the Ordinance and not taxed against the entity.

5. Imposition of Tax on Net Profits of Corporation.

a. In the case of Corporations, whether domestic or foreign and whether or not such Corporations have an office or Place of Business in the Municipality, there is imposed an annual tax of one percent (1%) on the Net Profits attributable to the Municipality under the formula or separate accounting method provided for in the Ordinance.

b. In determining whether a Corporation is conducting a Business or other activity in this community, the provisions of Article III-B of these Regulations shall be acceptable.

c. Corporations which are required by the provisions of Section 5727.38 to 5727.41, inclusive, of the Revised Code of Ohio, to pay an excise tax in any Taxable Year as defined by the Ordinance, may exclude that part of their Gross Receipts upon which the excise tax is paid. In such case, expenses incurred in the production of such Gross Receipts shall not be deducted in computing Net Profits subject to the tax imposed by the Ordinance.

6. Amplification:

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

a. NET PROFITS

.1 Net Profits as used in the Ordinance and these regulations means Net Profits derived from any Business, profession, or other activity or undertaking carried on for profit or normally carried on for profit.

6.a..2 Net Profits as disclosed on any return filed pursuant to the provisions of the Ordinance shall be computed by the same accounting method used in reporting net income to the Federal Internal Revenue Service (providing such method does not prohibit an accurate apportionment of taxes due Williamsburg). Net Profits, shown on returns filed pursuant to the Ordinance must be reconciled with the income reported to the Federal Internal Revenue Service.

b. GROSS RECEIPTS

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

.2 From Gross Receipts there shall be deducted allowable expenses to arrive at the Net Profit subject to tax.

c. EXPENSES

.1 All ordinary and necessary expenses of doing business, including reasonable compensation paid Employees, shall be allowed but no deduction may be claimed for

salary or withdrawal of a proprietor or of the partners, members, or other owners of an unincorporated Business or enterprise.

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

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

.03 Where depreciable property is voluntarily destroyed the cost of demolition of the building, less any increase in the value of the land caused by such demolition, will be allowed as an expense and may be completely taken in the year of demolition or over a period not to exceed five years.

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

.05 Only taxes directly connected with the Business may be claimed as a deduction. If for any reason the income from property is not subject to the tax, then taxes on and other expenses of said property are not deductible.

In any event, the following taxes are not deductible from income: (1) the tax under the Ordinance; (2) Federal or other taxes based upon income; (3) Gift, estate or inheritance taxes; and (4) Taxes for local benefit or improvements to property which tend to appreciate the value thereof.

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

.07 Expenses attributable to non-taxable income shall not be allowed. Where no record of such expenses is kept, 5% of the non-taxable income will be considered as expenses applicable. However, where interest income is equal to or greater than 25% of net income, and interest expenses are claimed, the expenses attributable to non-taxable income shall be 50% of the interest income or 5% of the total non-taxable income reported, whichever is greater.

.08 An Employee who is paid on a commission or other compensation basis and who pays his business expense from his commissions or other compensation, without reimbursement from his Employer may deduct from his gross commissions or other compensations, business expenses allowed by the Internal Revenue Service for Federal income tax purposes but only to the extent said expenses are incurred in earning commissions or other compensations subject to the tax imposed by the Ordinance.

.09 Income from the sale of, or lease of mineral rights are not taxable and expenses or loss in connection therewith are not deductible for tax purposes except in cases where taxpayer conducts the activities by which the minerals are extracted from the land.

.010 Funds allocated by an employer to employees retirement fund are not taxable to the employee if the employee has no vested right in the money so allocated.

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

## 7. Rental from Real Property

a. The rental of real estate is ordinarily a Business activity, and the income from such rentals is taxable, provided, however, where the Taxpayer's entire rental activity produces gross rentals of three thousand dollars per year or less, it will be prima facie evidence that such rental activities are not a Business activity. (If gross rentals exceed three thousand dollars

per year, the entire net income from rentals is taxable.)

b. Rentals received by a Taxpayer engaged in the Business of buying and selling real estate shall be considered as part of Business income.

c. Real property, as the term is used in this Regulation, shall include commercial property, residential property, farm property, and any and all other types of real estate.

d. In determining the Taxable Income from rentals, the deductible expenses shall be of the same nature, extent and amount as are allowed by the Internal Revenue Service for Federal income tax purposes.

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

f. Non-Residents of the Municipality are subject to such taxation only if the real property is situated within the Municipality.

#### 8. Patents and Copyrights

a. Income from patents or copyrights is not to be included in Net Profits subject to the tax if the income from such patents or copyrights is subject to the State Intangible Tax.

Conversely, such a state intangible tax is not deductible in determining Municipal tax.

Such items shall be clearly disclosed on an attachment to be filed with the Municipal tax return.

#### 9. Royalties

a. Income in the form of royalties is taxable if taxpayer's activities produced the publication or other product, the sale of which produces the royalties.

#### B. APPORTIONMENT OF BUSINESS PROFITS.

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

##### 1. Separate Accounting Method.

a. The Net Profits apportioned to Williamsburg from Business, professional or other activities conducted in Williamsburg by Corporations or unincorporated entities (whether Resident or Non-Resident) may be determined from the records of the Taxpayer if Taxpayer has bona fide records which disclose with reasonable accuracy what portion of his Net Profits is attributable to that part of his activities conducted within Williamsburg.

b. If the books and records of the Taxpayer are used as the basis for apportioning Net Profits rather than the Business Apportionment Formula, a statement must accompany The return explaining the manner in which such apportionment is made in sufficient detail to enable the Commissioner to determine whether the Net Profits attributable to Williamsburg are apportioned within reasonable accuracy.

c. In determining the income apportioned to Williamsburg 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 Williamsburg.

##### 2. Business Apportionment Percentage Method.

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 Williamsburg 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.

.1 The percentage of Taxpayer's real and tangible personal property within Williamsburg is determined by dividing the average original cost of such property within Williamsburg (without deduction of any encumbrances) by the average original cost of all such property within and without Williamsburg. In determining such percentage property rented to the Taxpayer as real and tangible personal property must be considered.

.01 The original cost of real and tangible personal property rented by Taxpayer shall be determined by multiplying gross annual rents by eight (8).

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

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

or as a percentage of sales profits or otherwise;

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

.03 Non-resident professional persons shall use the factor of number of offices everywhere to the number of offices located in this Municipality.

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

b. STEP 2: Ascertain the percentage which the Gross Receipts of the Taxpayer derived from sales made and services rendered in Williamsburg is of the total Gross Receipts where ever derived during the period covered by the return.

.1 The following sales shall be considered Williamsburg sales:

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

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

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

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

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

.2 In the application of the foregoing sub-paragraphs 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, Solicitation of customers outside Williamsburg by mail or phone from an office, or Place of Business within this Municipality shall not be considered a solicitation of sales outside this Municipality.

.3 Non-resident professional persons shall use the factor of Williamsburg billings over total billings.

c. STEP 3: Ascertain the percentage which the total wages, salaries, commissions and other compensation of Employees within Williamsburg is of the total wages, salaries, commissions and other compensation of all the Taxpayer's Employees within and without Williamsburg during the period covered by the return.

.1 Salaries and reasonable compensation paid owners or credited to the account of owners or partners during the period covered by the return are considered wages for the purpose of this computation.

.2 Wages, salaries, and other compensation shall be computed on the cash or accrual basis in accordance with the method of accounting used in the computation of the entire net income of the Taxpayer.

.3 In the case of an Employee who performs services both within and without this Municipality the amount treated as compensation for services performed within the Municipality shall be deemed to be;

.01 In the case of an Employee whose compensation depends directly on the volume

of Business secured by him, such as a salesman on a commission basis, the amount received by him for the Business attributable to his efforts with Williamsburg.

.02 In the case of an Employee whose compensation depends on other results achieved, the proportion of the total compensation received which the value of his services within this Municipality bears to the value of all his services; and

.03 In the case of an Employee compensated on a time basis, the proportion of the total amount received by him which his working time within this Municipality is of his total working time.

.04 Provided, however, all Employees regularly connected with or working out of a Place of Business maintained by the Taxpayer in the Municipality who performs 75% or more of their services within the Municipality be considered Employees within the Municipality.

.4 Non-resident professional persons shall use the factor of days spent within Williamsburg to total working days.

All Employees regularly connected with or working out of a Place of Business maintained by the Taxpayer outside the Municipality who performs 25% or less of their services within the Municipality shall be considered Employees outside the Municipality. (The provisions of this sub-paragraph are not applicable in determining the tax liability of a Non-Resident who works in and outside the Municipality.)

d. STEP 4: Add the percentages determined in accordance with Steps 1, 2 and 3 or such of the aforesaid percentages as may be applicable to the particular Taxpayer's Business and divide the total so obtained by the number of percentages used in ascertaining said total. The result so obtained is the Business apportionment percentage. In determining the average percentage, a factor shall not be excluded from the computation merely because said factor is found to be apportioned entirely in or outside this Municipality. A factor is excluded only when it does not exist anywhere.

e. STEP 5: The Business apportionment percentage determined in Step 4 above shall be applied to the entire taxable Net Profits of the Taxpayer wherever derived to determine the Net Profits apportioned to Williamsburg.

3. Substitute Method.

a. In the event a just and equitable result cannot be obtained under the formula, the Board, upon application of the Taxpayer or the Commissioner, may substitute other factors in the formula or prescribe other methods of apportioning net income calculated to effect a fair and proper apportionment.

b. Application to the Board to substitute other factors in the formula or to use a Different method to apportion Net Profits must be made in writing and shall state the specific grounds on which the substitution of factors or use of a different method is requested and the relief sought to be obtained. A copy thereof shall be served at the time of filing upon the Taxpayer or Commissioner as the case may be. No specific form need be followed in making such application. Once a Taxpayer has filed under a substitute method he must continue to so file unless given permission to change by the Board of Review.

4. Professional and Personal Service.

a. In the case of professional people and others furnishing personal services, if their only Place of Business is within the Municipality all their Net Profits shall prima facie be attributable to the Municipality.

**C. OPERATING LOSS CARRY-FORWARD.**

1. The portion of a net operating loss, based on income taxable under the Ordinance, apportioned to Williamsburg may be applied against the portion of the profit of succeeding years apportioned to Williamsburg until exhausted, but in no event more than the three (3) years immediately following the year in which the loss was sustained. No portion of a net operating loss shall be carried back against Net Profits of any prior year.

2. In the event Net Profits are apportioned both within and without Williamsburg the portion Of a net operating loss sustained shall be apportioned to Williamsburg in the same manner as provided here for apportioning Net Profits to Williamsburg. The portion of a net operating loss to be carried forward shall be determined in the year the net operating loss is sustained, on the basis of the apportionment factors applicable to that year.

3. A short Fiscal year (a Fiscal Year of less than twelve (12) months) brought about by a change in accounting period, a new Taxpayer selecting a short Fiscal Year, or a Taxpayer operating in Williamsburg for less than his full accounting period, shall be considered as a full taxable Fiscal Year for the purposes of Losses carry-forward.
4. In any return in which a net operating loss deduction is claimed, a schedule should be attached showing:
  - a. Year in which net operating loss was sustained.
  - b. Method of accounting and apportionment, used to determine portion of net operating loss allowable to Williamsburg.
  - c. Amount of net operating loss used as a deduction in prior years.
  - d. Amount of net operating loss claimed as a deduction in current year.
5. The net operating loss of a Taxpayer which loses its identity through the merger, consolidation, etc., shall not be allowed as a carry-forward loss deduction to the surviving or new Taxpayer.
6. In the case of a net operating loss sustained by Taxpayers filing a consolidated return, see Article III, paragraph D.

#### D. CONSOLIDATED RETURNS:

1. Consolidated returns may be filed by a group of corporations who are affiliated through stock ownership. For a corporation to be included in a consolidated return 80% of its stock must be owned by other members of the affiliated group. A consolidated return must include all companies which are so affiliated.
2. Once a consolidated return has been filed for any taxable year the consolidated group must continue to file consolidated returns in subsequent years unless:
  - a. Permission in writing is granted by the Commissioner to file separate returns.
  - b. A new corporation other than a corporation created or organized by a member of the group has become a member of the group during the taxable year.
  - c. A corporation member of the group is sold or exchanged. Liquidating a corporation or merging one of the corporations of the group into another will not qualify the group for filing separate returns.

#### E. EXCEPTIONS.

The following shall not be considered taxable:

1. Poor relief, unemployment insurance benefits, supplemental unemployment benefits, old age pensions or similar payments received from local, state or federal government or charitable or religious organizations.
2. Proceeds of insurance, annuities, workmen's compensation insurance, social security benefits, pensions, compensation for damages for personal injuries and like reimbursement, not including damages for loss of profits.
3. Compensation for damage to property by way of insurance or otherwise.
4. Interest and dividends from intangible property.
5. Military pay and allowance received as a member of the armed forces of the United States.
6. Any charitable, educational, fraternal or other type of non-profit association or organization enumerated in Section 718 of the Revised Code of Ohio which is exempt from payment of real estate taxes is exempt from payment of the tax imposed by this Ordinance, but only to the extent enumerated in said section.
7. Any Association or organization falling in the category listed in the preceding paragraph is required to file declarations and final returns and remit the taxes levied under this Ordinance on all Net Profits from activities, the income from which is not specifically exempt from taxation in Section 718 of the Revised Code of Ohio.
8. Where such non-profit Association or organization conducts income producing Business both within and without the corporate limits, it shall calculate its profits apportionable To the municipality under the method or methods provided above.
9. Compensation earned by itinerants.
10. Income from fellowship is exempt only when given for attendance as a student at a recognized college or university.

#### F. CAPITAL GAINS.

Capital Gains from the sales of depreciable property shall be taxable to the extent of the aggregate amount of the depreciation taken on such property for income tax purposes of this Municipality.

#### ARTICLE IV

##### EFFECTIVE PERIOD OF TAX

A. The tax imposed by the Ordinance is levied, collected and paid with respect to all income and net profits, subject to the tax. (Ord. 546-82 and 598-82)

#### ARTICLE V

##### RETURN AND PAYMENT OF THE TAX

###### A. DATE AND REQUIREMENT FOR FILING.

1. On or before April 15th of each year beginning with the year 2004, every Person subject to the provisions of Section 3, paragraph A-1 to A-5, inclusive, of the Ordinance shall, except as hereinafter provided, make and file with the Commissioner, a return on a form prescribed by and obtainable upon request from the Commissioner, generic form or on the internet, whether or not a tax be due.

2. A taxpayer on a fiscal year accounting basis for federal income tax purposes shall, beginning with his first fiscal year, any part of which falls within the effective period hereof file his return within four (4) months from the end of such fiscal year or period.

3. If the return is made for a Fiscal Year or any period less than a year, said return shall be made within four (4) months from the end of each Fiscal Year or other period.

4. The Return shall be accompanied by payment of any taxes due thereon.

5. Every person subject to the provisions of Section 3 of the Ordinance shall, except as hereinafter provided, file a return setting forth the aggregate amount of salaries, wages, commissions and other personal service compensation, Net Profits from Business or other activities, including the rental from use of real and personal property, and other income taxable under the Ordinance, received for the period covered by the return and such other pertinent facts and information in detail as the Commissioner may require.

6. An Employee who is permitted to deduct Business expenses from gross wages, salaries, or commissions must file a return in order to claim such deductions even though all or part of such wages, salaries, or commissions are subject to withholding.

7. Any Taxpayer who received Taxable Income not subject to Withholding under the Ordinance must file a return.

8. Any Taxpayer having income, wages, or other compensation for which a return must be filed, and also having Net Profits from a Business is required to file only one return.

9. Trustees are required to file returns on the trusts and give the name and address of the beneficiaries, even though the latter individually pays the tax.

10. Except as provided for therein, the tax is on the partnership of Association as an entity whether Resident or Non-Resident and a return is required disclosing the Net Profits apportioned to the Municipality and the tax paid thereon. However, any Resident partner or Resident member of an unincorporated entity is required to make a return and pay the tax in accordance with Article III-A-3b.2 or these regulations.

11. A husband and wife may file a joint return either when engaged in the same or separate businesses, but may not deduct business losses of either from compensation paid by an employer.

12. Executors and administrators are liable for the payment of any taxes due by a deceased from an estate of said deceased.

###### B. INFORMATION REQUIRED AND RECONCILIATION WITH FEDERAL RETURNS.

1. In returns filed hereunder, there shall be set forth the aggregate amount of salaries, wages, bonuses, incentive payments, commissions, fees and other compensation subject to the tax earned from each Employer, taxable Net Profits, and other pertinent information as the Commissioner may require.

2. Where figures of total income, deductions, and Net Profits are included, as shown by a Federal return, any items of income which are not subject to Williamsburg tax and unallowable expenses shall be eliminated in determining net income subject to Williamsburg tax. The fact that any Taxpayer is not

required to file a Federal tax return does not relieve him from filing a tax return.

3. If a change in Federal income tax liability, made by the Federal Internal Revenue Service, or by a judicial decision, results in an additional amount of tax payable to this Municipality, a report of such change shall be filed by the Taxpayer within three (3) months after receipt of the final notice from the Federal Internal Revenue Service or final Court decision, see Article XI-B-2.

4. If a change in Federal income tax liability results in a reduction of taxes owed and paid to this Municipality, a claim for refund shall be filed with the Commissioner as prescribed in Section 11 of the Ordinance and Article XI-C of these regulations.

#### C. EXTENSIONS.

1. Upon written request of the Taxpayer made on or before the date for filing the return and for good cause shown, the Commissioner may extend the time for filing such return for a period not to exceed six (6) months, or to one (1) month beyond any extension requested of or granted by the Federal Internal Revenue Service. The Commissioner may require a tentative return accompanied by payment of the estimated tax. No penalty or interest will be assessed in those cases in which the return is filed and the final tax paid within the period as extended provided all other filing and payment requirements of the Ordinance have been met.

2. Information returns, schedules and statement needed to support tax returns are to be filed within the time limits set forth for filing the tax returns.

#### D. PAYMENT WITH RETURN.

1. The Taxpayer making a return shall, at the time of the filing thereof, pay to the Commissioner the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of Section 6 of the Ordinance, or where any portion of said tax shall have been paid by the Taxpayer pursuant to the provisions of Section 7 of the Ordinance, or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with Section 15 hereof, shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing said return.

2. A Taxpayer who has overpaid the amount of tax to which the Municipality is entitled under the provisions of the Ordinance may have such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such overpayment (or part thereof) shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded.

#### E. AMENDED RETURNS

1. Where necessary an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and limitations contained in Sections 11 and 12 of the Ordinance. A Taxpayer may not change the method of accounting or apportionment of Net Profits after the due date for filing the original return.

2. Within three (3) months from the final determination of any Federal tax liability affecting the Taxpayer's Municipal tax liability, such Taxpayer shall make and file an amended Municipal tax return showing income subject to the Municipal tax based upon such final determination of Federal tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment.

### ARTICLE VI

#### COLLECTION OF TAX AT THE SOURCE

##### A. DUTY OF WITHOLDING.

1. It is the duty of each Employer who employs one or more Persons whether as an Employee, officer, director or otherwise, on a salary, wage

or other personal service compensation basis, to deduct each time any such compensation is paid to an Employee the tax imposed by the ordinance on such salary, wage, bonus, incentive payment, commission or other compensation due by said Employer to said Employee. The Tax shall be deducted by the Employer from:

- a. The gross amount of all salaries, wages, bonuses, incentive payments, fees, commissions or other forms of compensation paid to Residents of this Municipality, regardless of the place where the services are rendered; and
- b. All compensation paid Non-Residents for services rendered, work performed or other activities engaged in within Williamsburg.
- c. An employer is liable for the payment of the tax required to be deducted and withheld, whether or not such tax in fact has been withheld.

2. All Employers within or doing business within this Municipality are required to make the collections and deductions specified in this article, regardless of the fact that the services on account of which any particular deduction is required, as to Resident of this Municipality were performed outside Municipality.

3. Employers who do not maintain a permanent office or Place of Business in this Municipality, but who are subject to tax on Net Profits attributable to this Municipality, under the method of apportionment provided for in the Ordinance, are considered to be Employers within this Municipality and subject to the requirements of withholding.

4. The mere fact that the tax is not withheld will not relieve the Employee of the responsibility of filing a return and paying the tax on the compensation paid. If the Employer has withheld the tax and failed to pay the tax withheld to the Commissioner, the Employee is not liable for the tax so withheld.

5. Commissions and fees paid to professional men, brokers and others who are independent contractors, and not Employees of the payor, are not subject to withholding or collection of the tax at the source. Such Taxpayers must in all instances file a declaration and return and pay the tax pursuant to the provisions of the Ordinance and Article V and VII of the Regulations.

6. Where a Non-Resident receives compensation for personal services rendered or performed partly within and partly without the Municipality, the withholding Employer shall deduct, withhold and remit the tax on that portion of the compensation which is earned within the Municipality in accordance with the following rules of apportionment:

- a. If the Non-Resident is a salesman, agent or other Employee whose compensation depends directly on the volume of Business transacted or chiefly effected by him, the deducting and withholding shall attach to the portion of the entire compensation which the volume of Business transacted or chiefly effected by the Employee within the Municipality bears to the total volume of Business transacted by him within and outside the Municipality.

- b. The deducting and withholding of personal service compensation of other Non-Resident employees, including officers of Corporations, shall attach to the proportion of the personal service compensation of such Employee which the total number of his working hours within the Municipality is of the total number of working hours.

- c. The fact that Non-Resident employees are subject to call at any time does not permit the allocation of pay for time worked within the Municipality on a seven-day per week basis. The percentage of Time worked in the Municipality will be computed on the basis of a

Forty-hour week unless the Employer notifies the Commissioner that A greater or less number of hours per week is worked.

.1 The determination of tax liability of non-residents working in and out of the corporate limits is to be computed on the formula of the total number of days worked in the Municipality divided by the total number of days worked during the year and the resulting percentage applied to the total annual income from wages including vacation pay.

d. Wages of Itinerants are not subject to withholding.

e. Non-residents working on twelve or fewer days per year are not subject to withholding.

7. An employer shall withhold the tax on the full amount of any advances made to an Employee on account of commissions.

8. An Employer required to withhold the tax on compensation paid to an Employee shall, in determining the amount on which the tax is to be withheld, ignore any amount allowed and paid to the Employee for expenses necessarily and actually incurred by the Employee in the actual performance of his services, provided such expenses are incurred in earning compensation, including commissions, and are not deducted as a Business expense by the Employee under Article III of these Regulations.

9. An Employer whose records show that an Employee is a Non-Resident of The Municipality and has no knowledge to the contrary, shall be relieved of the responsibility of withholding the tax on personal service compensation paid to such Employee for services rendered or work done outside the Municipality by such employee, provided, however, that such Employer must withhold the tax on all personal service compensation paid such Employee after the Commissioner notifies said Employer in writing that such Employee is a Resident of this Municipality. All Employees are required to notify the Employer of any change of residence and the date thereof.

10. The Commissioner shall have authority to enter into agreement with other Taxing Municipalities permitting a Employer to withhold the entire tax on the wages of a Floater either for the Taxing Municipality in which the Employer has his Principal Place of Business or the Taxing Municipality in which the Employee resides.

11. Each Employer shall remit to the income tax bureau on or before the last day of each month all taxes withheld by them from their Employees during the preceding month or part thereof. However, when taxes withheld during a quarter are less than \$100.00 per month, payments may be made quarterly on or before the last day of the month following the end of the quarter.

A. 12. The provisions of Ordinance Section 6 (A),(a) apply.

#### **B. EMPLOYER DEEMED TRUSTEE OF TAXES WITHHELD.**

1. Every Employer is deemed to be a trustee for this Municipality in collecting and holding the tax required under the Ordinance to be withheld and the funds so collected by such withholding are deemed to be trust funds.

2. Every such Employer required to deduct and withhold the tax at the source is liable directly to this Municipality for payment of such tax whether actually collected from such Employee or not.

#### **C. RESPONSIBILITY OF OFFICERS FOR COLLECTING TAX.**

1. It shall be the responsibility jointly and severally, of the President and Treasurer of each corporation required to withhold taxes on employees wages to see that all taxes so withheld are paid to the Municipality in accordance with the provisions of the Ordinance. In the event taxes withheld by a corporation from the salaries of its employees are not paid to the Municipality in accordance with the provisions of the Ordinance,

the President and Treasurer of said corporation shall each be criminally liable under the provisions of Section 12 hereof.

#### D. RETURN AND PAYMENT OF TAX WITHHELD AND STATUS OF EMPLOYERS.

1. The Commissioner may require an employer to file returns of and to remit taxes withheld more frequently than quarterly in cases where the Employer will be present within the corporate limits of the Municipality for a period of less than a year.

The return (Form W-1) required to be filed under this article shall be made on a form furnished by or obtainable on request from the Commissioner.

2. If more than the amount of tax required to be deducted by the Ordinance is withheld from the Employee's pay, the excess shall be refunded by the Employer to the Employee. If less than the amount of tax required to be deducted is deducted and withheld by the Employer in any pay period or pay periods, the deficiency shall be deducted in subsequent pay periods.

3. On or before the 28th day of February, following any calendar year in which deductions have been made by an Employer, such Employer shall file with the Commissioner, in the form prescribed by the Commissioner, an information return for each Employee from whom Williamsburg Income Tax has been withheld, showing the name and address of the Employee, the total amount of compensation paid during the year and the amount of Williamsburg Income Tax withheld from such Employee.

4. In addition to such information returns, and at the time the same are filed, such Employer shall file with the Commissioner Form W-3 to enable the Commissioner to reconcile the sum total of compensation paid and taxes withheld as disclosed by information return W-2, or list of Employees, and prior returns and remittances made pursuant to the Ordinance.

#### E. WITHHOLDING NOT REQUIRED ON DOMESTICS.

1. No person shall be required to withhold the tax on the wages or other compensation paid domestic servants employed exclusively in or about such person's residence, but such Employee shall be subject to all of the requirements of the Ordinance.

#### F. FRACTIONAL PARTS OF CENT:

In deducting and withholding the tax at the source and in payment of any tax due under the Ordinance, a fractional part of a cent shall be disregarded unless it amounts one-half cent (1/2c) or more in which case it shall be increased to one cent (1c).

### ARTICLE VII

#### DECLARATIONS

##### A. REQUIREMENT OF FILING.

1. A declaration of estimated tax shall be filed by every Taxpayer who may reasonably expect to have Taxable Income, the tax on which is not or will not be withheld by an Employer or Employers. Where required such declaration shall be filed within 3 ½ months after the beginning of the tax year.

2. A Taxpayer's final return for the preceding year may be used as the basis for computing his declaration of estimated tax for the current year. In the event a Taxpayer has not previously been required to file a return, a declaration of estimated tax on anticipated income shall be filed in good faith.

##### B. DATE OF FILING.

1. A person or other entity conducting a business not previously subject to the tax, or whose Employer does not withhold the tax, shall file a declaration on or before April 15, or within 3 ½ months after either the start of his fiscal year or when he first becomes subject to the provisions of this section.

##### C. FORM FOR FILING AND DATES OF PAYMENTS.

1. Such declaration shall be filed upon a form furnished by or obtainable from the Tax Commissioner. Credit shall be taken in said declaration for Williamsburg tax to be withheld from any portion of such income and for income taxes to be paid to another taxing Municipality for which credit is allowed against the Williamsburg tax under Section 15 hereof.
2. A declaration of estimated tax to be paid the municipality shall be accompanied by a payment of at least one-fourth (1/4) of the estimated tax, less credit for taxes withheld or paid to another municipality and at least a similar amount shall be paid on or before the 15th day of the sixth, ninth and thirteenth months after the beginning of the tax year.
3. The original estimate of tax liability or any subsequent amendment thereof may be increased or decreased by filing an amended declaration on or before any quarterly payment date. Such amendment may be made on the regular declaration form or on any quarterly notice form (Q-1).

#### D. AMENDED DECLARATION.

1. Amended declaration must be filed on or before the 15th day of the month following the close of the Taxpayer's Tax year. If it appears that the original declaration made for such Fiscal Year underestimated the Taxpayer's income by 30% or more, at such time a payment which, together with prior payments is sufficient to pay Taxpayer's entire estimated liability, shall be made. If upon the filing of the return required by Section 5 hereof it appears that the Taxpayer did not pay 70% of his tax liability, as shown on said return, on or before the 15th day of the month following the close of the Tax year, the difference between 70% of said Taxpayer's tax liability and the amount of estimated tax he actually paid on or before said date shall be subject to the interest and penalty provisions of Section 10 hereof.
2. In the event an amended declaration has been filed the unpaid balance shown due thereon shall be paid in equal installments over the remaining payment dates.

#### E. FINAL RETURNS REQUIRED.

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

### ARTICLE VIII

#### DUTIES OF THE TAX COMMISSIONER

##### A. COLLECTION OF TAX AND RETENTION OF RECORDS.

1. It shall be the duty of the Commissioner to receive the tax imposed by the Ordinance in the manner prescribed herein from the Taxpayers to keep an accurate record thereof, and to report all moneys so received.
2. It shall be the duty of the Tax Commissioner to collect and receive the tax imposed by this Ordinance in the manner prescribed therein, and to keep an accurate record thereof, and to report all moneys so received.
3. It shall be the duty of the Commissioner to enforce payment of all taxes owing the Municipality, to keep accurate records for a minimum of five (5) years showing the amount due from each Taxpayer required to file a declaration or make any return, including taxes withheld, and to show the dates and amounts of payments thereof.

##### B. ENFORCEMENT PROVISIONS.

1. The Commissioner is charged with the administration and enforcement of the provisions of the Ordinance and is, subject to the approval of the Board of Review, empowered to adopt, promulgate, and enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the Ordinance. The Commissioner has the authority to correct or adjust any return submitted, when a correction or adjustment is necessary to accomplish the intent of the Ordinance.
2. Any Taxpayer or Employer desiring a special ruling on any matter pertaining to the Ordinance or these Rules and Regulations, should submit to the Commissioner in

writing all the facts pertinent to the matter on which the ruling is sought.

3. These regulations, together with all amendments and supplements hereto and all changes herein, will be on file at the office of the Commissioner and will be open to public inspection.

4. The Commissioner is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the Taxpayer has proved to the Commissioner that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until the proper returns are filed by the Taxpayer for all amounts owed by him under the Ordinance.

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

#### C. ESTIMATION OF TAX BY COMMISSIONER.

1. Whenever the Commissioner has been unable to secure information from the Taxpayer as to his Taxable Income for any year, he may determine the amount of tax appearing to be due and assess the Taxpayer upon the basis for such determination, together with interest and penalties as prescribed in Section 10 of the Ordinance.

2. Such determination of tax may be adjusted upon submission by the Taxpayer of actual records from which his tax may be computed.

#### D. COMPROMISE AUTHORITY.

1. Subject to policies laid down by the Board of Review, the Commissioner is authorized to compromise any assessments of interest and penalties.

### ARTICLE IX

#### EXAMINATION OF BOOKS AND RECORDS, INFORMATION SO OBTAINED CONFIDENTIAL: PENALTY

##### A. INVESTIGATIONS BY COMMISSIONER.

1. The Commissioner, or his duly authorized agent, is authorized to examine the books, papers, records and Federal income tax returns of any Employer, Taxpayer or Person subject to the Ordinance, or whom the Commissioner believes is subject to the provisions of the Ordinance, for the purpose of verifying the accuracy of any return made; or, if no return was made, to ascertain the tax due under the Ordinance.

2. An Employer or supposed Employer and every Taxpayer shall furnish, within ten (10) days following a written request by the Commissioner, or his duly authorized agent, the means, facilities and opportunity for making examinations and investigations authorized by the Ordinance.

##### B. SUBPOENA OF RECORDS AND PERSONS.

1. The Commissioner, or any persons acting in his capacity, is authorized to examine any person, under oath, concerning any income which was, or should have been, returned for taxation, or any transaction tending to affect such income. The Commissioner may compel the production of books, papers and records and the attendance of all persons before him whether as parties or witnesses, whenever he believes such persons have knowledge of the facts concerning any supposed income or supposed transaction of the Taxpayer.

2. The Commissioner's order to examine any document mentioned in the preceding paragraph shall state whether the examination is to be at the office of the Taxpayer or at the office of the Commissioner.

3. The Commissioner may order the appearance before him, or his duly authorized agent, of any party whom he believes to have any knowledge of a Taxpayer's income or withholdings, or any information pertaining to the Taxpayer under investigation, whether or not the individual so ordered has actual custody of the records of the Taxpayer being investigated. The Commissioner is specifically authorized to order the appearance of the local manager or representative of any Taxpayer.

4. Persons required to attend any hearings shall be notified not less than ten (10)

days prior to the time of the hearing. The notice shall show the time and place of the hearing and what books, papers or records the witness is to make available at such hearing.

5. The notice shall be served by the Commissioner, or his duly authorized agent, by delivering it to the person named personally, or by leaving the notice at his usual Place of Business or residence, or by mailing it to the person by registered mail, return receipt requested, addressed to his usual Place of Business or residence.

#### C. PENALTY FOR NON-COMPLIANCE.

Refusal by any Employer, supposed Employer, Taxpayer, or supposed Taxpayer, or the refusal of any such person to appear before the Commissioner or his duly authorized agent, to submit to such examination and to produce the records requested constitutes a misdemeanor punishable by fine or imprisonment, or both, as prescribed by Section 12 of the Ordinance.

#### D. RETENTION OF RECORDS.

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

#### E. CONFIDENTIAL NATURE OF EXAMINATIONS.

Any information gained as a result of any returns, investigations, verifications or hearings before the Commissioner or the Board, required by the Ordinance or authorized by these rules and regulations shall be confidential and no disclosure thereof shall be made except for official purposes or as ordered by a court of competent jurisdiction. Any person divulging such information in violation of this section shall be fined not more than Five Hundred (\$500.00) Dollars and imprisoned not more than sixty (60) days or both, for each offense. In addition to the above penalty, any employee of the Municipality who violates the provisions of this section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

### ARTICLE X

#### INTEREST & PENALTIES

##### A. INTEREST

1. Except as provided in paragraph C of this article, all taxes imposed and all moneys withheld or required to be withheld by Employers under the provisions of this Ordinance and remaining unpaid after they have become due shall bear interest, in addition to the amount of the unpaid tax or withholdings, at the rate of one-half percent (1/2%) per month or fraction thereof.

##### B. PENALTIES

In addition to interest as provided in Paragraph A hereof, penalties for failure to pay taxes and to withhold and remit taxes pursuant to the provisions of the Ordinance are hereby imposed as follows:

1. In the case of taxpayers failing to pay the full amount of tax due, a penalty of the higher of: (a) Fifty Dollars (\$50.00) or (b) one and one-half percent (1-1/2%) per month or fraction thereof, of the amount of the unpaid tax, if the tax is paid during the first three months after said tax became due; a penalty of two and one-half percent (2-1/2%) per month or fraction thereof, of the unpaid tax, if said tax is paid between the fourth and sixth months after said tax became due; and a penalty of four and one-half percent (4-1/2%) per month, or fraction thereof, of the amount of the unpaid tax, if said tax is paid later than six (6) months after it became due. The percentages herein specified, when used, shall apply from the first month of delinquency.

2. In the case of employers who fail to withhold and remit to the Tax Commissioner the taxes to be withheld from employees, a penalty of the higher of (a) One Hundred Dollars (\$100.00), or (b) two and one-half percent

(2-1/2%) per month or fraction thereof, of the unpaid withholding, if paid during the first three (3) months after it was due; a penalty of four and one half percent (4-1/2%) per month, or fraction thereof, of the unpaid withholding, if paid during the fourth to sixth month, inclusive, after it was due; and a penalty of five and one-half percent (5-1/2%) per month or fraction thereof, of the unpaid withholding, if paid later than six (6) months after it was due. The percentages herein specified, when used, shall apply from the first month of delinquency.

#### C. EXCEPTIONS.

1. No penalty shall be assessed on additional taxes found on audit to be due when a return was timely filed in good faith and the tax paid thereon within the prescribed time.
2. In the absence of fraud neither penalty nor interest shall be assessed on any additional taxes resulting from a Federal audit for Federal income tax purposes provided an amended return is filed and the additional tax paid within three (3) months after final determination of the Federal tax liability.
3. A Taxpayer or Employer shall have thirty (30) days after receipt of notice of any proposed imposition of interest and penalties within which to file a written protest or explanation with the Commissioner. If no protest or explanation is filed within the prescribed time, the proposed imposition of interest and penalties shall become and be the final assessment. Upon filing of a written protest or explanation the Commissioner shall determine the assessment which may or may not be the same as the proposed assessment.

#### D. APPEAL FROM ASSESSMENT.

1. Upon recommendation of the Commissioner, the Board of Review may abate Penalty or interest, or both, or upon an appeal from the refusal of the Commissioner to recommend abatement of penalty and interest, the Board may nevertheless abate penalty or interest, or both.

### ARTICLE XI

#### COLLECTION OF UNPAID TAXES AND REFUND OF OVERPAYMENTS.

##### A. UNPAID SUMS – A CIVIL DEBT.

1. All taxes imposed by the Ordinance and not paid when due become, together with interest and penalties thereon, a debt due the Municipality from the Taxpayer and are recoverable as are other debts by civil suit. Employers who are required, under Section 6 of the Ordinance, to withhold and remit the taxes required to be withheld at the source, and who fail to withhold or remit, become liable to the Municipality in a civil action to enforce the payment of the debt created by such failure.
2. No additional assessment shall be made by the Commissioner after three (3) years from the time the return was due or filed, whichever is later. Provided, however, there shall be no period of limitation on such additional assessments in the case of a return that omits a substantial portion of income, or filing a false or fraudulent return to evade payment of the tax, or failure to file a return. Failure to report 25% or more of gross income shall be considered a substantial omission.

##### B. REFUNDS AND OVERPAYMENTS.

1. Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date on which such payment was made, or the return was due, or three (3) months after the determination of Federal income tax liability, whichever is later.
2. No refund shall be made to any Taxpayer until he has complied with all provisions of the Ordinance and has furnished all information required by the Commissioner.
3. Overpayments will be either refunded or credited to the Taxpayer's current year's liability where no election has been made by the Taxpayer, overpayments

of any year's taxes shall be applied as follows:

- a. To taxes owed for any previous years in the order in which such taxes became due.
- b. To his current estimated tax liability.

C. LIMITATION.

Where the total amount due or refund claimed for a tax year is less than one dollar (\$1.00) such amount shall not be collected or refunded, but may be credited to the succeeding year's declaration if requested.

ARTICLE XII

VIOLATIONS, PENALTIES

A. ENUMERATION OF VIOLATIONS.

Any person who shall

1. fail, neglect or refuse to make any return or declaration required by the Ordinance; or
2. make an incomplete, false or fraudulent return; or
3. fail, neglect or refuse to pay the tax, penalties or interest imposed by the Ordinance; or
4. fail, neglect or refuse to withhold the tax from his Employees and remit such withholding to the Commissioner; or
5. refuse to permit the Commissioner or any duly authorized agent or Employee to examine his or his Employer's books, records, papers and Federal income tax returns; or
6. fail to appear before the Commissioner and to produce his or his Employer's books, records, papers or Federal income tax returns upon order or subpoena of the Commissioner; or
7. refuse to disclose to the Commissioner any information with respect to such person's or such person's Employer's income or Net Profits; or
8. fail to comply with the provisions of the Ordinance or any order or subpoena of the Commissioner; or
9. fail, neglect, or refuse to make any payment on the estimated tax for any year as required by Section 7 of the Ordinance; or
10. fail as President or Treasurer of a corporation, to cause the tax withheld from the wages of the employees of such corporation pursuant to the Ordinance to be paid to the Municipality in accordance with the provisions of Section 6 or the Ordinance; or
11. attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties, or interest imposed by this Ordinance, shall be guilty of a misdemeanor of the third degree and shall be fined not more than Five Hundred Dollars (\$500.00) or imprisoned not more than sixty days, or both, for each offense.

B. PROSECUTIONS.

All criminal prosecutions under this section must be commenced within three (3) years, and all civil actions within five (5) years following the date in which the final return for a taxable year was due, or five (5) years from the time of any offense complained of.

C. FAILURE TO RECEIVE FORMS – NOT A DEFENSE.

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

D. DEFINITION OF PERSON.

The term "Person" as used in this section shall, in addition to the meaning prescribed in Section 2 of the Ordinance, include in the case of an Association or Corporation not having any partner, member or officer within the Municipality, an Employee or agent of such Association or Corporation who can be found within the corporate limits of the Municipality.

ARTICLE XIII

## BOARD OF REVIEW

### A. COMPOSITION.

A Board of Review shall consist of three persons, one who shall be the Clerk/Treasurer of the Village of Williamsburg, one who shall be the Mayor of the Village of Williamsburg, or his designate, and one who shall be a Williamsburg Councilperson, designated by the Village Council.

### B. PROCEDURE

A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board may be conducted privately and the provisions of Section 9 of the Ordinance with reference to the confidential character of information required to be disclosed by the Ordinance shall apply to such matters as may be heard before the Board on appeal.

All rules and regulations and amendments or changes thereto, which are adopted by the Commissioner under the authority conferred by the Ordinance, must be approved by the Board of Review before the same become effective. The Board shall hear and pass on appeals from any ruling or decision of the Commissioner, and, at the request of the Taxpayer or Commissioner, is empowered to substitute alternate methods of apportionment.

### C. APPEALS.

1. An appeal from a ruling of the Commissioner by a Taxpayer or Employer is effected by filing a notice of appeal with the Board in the Village Hall, within thirty (30) days after the announcement of the Commissioner's ruling or decision from which the appeal is taken. A copy of such notice of appeal must be filed with the Commissioner.

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

3. Hearings before the Board shall be private unless the Taxpayer requests a public hearing.

## ARTICLE XIV

### USE OF FUNDS

NO REGULATION ON THIS SECTION AS IT IS A POLICY MATTER FOR COUNCIL.

## ARTICLE XV

### CREDIT ALLOWED FOR THE TAX PAID IN ANOTHER MUNICIPALITY

#### A. LIMITATION.

1. Where a Resident of this Municipality is subject to a municipal income tax in another municipality he shall not pay a total municipal income tax on the same income greater than the tax imposed at the higher rate.

#### B. CREDITS TO RESIDENTS

Resident individuals of this Municipality who are required to pay and do pay, a tax to another municipality on salaries, wages, commissions or other compensation for work done or services performed in such other municipality, or on Net Profits from Businesses, professions or other activities conducted in such other municipality, may claim a credit of the amount of tax paid by them or on their behalf for the same taxable period to such other municipality but only to the extent of the tax imposed by this Ordinance on such compensation or Net Profit.

#### C. METHOD FOR APPLYING FOR CREDIT.

1. No credit will be given unless the Taxpayer claims such on his final return or other form prescribed by the Commissioner, and presents such evidence of the payment of a similar tax to another municipality, as the Commissioner may require.

2. A refund must be claimed by the taxpayer or his employer within three (3) years of the date of filing the final return for the year for which such refund is

claimed. The Commissioner shall prescribe rules for verification.

D. A statement satisfactory to the Commissioner from the taxing authority of the municipality to which the taxes are paid that a Williamsburg Resident or his Employer is paying the tax shall be considered as fulfilling the requirement of this article.

#### ARTICLE XVI

##### SAVINGS CLAUSE

These Rules and Regulations contain changes from the Rules and Regulations adopted for previous years in an effort to affect uniform administration of municipal income taxes throughout Ohio, and changes in these Regulations from those of previous years do not imply any intent of effect a substantial change in the Rules and Regulations, but are merely changes in form.

#### ARTICLE XVII

##### AMENDMENTS. & SUPPLEMENTS

A. From time to time amendments and supplements to these regulations may be issued by the Commissioner.