

VILLAGE OF EVENDALE OHIO

RULES AND REGULATIONS

**As Approved and In Effect
January 1, 2007**

Adopted Under the Authority of Section 890.09

Evendale Tax Ordinance

**Village of Evendale
10500 Reading Road
Evendale, Ohio 45241**

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ARTICLE I – PURPOSE

The purpose of the Evendale Earnings Tax Ordinance is to provide funds for the purposes of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities, and capital improvements of the Village of Evendale.

ARTICLE II – DEFINITIONS AND RULES OF CONSTRUCTION

A. 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.

1. “Adjusted Federal Taxable Income” 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 Section 890.02(a)(1), 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. Except as provided in Section 890.02(a)(5), deduct income and gain included in federal taxable income to the extent the income and gain directly related to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;
- e. Section 890.02(4) does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 or the Internal Revenue Code;
- f. Add taxes on, or measured by, net income allowed as a deduction in the computation of federal taxable income;
- g. In the case of a real estate investment trust and 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;

h. If the taxpayer is not a C-Corporation, and is not an individual, the taxpayer shall compute adjusted federal taxable income as if the taxpayer were a C-Corporation, except:

- i. Guaranteed payments and other similar amounts paid or accrued to a partner, former partner, member, or former member shall not be allowed as a deductible expense; and
- ii. Amounts paid or accrued to a qualified self-employed retirement plan with respect to an owner or owner-employee of the taxpayer, amounts paid or accrued to or for health insurance for an owner or owner-employee, and amounts paid or accrued to or for life insurance for an owner or owner-employee shall not be allowed as a deduction.

2. “Administrator” means the individual designated by the ordinance, whether appointed or elected, to administer and enforce the provisions of the ordinance.

3. “Association” means a partnership, limited partnership, S-Corporation, or any other form of unincorporated enterprise, owned by two or more persons.

4. “Board of Review” means the Board created by, and constituted as provided in, Section 890.14 of the Ordinance.

5. “Business” means an enterprise, 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, including but not limited to the renting or leasing of property, real, personal or mixed.

6. “Corporation” means a corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory, or foreign country or dependency.

7. “Domicile” means a principal residence that the taxpayer intends to use for an indefinite time and to which whenever he is absent he intends to return with intent to make it a fixed and permanent home. A domicile once acquired is presumed to continue until it is shown to have been changed. Intention to change domicile will not effect such a change unless accompanied by actual removal. Where change of domicile is alleged, the burden of proving the change rests upon the person making the allegation. A taxpayer has only one domicile even though he may have more than one residence.

8. "Employee" means one who works for wages, salary, commission or other types of compensation in the service of an employer.
9. "Employer" means an individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, who, or that, employs one or more persons on a salary, wage, commission, or other compensation basis.
10. "Fiscal year" means an accounting period of 12 months or less ending in any day other than December 31st. Only fiscal years accepted by the Internal Revenue Service for federal income tax purposes may be used for municipal tax purposes.
11. "Form 2106" means Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
12. "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.
13. "Gross receipts" means the total income from any source.
14. "Income from a pass-through entity" means partnership income from partners, distributive shares of shareholders of an S-Corporation, membership interests of members of a limited liability company, or other distributive or proportionate ownership share of other pass-through entities.
15. "Income Tax Department" means the office administering the Earnings Tax Ordinance.
16. "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 Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, trade names, 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 or other similar games of chance.
17. "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.

18. "Internet" means the international computer network of both federal and non-federal interoperable packet switched data networks, including the graphical sub-network known as the World Wide Web.
19. "Joint Economic Development District" means a district created under the Ohio Revised Code Sections 715.70 and 715.71, as amended. .
20. "Limited Liability Company" means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.
21. "Municipality" means Ohio Municipal Corporations (whether Cities or Villages), Ohio Townships, and Ohio Counties. It shall include similar units of government existing in other states that are substantially similar to Ohio Municipal Corporations, (whether Cities or Villages), Ohio Townships and Ohio Counties. The term shall not include any other unit of local government.
22. "Net profit" for a taxpayer, other than an individual, means adjusted federal taxable income. "Net profit" for a taxpayer who is an individual means the individual's profit required to be reported on Federal Schedules C, E, or F.
23. "Non-resident" means a person domiciled outside the Village of Evendale or a partnership, association, corporation or other entity not having an office or place of business within the Village of Evendale.
24. "Non-resident incorporated business entity" means an incorporated business entity not having an office or place of business within the Village of Evendale.
25. "Non-resident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Village of Evendale.
26. "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.
27. "Owner" means a partner of a partnership, a shareholder of an S-Corporation, a member of a limited liability company, or other person with an ownership interest in a pass-through entity.
28. "Owner's proportionate share," with respect to each owner of a pass-through entity, means the ratio of (a) the owner's income from the pass-through entity that is subject to taxation by the municipal corporation, to (b) the total income from that entity of all owners whose income from the entity is subject to taxation by that municipal corporation.

29. "Pass-through entity" means a partnership, S-Corporation, limited liability company, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code.

30. "Person" means every natural person, partnership, fiduciary, association, or corporation. When used in any clause prescribing and imposing a penalty, the term "person," as applied to an unincorporated entity shall mean its partners, shareholders or members. As applied to corporations, "person" shall mean its officers.

31. "Personal services" means services provided by an individual.

32. "Place of business" means any bona fide office (other than a mere statutory office) factory, warehouse or other space that is occupied and used by the taxpayer in carrying on any business activity either individually or through one or more regular employees regularly in attendance.

33. "Principal place of business," in the case of an employer having its headquarters' activities at a place of business within a taxing municipality, means the place of business at which the headquarters is situated. In the case of any employer not having its headquarters' activities in a place of business within a taxing municipality, "principal place of business" means the largest place of business located in a taxing municipality.

34. "Professional people" includes any unincorporated business or persons.

35. "Qualifying wages" means wages as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted in accordance with Section 718.03(A) of the Ohio Revised Code.

36. "Real property," as the term is used in these Articles, includes commercial property, residential property, farm property, and any and all other types of real estate.

37. "Resident" means a person domiciled in the Village of Evendale, or a partnership, association, corporation or other entity having an office or place of business in the Village of Evendale.

38. "Resident incorporated business entity" means an incorporated business entity whose office, place of operations, or business situs is within the Village of Evendale.

39. "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the Village of Evendale.

40. "Return preparer" means any person, other than a taxpayer, who is authorized by a taxpayer to complete or file an income tax return, report, or other document for, or on behalf of, the taxpayer.

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

42. "Schedule E" means Internal Revenue Service Schedule E filed by a taxpayer pursuant to the Internal Revenue Code.

43. "Schedule F" means Internal Revenue Service Schedule F filed by a taxpayer pursuant to the Internal Revenue Code.

44. "S-Corporation" means a corporation that has made an election under Subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.

45. "Taxable income" means qualifying wages, including vacation pay, sick pay, disability pay, personal leave pay, commissions, bonuses, incentive payments, separation pay, tips, severance pay, stock options, supplemental unemployment pay, any pay as part of an employee buyout or wage continuation plan, or any other remuneration that is paid to, or constructively received by, the recipient, whether paid in cash or property. That portion of gross wages that may be deferred under a federally recognized plan is subject to taxation and withholding. The term "taxable income" shall also mean the adjusted federal taxable income from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of the Ordinance and of these Rules and Regulations. Stock options are taxed when exercised and reported on IRS Form W-2 or Form 1099.

46. "Taxable year" means the calendar year, or the fiscal year, upon the basis of which net profits are to be computed under this Chapter, 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.

47. "Taxing municipality" means a municipality levying a tax on income earned by nonresidents working within such municipality or on income earned by its residents.

48. "Taxpayer" means a person, whether an individual, partnership, S-Corporation, association, or any corporation or other entity, required hereunder to file a return or pay a tax. "Taxpayer" does not include any person who is a disregarded entity or a qualifying subchapter S subsidiary for federal income tax purposes, but "taxpayer" includes any other person who owns the disregarded entity or qualifying subchapter S subsidiary.

- B. The singular shall include the plural.
- C. The masculine shall include the feminine and the neuter.
- D. All periods set forth shall be inclusive of the first and last mentioned dates.
- E. Nothing in Section 890.02(a) 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.
- F. Nothing in these Articles shall be construed as limiting or removing the ability of any municipal corporation to administer, audit, and enforce the provisions of its municipal income/earnings tax.

ARTICLE III - IMPOSITION OF TAX

A. In the case of **RESIDENTS**, the tax is imposed on all taxable income earned during the effective period of the Ordinance. The source of the earnings and the place or places in which, or at which, the services were rendered is immaterial. All such earnings, wherever earned or paid, are taxable. (However, see Section 890.16 of the Ordinance allowing a resident credit for tax paid in another municipality or county). The following are items subject to the tax:

- 1. Qualifying wages, bonuses, and incentive payments earned by an individual, whether directly or through an agent, and in cash or in property for services rendered during the tax period as:
 - a. An officer, director or employee of a corporation (including charitable and other non-profit organizations), joint stock association, or joint stock company;
 - b. An employee (as distinguished from a partner or member) of a partnership, limited partnership, or any form of unincorporated enterprise owned by two or more persons;
 - c. An employee (as distinguished from a proprietor) of a business, trade or profession conducted by an individual owner;
 - d. An officer or employee (whether elected, appointed or commissioned) of the United States Government, or any of its agencies, of the State of Ohio or any of its political subdivisions or agencies, or of any foreign country or dependency;
- 2. 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.

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

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

b. If commissions are included in the net earnings of the trade, business, profession, enterprise, or activity, carried on by an unincorporated entity, same are subject to the tax under paragraphs (c)(1) or (c)(2) of Section 890.03 of the Ordinance, and any resident owner or part owner of such entity shall not be taxed under Section 890.03, paragraph (a)(1).

4. Fees, unless such fees are properly includible 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 890.03, paragraph (c)(1) of the Ordinance.

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

6. Payments made by an employer to an employee during periods of absence from work are taxable when paid and at the tax rate in effect at the time of payments, regardless of the fact that such payments may be labeled as sick leave or sick pay, vacation pay, terminal pay, supplemental unemployment pay, etc., and may have been received by the employee while away from the Village of Evendale on such absence. 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 or similar items received by an employee in lieu of additional cash compensation shall be included in earnings at their fair market value.

7. 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 income tax return.

8. Losses from the operation of a business or profession are not deductible from employee earnings but may be carried forward as provided in Section 890.04 of the Ordinance.

9. Other compensation may include, but is not 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. Stock options
- e. Employee contributions to retirement plans, whether or not picked up by the employer;
- f. Amounts deferred for federal income tax purposes by an employee 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;
- g. Employer paid premiums for group term life insurance to the extent that they are taxable for federal income tax purposes;
- h. Fellowship, scholarships, stipends and grants, to the extent that they are taxable for federal income tax purposes;
- 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, etc.);
- l. Income from a guaranteed annual wage contract;
- m. Lump sum distribution from qualified pension and profit sharing trusts not made pursuant to employees' retirement;
- n. IRA contributions;

o. Simplified Employee Pension Plans (SEPP);

p. Gambling winnings.

B. In the case of individuals who are **NOT RESIDENTS**, the tax is imposed on all taxable income earned for work done, or services performed or rendered, within this municipality, whether such compensation or remunerations are received or earned directly, or through an agent, and whether they are paid in cash or in property, as defined by the Ordinance and these Rules and Regulations. The location of the place from which payment is made is immaterial.

1. The items subject to tax under Section 890.03, paragraph (b) of the Ordinance are the same as those already listed and defined in this article for residents. For the methods of computing the extent of such work or services performed within this municipality, in cases involving compensation for personal services partly within and partly without this municipality, see Article III, K.

C. In the case of **resident unincorporated businesses, pass-through entities, professions, enterprises, undertakings or other entities** conducted, operated, engaged in, prosecuted or carried on, the annual tax rate in effect is imposed on the net profits earned, accrued or received during the effective period of the Ordinance attributable to this municipality under the formula or separate accounting method provided for in Section 890.04 of the Ordinance, derived from sales made, work done, or services performed or rendered and business or other activities conducted in this municipality.

1. The tax imposed on resident associations or other unincorporated entities owned by two or more persons is upon the entities rather than upon the individual members or owners, 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 Section 890.03.

2. The tax imposed by Section 890.03, paragraph (c) of the Ordinance is imposed on all resident unincorporated entities having net profits attributable to this municipality under the method of allocation provided for in the Ordinance regardless of where the owner or owners of such resident unincorporated business entity reside.

3. Resident unincorporated entities owned by two or more persons, all of whom are residents of this municipality, shall disregard the method of allocation 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 the tax due from the owners or members of the entity for their distributive share of such net profits. However, an additional return shall be required from any such owner or member having taxable income other than the distributive share of the net profits from the entity.

4. The tax imposed shall not apply to income derived within the Village of Evendale 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, of the following:

a. Solicitation of orders by such person, or his representative, in the State of Ohio for sales of tangible personal property that are sent outside the State of Ohio for approval or rejection, and, if approved, are filled by shipment of 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, 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 subsection (a) above, provided that the provisions of this subsection shall not apply to any corporation that is incorporated under the laws of the State of Ohio or to any individual who is domiciled in, or a resident of, the State of Ohio.

i. For the purpose of this subsection, 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 within 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 dependent 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.

ii. For the purpose of this subsection, 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.

iii. For the purpose of this subsection, the term “representative” does not include an independent contractor.

D. In the case of a **resident partner or part owner of a resident unincorporated entity** the tax is imposed on such individual’s distributive share of net profits earned during the effective period of the Ordinance, not attributable to this municipality, under the method of allocation provided for in Section 890.03 and not taxed against the entity.

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

E. In the case of **nonresident unincorporated businesses, professions, enterprises, undertakings or other activities** conducted, operated, engaged in prosecuted or carried on, whether or not they have an office or any place of business in this municipality, the tax is imposed on the net profits earned, accrued or received during the effective period of the Ordinance attributable to this municipality under the business allocation formula provided for in Section 890.04.

1. The tax imposed on nonresident associations or other nonresident unincorporated entities owned by two or more persons is upon the entities rather than their individual members or owners. For tax on that part of a resident owner's distributive share of net profits not taxed against the entity, see Section 890.03.

2. The tax imposed by Section 890.03 of the Ordinance is imposed on all nonresident associations, and other nonresident unincorporated entities, having net profits attributable to this municipality under the method of allocation provided for in the Ordinance, regardless of where the owner or owners of such nonresident unincorporated businesses or resident associations, etc., reside.

3. Nonresident unincorporated entities owned by two or more persons, all of whom are residents of this municipality, may elect to disregard the method of allocation provided for in Section 890.04 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.

F. In the case of a **resident partner or part owner of a nonresident unincorporated entity**, the tax is imposed on such individual's distributive share of net profits not attributable to this municipality under the method of apportionment provided for in Section 890.04 and not taxed against the entity.

1. A resident individual who is the sole owner of a nonresident unincorporated business entity shall disregard the business apportionment formula and pay the tax on the entire net profits of that unincorporated entity.

G. In the case of **corporations**, whether domestic or foreign, and whether or not such corporations have an office or place of business in this municipality, the tax is imposed on the net profits attributable to this municipality under the apportionment formula or substitute method provided for in Section 890.04.

1. In determining whether a corporation is conducting a business or other activity in this municipality, the provisions of Article III-K of these regulations shall be applicable.

2. Corporations that are required by the provisions of Sections 5727.38 to 5727.41, inclusive, of the Ohio Revised Code, 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.

3. A legal corporation is taxable as a separate entity for municipal tax purposes, and distributions to shareholders are considered as non-taxable income to the shareholders. The losses are not deductible by individual shareholders.

H. The following information with respect to net business profits, etc. supplements the definition contained in Article II.

1. "Net profit" for a taxpayer, other than an individual, means adjusted federal taxable income. "Net profit" for a taxpayer who is an individual means the individual's profit, required to be reported on Federal Schedules C, E, or F.

2. "Adjusted federal taxable income" 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 this subsection, 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 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 Sections 1221 or 1231 of the Internal Revenue Code;
- d. Except as provided in this subsection, deduct income and gain included in federal taxable income to the extent that the income and gain directly relate to the sale, exchange, or other disposition of an asset described in Sections 1221 or 1231 of the Internal Revenue Code;

- e. Article III, Section H2(d) does not apply to the extent the income or gain is income or gain described in Sections 1245 or 1250 of the Internal Revenue Code;
 - f. Add taxes on, or measured by, net income allowed as a deduction in the computation of federal taxable income;
 - g. In the case of a real estate investment trust and a 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 the computation of federal taxable income;
 - h. If the taxpayer is not a C-Corporation, and is not an individual, the taxpayer shall compute adjusted federal taxable income as if the taxpayer were a C-Corporation, except guaranteed payments and other similar amounts paid to, or accrued to, a partner, former partner, member, or former member shall not be allowed as a deductible expense. Amounts paid to, or accrued to, an owner or owner-employee of the taxpayer, amounts paid or accrued to, or for, health insurance for an owner or owner-employee, and amounts paid to or for, or accrued to or for, life insurance for an owner or owner-employee shall not be allowed as a deduction.
3. Nothing in 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, or accrued, for the purposes of federal self-employment tax.
4. GROSS RECEIPTS shall include, but is not be limited to, income in the form of commissions, fees, rentals from real and tangible personal property and other compensation for work or services performed or rendered as well as income from sales of stock in trade.
- a. Gross Receipts shall include the ordinary income from Form 4797.
 - b. From Gross Receipts there shall be deducted allowable expenses to arrive at the net profit subject to tax.
5. EXPENSES. All ordinary and necessary expenses of doing business, including reasonable compensation paid to employees, shall be allowed but no deduction may be claimed for salary or withdrawal of a proprietor or of the partners, members, or other owners of an unincorporated business or enterprise.
- a. If not claimed as part of the cost of goods sold, or elsewhere in the return filed, a reasonable deduction may be claimed 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 federal income tax. Provided, however, that loss on the sale, exchange or other disposition of the depreciable property or real estate used in the taxpayer's business shall not be allowed as a deductible expense.

b. Current amortization of emergency facilities may be included as expense deductions to the same extent recognized and allowable in computing net profits for federal income tax purposes.

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

d. Bad debts in a reasonable amount may be allowed in the year ascertained worthless and charged off but only to the extent allowed for federal income tax purposes.

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

i. The tax under the Ordinance;

ii. Federal, state or other taxes based upon income;

iii. Gift, estate or inheritances taxes;

iv. Taxes for the local benefit of, or improvements to, property which tend to appreciate the value.

f. In general, nontaxable income and expenses or losses incurred in connection with it are not to be considered in determining net profits subject to the tax. Expenses attributable to non-taxable income shall not be allowed. Where no record of such expenses is kept, five percent (5%) of the non-taxable income will be considered as applicable expenses.

g. A corporation may include as an expense a deduction for charitable contributions to the same extent recognized by, and allowable in, computing net profits for Federal Income tax purposes.

h. 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 compensation, business expenses only as allowed by the Internal Revenue Service for federal income tax purposes and only to the extent said expenses are incurred in earning commissions or other compensations subject to the tax imposed by Ordinance. Business expenses allowed shall be those expenses allowed to be claimed on the Federal Form 2106 "Business Expenses" and upon the request of the Administrator, verifiable with supporting schedules and/or receipts. No expenses claimed on Federal Form "Schedule A, Itemized Deductions" shall be allowed. Failure to produce the supporting schedules and/or receipts upon request by the Administrator shall result in disallowance of the expenses in question.

i. Expenses incurred while attending education courses may not be deducted from wages.

j. Moving expenses included in gross earnings shall be an allowance as a deductible expense. No deduction will be allowed if the taxpayer does not provide Federal Form 3903 "Employee Moving Expenses Information". Only moving expenses incurred as part of the income included in gross earnings will be allowed as a deduction.

I. Rental of Real Estate is a business activity and the income from such rentals is taxable, provided, however, that where a taxpayer's entire rental activity produces gross rentals not in excess of \$250.00 per month, it will be prima facie evidence that such rental activity is not a business activity. In determining the amount of gross monthly rental of any real property, periods during which (by reason of vacancy or any other cause) rentals are not received, shall not be taken into consideration.

1. In the case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds \$250.00 per month. In the case of farm property, the owner shall be considered engaged in a business activity when he shares in the crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds \$250.00 per month. The person who operates a rooming house of five or more rooms shall be considered in business whether or not the gross income exceeds \$250.00

2. Rent received by a taxpayer engaged in the business of buying and selling real estate shall be considered to be part of business income.

3. 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.

4. Residents of this municipality are subject to taxation upon the net income from rentals (to the extent specified above), regardless of the location of the real property owned.
 5. Nonresidents of this municipality are subject to taxation only if the real property is situated within this municipality, and in determining whether gross monthly rentals exceed \$250.00, only real estate situated within this municipality shall be taken into consideration.
 6. Corporations owning or managing real estate are taxable only on that portion of income derived from property located in this municipality.
 7. The owner, manager, or any person in control of the rental property who rents to tenants shall file with the Administrator a report showing the name, address and telephone number, if available, of each tenant who occupies an apartment, room or other rental property within the Village of Evendale.
 8. Within thirty (30) days after a tenant vacates an apartment, room or other rental property located within the Village of Evendale, the owner of such vacated property shall file with the Administrator a report showing the date of vacation from the rental property and a forwarding address of the vacating tenant.
 9. If it is determined that such reporting in item #8 above is inadequate, the administrator may require a complete listing of all tenants, lessees, or other occupants.
 10. Any owner, manager, or person in control of the rental property who fails to make the report of lessees, tenants, or occupants of the premises under their control as required will be in violation of the Ordinance and subject to the violations and penalties as set forth by the Ordinance.
- J. Income from patents or copyrights need not be included in net profits subject to tax if the income from such patents and copyrights is the type that was subject to taxation under the intangible personal property laws of the State of Ohio, when in effect, or was specifically exempt from municipal taxation under said law. Income in the form of royalties is taxable if the taxpayer's activities produced the publication or other product, the sale of which produces the royalties.
- K. Apportionment of Net Profits.** A request to change the method of apportionment must be made in writing before the end of the tax year.
- 1. STEP 1.** Ascertain the percentage that the 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 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.

a. The percentage of taxpayer's real and tangible personal property within this municipality is determined by dividing the original cost of all such property within this municipality by the original cost of all such property within and outside this municipality. In determining such percentage, property rented to 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 by eight (8).

ii. "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:

(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.

2. STEP 2. Ascertain the percentage that 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 outside this municipality during the period covered by the return.

a. Salaries and reasonable compensation paid to 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.

b. 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

c. In the case of an employee who performs services both within and outside this municipality, the amount treated as compensation for services performed within the municipality shall be deemed to be:

i. In the case of an employee whose compensation depends directly on the volume of business secured by him, such as a salesman on a

commission basis, the amount received by him for the business attributable to his efforts within this municipality.

ii. 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 with this municipality bears to the value of all his services.

(a) 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.

3. STEP 3. Ascertain the percentage that the gross receipts of the taxpayer derived from sales made and services rendered in this municipality is of the total gross receipts, wherever derived, during the period covered by the return.

a. The following shall be considered Village of Evendale sales:

i. All sales made through retail stores located within this municipality to purchasers within or outside this municipality except sales to purchasers outside this municipality that are directly attributable to regular solicitations made outside Evendale personally by taxpayer employees.

ii. 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 this municipality.

iii. 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 its own employees in the solicitation of sales within this municipality and the sale is directly or indirectly the result of such solicitation.

iv. All sales of tangible personal property shipped from an office, store, warehouse, factory or place of storage within this municipality to purchasers outside this municipality if the taxpayer is not, through its own employees, regularly engaged in the solicitation of sales at the place of delivery.

v. 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 receipt from such sale.

b. 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.

c. Solicitation of customers outside this municipality 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.

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

5. **STEP 5.** The business apportionment percentage determined in Step 4 shall be applied to the entire taxable net profits of the taxpayer, wherever derived, to determine the net profits apportioned to this municipality.

6. In the event a just and equitable result cannot be obtained under the formula, upon application of the taxpayer the Tax Administrator shall have the authority to substitute other factors in the business apportionment formula or prescribe other methods of allocating net income calculated to effect a fair and proper apportionment.

a. Application to the Administrator to substitute other factors in the formula or to use a different method to allocate net profits, must be made in writing 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. Once a taxpayer has filed under a substitute method, such method of allocation must continue until permission is given by the Administrator to change.

b. The decision of the Administrator may be appealed by the taxpayer to the Board of Review, which shall have the power to adjust, modify or overrule such decision.

7. In the case of professional people (define "professional people" and add to Article II) and others furnishing personal services (define "personal services" and add to Article II), if their only place of business is within this municipality, all their net profits shall prima facie be attributable to this municipality.

L. Operating Loss Carry-Forward. The same method of accounting and allocation must be used in the year to which an operating loss is carried as was used in the year in which the operating loss was sustained.

1. A short fiscal year (a fiscal year of less than 12 months) brought about a change in accounting period, a new taxpayer selecting a short fiscal year, or a taxpayer operating in this municipality for less than his full accounting period, shall be considered as a full taxable fiscal year for purposes of loss carry-forward.

2. The net operating loss sustained by a business may be carried forward for three (3) years implemented in incremental stages as follows:

a. The portion of a net operating loss based on income taxable under the Ordinance sustained in the taxable year beginning after December 31, 2000 allocable to this municipality may be applied against the portion of succeeding years allocable to this municipality until exhausted, but in no event for more than four (4) 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.

b. The portion of a net operating loss, based on income taxable under the Ordinance, sustained in any taxable year beginning after December 31, 2001, allocable to this municipality may be applied against the portion of succeeding years allocable to this municipality, until exhausted, but in no event for more than 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 the net profits of any prior year.

c. The portion of a net operating loss sustained shall be apportioned to this municipality in the same manner as provided herein for apportioning net profits to this municipality.

3. 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 apportionment used to determine portion of net operating loss apportioned to this municipality.

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.

4. The net operating loss of a taxpayer that loses its identity through merger, consolidation, etc., shall not be allowed as a carry-forward loss deduction to the surviving or new taxpayer.

5. Losses sustained in a given year must be filed and reported in the same year in order to be carried forward to offset future net profits.

M. Consolidated Returns. Consolidated Returns may be filed by a group of corporations who are affiliated through stock ownership, provided such group files consolidated returns for Federal Income Tax purposes.

1. Once a consolidated return has been filed for any tax year, the consolidated group must to continue to file consolidated returns in subsequent years unless:

a. Permission is granted, in writing, by the Administrator 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.

N. Capital Gains and Losses. Gains from disposition of capital assets are not subject to the tax, nor are losses from dispositions of such assets an allowable deduction. In general, such gains and losses are eliminated from taxable net profits on this municipality's return Schedule X (Reconciliation with Federal Income Tax Return) to the same extent used in computing net profits for Federal Income Tax purposes and as distinguished from gains and losses from the sale or exchange of trade or business assets. Any amount or value realized on a sale, exchange or other disposition of tangible personal property or real property used in business in excess of book value shall be treated as taxable income under the Ordinance to the extent of depreciation allowed or allowable.

O. Exceptions to the Tax. The following shall not be considered taxable:

1. Proceeds from welfare benefits, unemployment insurance benefits, social security benefits and qualified retirement plans as defined by the Internal Revenue Service.

2. Proceeds of insurance, annuities, workmen's compensation insurance, permanent disability benefits, compensation for damages for personal injuries and like reimbursement, not including damages for loss of profits or wages.

3. Alimony.
4. Gain from involuntary conversion, cancellation of indebtedness, interest on federal obligations and income of decedent's estate during the period of administration, except such income from the operation of a business.
5. Compensation for damage to property by way of insurance or otherwise.
6. Income from intangibles by way of dividends, interest, and the like if such income is the type that was subject to taxation under the intangible personal property laws of the State of Ohio, when in effect, or was specifically exempt from municipal taxation under said law.
7. Military pay and allowances received as a member of the armed forces of the United States or as an officer of the U.S. Public Health Service.
8. Any charitable, education, fraternal or other type of non-profit association or organization enumerated in Section 718.01 of the Ohio Revised Code that 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.
9. Any association or organization listed in the preceding paragraph is required to file declarations and final returns and to 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 718.01 of the Ohio Revised Code.
10. Where such non-profit association or organization conducts income-producing business, both within and outside the corporate limits, it shall calculate its profits apportioned to this municipality under the method or methods provided herein.
11. Fellowship and scholarship grants are exempt from the tax imposed if exempt for Federal Income Tax purposes.
12. Compensation paid under Section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct official to the extent that such compensation does not exceed one thousand dollars (\$1,000.00) annually. Such compensation in excess of one thousand dollars (\$1,000.00) may be subject to taxation. The payer of such compensation is not required to withhold municipal tax from that compensation.
13. Compensation paid to an employee of a transit authority, regional transit authority, or regional transit commission created under Chapter 306 of the Ohio Revised Code for operating a transit bus or other motor vehicle for the authority of commission in or through this municipality, unless the bus or vehicle is operated on a regular schedule, the operator is subject to such tax by reason of

residence or domicile in the municipal corporation, or the headquarters of the authority or commission is located within the municipal corporation.

14. The income of a public utility when that public utility is subject to the tax levied under Sections 5727.24 or 5727.30 of the Ohio Revised Code, except starting January 1, 2002, the income of an electric company or combined company, and the income of a telephone company or combined company, as defined in Section 5727.01 of the Ohio Revised Code, shall be taxed by a municipal corporation subject to Chapter 5745 of the Ohio Revised Code.

15. The compensation of a nonresident individual if the compensation is paid for personal services performed by the individual in the Village of Evendale on twelve (12) or fewer days during the calendar year in the case of an individual who is an employee, the principal place of business of the individual's employer is located outside the Village of Evendale and the individual pays tax on compensation described above to the city, if any, in which the employer's principal place of business is located, and no portion of the tax is refunded to the individual. For the purposes of the twelve (12) day calculation, "day" means any part of a twenty-four (24) hour calendar day. Beginning with the thirteenth (13th) day, the individual shall no longer be considered an occasional entrant and is liable for taxes on income earned for the first twelve (12) days.

16. The rental value of a home furnished to a minister, deacon, priest, rabbi, imam or other such person as part of his compensation, or the rental allowance paid as part of his compensation, to the extent used by him to rent or provide a home pursuant to Section 107 of the Internal Revenue Code.

P. Deductions for Employed Persons Receiving Salaries and Wages. An employee who receives wages, salary or compensation and who pays business expenses without reimbursement from his employer, shall be entitled to a deduction to the same extent that such expenses are properly includable in the computations to determine deductions for Federal Income Tax purposes, but only to the extent considered by the Tax Administrator to be ordinary, necessary and reasonable and incurred in earning the specific wage subject to the tax imposed by this Ordinance from which the deduction is made.

ARTICLE IV – RETURN AND PAYMENT OF TAX

A. Return and Payment of the Tax. On or before April 15th of each year, every person subject to the provisions of Chapter 718.03 of the Ordinance shall, except as hereinafter provided, make and file on or before April 15 with the Tax Administrator a return on a form prescribed by and obtainable upon request from the Tax Administrator, whether or not a tax is due. The Village of Evendale shall accept a generic form of any return, report or document if the generic form contains all of the information required to be submitted with the municipalities' prescribed returns, reports or documents, and if the taxpayer or return preparer filing the generic form otherwise complies with the Ordinance of the Village of Evendale.

1. If the return is made for a fiscal year or any period less than a year, said return shall be made on the 15th day of the fourth month from the end of such fiscal year or other period.
2. Every resident, as defined, shall file an annual return. Exceptions shall be:
 - a. Children under the age of eighteen (18), if said children are not subject to the provisions of Section 890.03,
 - b. Retired individuals whose only source of income is defined as “exempt” in Article III, Section (O) of these Rules and Regulations.
3. Every person subject to the provisions of this chapter shall, except as hereinafter provided, file a return setting forth the aggregate amount of qualifying 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 Administrator may require.
4. Where a nonresident employee’s entire earnings for the tax period are paid by an employer or employers, and the full tax thereon has in each instance been withheld and deducted by the employer or employers from the gross amount of the entire earnings of such employee-taxpayer, and where the employer of such employee has filed a report or return in which such employee’s entire and only earnings are reported to the Tax Administrator, and where such employee has no taxable income other than such earnings and the tax so withheld has been paid to the Administrator, such employee need not file a return.
5. An employee who is permitted to deduct business expenses, as allowable and described under Article III (H)(5)(h), from qualifying 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. Such amounts must be properly reported on Form 2106, as filed with the Internal Revenue Service, and must be verifiable.
6. Any taxpayer, resident or nonresident, who received taxable income within the Village of Evendale not subject to withholding under the Ordinance must file a return.
7. 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 (1) return.
8. Trustees of active trusts are required to file returns and to pay tax on the taxable income thereof.

9. Except as provided for herein, the tax is on the partnership or association as an entity whether resident or non-resident, and a return is required disclosing the net profit or loss apportioned to this municipality and any 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, C and Article III, D of these regulations.

10. 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. If a joint return is made, the tax shall be computed on the aggregated taxable income and the liability with respect to the tax shall be joint and several.

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

12. The return shall be accompanied by payment of any taxes due thereon.

B. Forms for filing. In returns filed hereunder, there shall be set forth the aggregate amount of qualifying wages, bonuses, incentive payments, commissions, fees, and other compensation and taxable income subject to the tax and earned from each employer, taxable net profits, and other pertinent information as the Tax Administrator may require.

1. Where figures of total income, total deductions, and net profits are included, as shown by a Federal Return, any items of income that are not subject to this municipality's tax, and unallowable deductions, shall be eliminated in determining net income subject to this municipality's tax. The fact that any taxpayer is not required to file a Federal Income Tax Return does not relieve him from filing a return in this municipality.

2. If a change in Federal Income Tax liability made by the 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 Internal Revenue Service or a final court decision.

3. 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 Administrator as prescribed in Section 890.12 of the Ordinance and Article X, D of these regulations.

C. Extension of time for Filing. Extensions may not be granted for filing declaration or withholding tax forms. However, upon written request received on or before the original due date of filing, or upon receipt of a copy of taxpayer's request for filing a Federal Extension, received on or before the original due date of filing, the Tax Administrator

may extend the time for filing the annual return to the last day of the month following the month to which the due date of the Federal Income Tax Return has been extended. Whenever deemed necessary, the Administrator may require a tentative return accompanied by payment of the estimated tax. An extension of time to file does not extend the time for payment of the tax; hence interest and penalty, as defined under Section 890.11 of the Ordinance may apply to any balance of tax due remaining unpaid from the original due date of the return until said filing of the return. No penalty will be assessed in those cases in which the return is filed and the final tax paid within the period as extended provided all other filing and payment requirements of the Ordinance have been met.

1. Taxpayers requesting the return of an approved extension shall submit in duplicate with a postpaid self-addressed envelope for returning one copy appropriately marked by the Tax Administrator.
2. Where an active account and number has not previously been established for a taxpayer, an extension request shall so indicate and include taxpayer address and Social Security number or FEIN in lieu of an account number.
3. The Tax Administrator may deny a taxpayer's request for extension if the taxpayer fails to timely file the request, owes the Village of Evendale any delinquent income tax or any penalty, interest, or assessment or other charge for the late payment or nonpayment of income tax or has failed to file any required income tax return, report, or other related document for a prior tax period.

D. Amended Returns. Where necessary, an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Section 890.12

1. 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 tax liability for this municipality, such taxpayer shall make and file an Amended Return for this municipality showing income subject to this municipality's tax based upon such final determination of Federal Tax liability, and pay any additional tax shown due or make claim for refund of an overpayment.

ARTICLE V - COLLECTION OF TAX AT THE SOURCE

A. Collection of Tax at the Source. Except as otherwise provided herein, each employer within or doing business within this municipality, who employs one or more persons whether as an employee, officer, director or otherwise, shall each time any compensation is paid, deduct the tax from:

1. Qualifying 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
2. All compensation paid nonresidents, including but not limited to taxable income defined in Article III of these Rules and Regulations, for services rendered, work performed or other activities engaged within this municipality, and
 - a. Such tax deductions shall be remitted to the Tax Administrator as set out in Section 890.07, on a form or forms prescribed by or acceptable to the Tax Administrator. If an employer lacks Form W-1 for any reason, timely remittance shall nevertheless be made accompanied by explanatory letter in lieu of Form W-1.
3. 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.
4. All employers within, or doing business within, this municipality are required to make collections and deductions specified in this article, regardless of the fact that the services on account of which any particular deduction is required, as to residents of this municipality, were performed outside this municipality.
5. 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.
6. 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 Tax Administrator, the employee is not liable for the tax so withheld. In such cases, this municipality will not process any employee requests for refund or overpayment until the employer pays the tax withheld.
7. Commissions and fees paid to professional persons, brokers and others who are independent contractors, and not employees of the payer, are not subject to withholding or collection of the tax at the source. Such taxpayers must, in all instances, file an individual declaration and return and pay the tax directly pursuant to the provisions of the Ordinance and Articles V and VI of these Rules and Regulations.
 - a. The payer of such commissions and fees paid to individuals as independent contractors and unincorporated entities shall report to the Administrator the name, address, social security number and total amount

paid, if said amount is in excess of six hundred dollars (\$600.00). This return shall be considered a required return and shall be subject to the penalty as described under Section 890.13 or the Ordinance.

8. Where a nonresident receives compensation for personal services rendered or performed partly within and partly outside this municipality, the withholding employer shall deduct, withhold and remit the tax on that portion of the compensation which is earned within this municipality in accordance with the following rules of apportionment:

a. If the nonresident is a salesperson, agent or other employee whose compensation depends directly on the volume of business transacted or chiefly effected by him/her, 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 this municipality bears to the total volume of business transacted by him/her within and outside this municipality.

b. The deducting and withholding of personal compensation of other nonresident employees, including officers of corporations, shall attach to the portion of the personal service compensation of such employee which the total number of his working hours within this municipality is of the total number of working hours.

i. The total number of working hours includes vacation pay, sick leave, and holidays.

ii. In the case of over the road, long distance drivers, the employer whose records show that an employee is a nonresident of this municipality may deduct and withhold tax based upon the percentage of time that the driver spends in this municipality. The percentage may not be less than five percent (5%). The Tax Administrator may increase the percentage based upon review of the employer's records and information provided by the employee.

c. The fact that nonresident employees are subject to call at any time does not permit the allocation of pay for time worked within this municipality on a seven-day per week basis. The percentage of time worked in this municipality will be computed on the basis of a 40-hour week unless the employer notifies the Tax Administrator that a greater or lesser number of hours per week is worked.

i. The determination of tax liability of nonresidents working in and out of the corporate limits is to be computed on the formula of the total number of days worked in this municipality divided by the total number of days worked during the year. The total number of

days worked in a year is considered to be 260, including vacation pay, sick leave and holidays. The resulting percentage is applied to the total annual income from qualifying wages, including sick leave, holidays, and vacation pay. Where no record can be substantiated for the number of days worked during the year, the figure 260 days is to be used as the total.

d. The occasional entry into this municipality who performs the duties for which he is employed primarily outside this municipality shall not be deemed to take such employee out of the class of those rendering their services entirely outside this municipality, providing such employment within this municipality is for a period of 12 or fewer days in a calendar year.

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

10. 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, P, of these regulations.

11. An employer whose records show that an employee is a nonresident of this municipality, and has no knowledge to the contrary, shall be relieved of the responsibility of withholding the tax on the personal service compensation paid to such employee for services rendered or work done outside this municipality by such employee provided that such employer must withhold the tax on all personal service compensation paid to such employee after the Tax Administrator notifies the 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.

12. An employer shall not be required to withhold this municipality's tax from the qualifying wages and other compensation earned by a resident of this municipality for work done or services performed in another municipality which imposes a tax upon such wages and other compensation of such resident equal to or greater than the rate of tax imposed by this municipality if such employer withholds the tax on such resident's wages or other compensation for such other municipality. But where the rate of tax imposed by such other municipality is lesser than that of this municipality, the employer shall withhold tax from wages and other compensation of this municipality's residents at a rate of tax imposed by this municipality and remit same to this municipality after deducting such portion due such other municipality.

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

14. The Administrator shall have authority to enter into an agreement with other taxing municipalities permitting an 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.

15. These Articles define an "employer" to be any individual, partnership, association, corporation, and other entity that hires, books, or contracts for individuals/groups to work, perform or entertain at their place of business or rents facilities for the purpose of providing such work, entertainment, and as such, is responsible for collecting and remitting the tax imposed by the Ordinance of this municipality.

16. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in fact been withheld.

B. Return and Payment of Tax Withheld and Status of Employers. The deductions from qualifying wages, salaries and other compensation required to be made by employers are to begin with the compensation earned on and after the effective date of the Ordinance.

1. The employer, in addition to any return required to be filed with respect to his own earnings or net profit, shall, on or before the last day of the next month following each quarterly period, make a return and pay to the Administrator the full amount of the tax so deducted or withheld with respect to compensation paid all of his employees subject to the tax under the Ordinance.

a. If the tax liability computed on qualifying wages is five hundred dollars (\$500.00) or greater per month, the employer shall make and pay the tax to the Administrator on a monthly basis. Such filing shall be made, and such payment remitted, on or before the fifteenth (15th) day of the month following such withholding.

b. If the tax liability computed on qualifying wages is less than five hundred dollars (\$500.00), the employer may file the return and remit payment of tax due on a quarterly basis. Such filing shall be made, and such payment remitted, on or before the last day of the month following the end of the quarter.

c. The Administrator may revoke the approval of quarterly filing and payments whenever conditions for granting such authorization have

changed, were judged incorrectly, were not met, or when it is in the best interest of this municipality to do so. Notice of such change in filing status shall be made in writing, and in such case, the employer will be required to file in accordance with this section.

2. The return to be filed under this Article shall be made on a form approved by the Administrator, or on the form furnished by, or obtainable on request from, the Administrator.

3. Every employer is deemed to be a trustee for this municipality in collecting and holding the tax required to be withheld and the funds so collected by such withholding are deemed to be trust funds.

a. Every 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.

b. If more than the amount of tax required to be deducted is withheld from the employee's pay, the excess shall be refunded by the employer or the Administrator, depending upon the circumstances and the time when the over-withholding is determined to have occurred. If less than the amount of tax required to be deducted is deducted and withheld by the employer in any pay period or periods, the deficiency shall be deducted in subsequent pay periods.

c. If an over-withholding of tax is not discovered until the following year, the employee shall then notify the Tax Administrator of such over-withholding and the circumstances thereof. Upon review and acceptance of the documentation submitted by the employee, the Tax Administrator may refund to the employee the amount of such excess withholding, or upon written notification to the employer, the Tax Administrator may require the employer to resubmit tax withholding reports and Employer W-2's, correcting the tax withheld and requiring the employer to refund any overpayment to the employees.

i. In case too much has been withheld from an employee who is no longer employed by the employer, the employer shall notify the Administrator of the amount and circumstances of such over-withholding and the Administrator shall then refund to the employee the amount of such excess withholding; or

ii. If the error is discovered by the employee, such employee shall file a claim with the Administrator and, upon verification by the employer, the Administrator shall refund to the employee the amount of such excess withholding;

iii. Where an employer has withheld the tax from qualifying wages of a non-resident of this municipality and such non-resident has been employed outside of this municipality for all or a part of the time, such employee shall file a claim with the Administrator covering such erroneous withholding and the Administrator shall, upon verification thereof by the employer, refund to the employee the amount of such excess withholding.

4. On or before the last day of February following any calendar year in which such deductions have been made by any employer, such employer shall file with the Administrator, in the form prescribed by the Administrator, an information return for each employee from whom this municipality's income tax has been withheld, showing the name, address and social security number of the employee, the total amount of compensation paid during the year and the amount of this municipality's income tax withheld from such employee. The tax withheld for this municipality must be indicated as such, and the words various, local, etc. will not be acceptable in lieu of the name of this municipality. If the total tax withheld from any employee included tax withheld and remitted to another municipality or county, the amount of same shall be separately shown on the return of information to this municipality concerning each employee.

a. For the convenience of employers, the return of information concerning individual employees may be made by submitting a typed or printed wage listing which includes the same information as shown on Form W-2 or by submitting a legible copy of a commercially produced Form W-2, providing such forms contain all the information required on the Form W-3.

5. The qualifying wages to be reported for each employee shall be for the full twelve (12) calendar months of the year or such portion thereof as the employee reported on was employed.

6. All payments not subject to withholding shall be reported on forms as required by the Administrator.

7. In addition to such information returns, and at the time same are filed, such employer shall file with the Administrator a form to enable the Administrator to reconcile the sum total for qualifying wages 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.

ARTICLE VI - DECLARATIONS

A. Requirements for Filing. Every taxpayer and/or employee, resident and nonresident, who may reasonably be expected to have taxable income shall file a declaration of estimated tax. If the tax on the estimated taxable income is not, or will not

be, withheld by an employer or employers, such declaration shall be filed on or before April 15th of each year or on or before the fifteenth (15th) day of the fourth (4th) month following the end of the year.

1. 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.
2. A declaration of estimated tax, which is less than 90% of the tax as shown on the final return, shall not be considered filed in good faith.
3. A declaration of estimated tax is required only if estimated tax exceeds one hundred dollars (\$100.00).

B. Date of Filing. 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 the 15th day of the fourth (4th) month after the date he becomes subject to the tax.

1. Those taxpayers having a fiscal year or period differing from the calendar year shall file a declaration on or before the 15th day of the fourth (4th) month after the start of each fiscal year or period.

C. Form for filing. Such declaration shall be filed upon a form or forms furnished by, or obtainable from, the Administrator, or on a generic form as approved by the Administrator. Provided, however, credit shall be taken for this municipality's tax to be withheld from any portion of such income. In accordance with the provisions of Article 890.16 of the Ordinance, credit may be taken for tax to be withheld and remitted to another taxing municipality.

1. 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 as set forth in Article 890.06. Such amendment may be made on the regular declaration form or on the back of any quarterly notice.

D. Dates of payments. The estimated tax may be paid in full with the declaration, or in equal installments of at least one-fourth (1/4) of the estimated tax shown due.

1. For individuals, such declaration of estimated tax shall be paid on or before the 15th day of the fourth (4th) month, the last day of the seventh (7th), tenth (10th) and thirteenth (13th) months, respectively.
2. For taxpayers who are not individuals, such declaration of estimated tax shall be paid on or before the fifteenth (15th) day of the fourth (4th), sixth (6th), ninth (9th), and twelfth (12th) months beginning after the beginning of the taxable year.

- a. In the event an amended declaration has been filed, the unpaid balance shown due shall be paid in equal installments over the remaining payment dates.

E. Final Returns Required. 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 five dollars (\$5.00).

ARTICLE VII DUTIES OF THE TAX ADMINISTRATOR.

A. Collection of Tax and Retention of Records. It shall be the duty of the Administrator 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 monies so received.

1. It shall be the duty of the Administrator to enforce payment of all taxes owing this municipality, to keep accurate records for a minimum of six (6) years showing the amount due from which each taxpayer required to file a declaration and/or make any return, including taxes withheld, and to show the dates and amounts of payments.

B. Enforcement Provisions:

1. The Administrator is charged with the administration and enforcement of the provisions of the Ordinance and is, subject to the approval of the Board of Review, empowered to adopt, promulgate and enforce rules and regulations, or any amendment thereof, relating to any matter pertaining to the administration and enforcement of the Ordinance. The Administrator has the authority to correct or adjust any return submitted, when a correction or adjustment is necessary to accomplish the intent of the Ordinance.
2. Any taxpayer or employer desiring a special ruling on any matter pertaining to the Ordinance or these rules and regulations, should submit to the Administrator, in writing, all the facts involved and the ruling sought.
 - a. These regulations, together with all amendments and supplements hereto and all changes herein, will be on file at the office of the Administrator and will be open to public inspection.
 - b. The Administrator is authorized to arrange a schedule of installment payments for the payment of unpaid taxes, interest and penalties, when the taxpayer has proved to the Administrator that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until the taxpayer files proper returns for all amounts owed by him under the Ordinance.

c. 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 890.11 and 890.12 of the Ordinance shall apply.

C. Estimation of Tax by Administrator:

1. Whenever the Administrator 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 of such determination, together with the interest and penalties as prescribed in Section 890.11 of the Ordinance.

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

2. Subject to the consent of the Board of Review, or pursuant to regulation approved by said Board, the Administrator shall have the power to compromise any interest or penalty, or both, imposed by Section 890.11 of the Ordinance.

**ARTICLE VIII -EXAMINATION OF BOOKS AND RECORDS AND
CONFIDENTIALITY OF INFORMATION SO OBTAINED; PENALTY**

A. Investigations by Administrator. The Administrator, or his duly authorized agent, is authorized to examine the books, papers, records and Federal Income Tax Returns of any employer, taxpayer, or person subject to the Ordinance, or whom the Administrator believes is subject to the provisions of the Ordinance, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under the Ordinance.

1. An employer or taxpayer shall furnish any required information requested in writing by the Tax Administrator, or his duly authorized agent, and shall furnish the means, facilities and opportunity for making examinations and investigations authorized by the Ordinance.

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

1. The Administrator's order to examine any document mentioned in the preceding paragraph shall state whether the examination is to be at the office of the taxpayer or at the office of the Administrator.
2. The Administrator 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 Administrator is specifically authorized to order the appearance of the local manager or representative of any taxpayer.
3. 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.
4. The notice shall be served by the Administrator, or his duly authorized Agent, by delivering it to the person named personally, or by leaving the notice at his usual place of business or residence, or by mailing it to the person by registered mail, return receipt requested, addressed to his usual place of business or residence.

C. Penalty for Non-Compliance. Refusal by any employer, supposed employer, taxpayer, supposed taxpayer, or any such person to appear before the Administrator or his duly authorized agent, or 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 890.13 of the Ordinance.

1. The Tax Administrator has the authority to summons by warrant any employer, supposed employer, taxpayer, supposed taxpayer, or any such person refusing to comply with the Ordinance, to appear before the Magistrate in Evendale Mayor's Court.

D. Confidential Nature of Examinations:

1. Any information gained as a result of any returns, investigations, verifications or hearings before the Administrator or the Board, required by the Ordinance or authorized by these rules and regulations shall be confidential and no disclosure shall be made except for official purposes or as ordered by a court of competent jurisdiction. The Tax Administrator of the Village of Evendale may furnish copies of returns filed under the Ordinance to the Internal Revenue Service and to the State of Ohio. Any person divulging such information shall be guilty of a misdemeanor punishable by a maximum fine of one thousand dollars (\$1,000.00) or imprisonment for not more than six (6) months, or both for each offense.

2. In addition to the above penalty, any employee of this 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.
3. 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 or of taxes payable upon earnings or net profits, or both. Such records shall be preserved for a period of not less than six (6) years from the date the final return is filed and paid or the withholding taxes are paid.

ARTICLE IX - INTEREST & PENALTIES

A. **Interest.** Except as provided in paragraph C of this Article, all taxes imposed and all monies withheld, or required to be withheld, by employers under the provisions of the Ordinance and remaining unpaid after they have become due shall bear interest, in addition to the amount of the unpaid tax or withholdings, as prescribed by Section 5703.47 of the Ohio Revised Code.

B. **Penalties.** In addition to interest as provided in Paragraph A above, penalties based on the unpaid tax are hereby imposed as follows;

1. For failure to pay taxes due, other than taxes withheld, one and one-half percent (1 ½%) per month, or fraction thereof.
2. For failure to remit taxes withheld from employees, five percent (5%) per month, or fraction thereof.
3. Where the taxpayer has failed to file an Individual or Business Income Tax Return by the due date, or by the date resulting from extension, twenty-five dollars (\$25.00).
4. No Penalty or interest shall be charged against a taxpayer who has failed to file a declaration on which he has estimated and paid a tax equal to, or greater than, one hundred percent (100%) of the tax paid for the previous year, or no more than ninety percent (90%) of the estimated total tax liability for the current tax year. No interest or penalty shall be charged if the balance of tax due on the next year return is less than one hundred dollars (\$100.00).
5. No penalty or interest shall be charged against a taxpayer for the late payment, or nonpayment, of estimated tax liability if the taxpayer is an individual who resides in the municipal corporation but was not domiciled there on the first day of January of the current calendar year.
6. Except in the case of fraud, and in the case of failure to file by the due date, the penalty for failure to pay taxes due shall not exceed twenty-five (25%) of the tax due.

C. Exceptions. 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.

1. 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.

2. A taxpayer or employer shall have thirty (30) days after receipt of notice of any proposed imposition of interest and penalties within which to file a written protest or explanation with the Administrator. If no protest or explanation is filed within the prescribed time, the proposed imposition of interest and penalties shall become and be the final assessment. Upon filing of a written protest or explanation, the Administrator shall withdraw the assessment or he shall adjust or reaffirm the assessment and it shall then become final.

D. Appeal from Assessment. Upon recommendation of the Administrator, the Board of Review may abate the penalty or interest, or both, or upon an appeal from the refusal of the Administrator to recommend abatement of penalty and/or interest, the Board may nevertheless abate penalty or interest, or both. The imposition of penalty and interest as prescribed in the codified ordinance of the Village of Evendale is not a sole basis for an appeal.

ARTICLE X - COLLECTION OF UNPAID TAXES AND REFUND OF OVERPAYMENTS

A. In addition to any criminal penalties that may be imposed pursuant to Section 890.13 of the Ordinance, all taxes imposed by Section 890.03 of the Ordinance and not paid when due, shall be collectible, together with any interest and penalties thereon, by either civil or criminal suit. Employers who are required, under Section 890.07 of the Ordinance, to withhold and remit the taxes required to be withheld at the source, and who fail to withhold and/or remit, become liable to the municipality in either a civil or criminal suit to enforce the payment of the deficiency created by such failure.

B. No additional assessment shall be made by the Administrator 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 twenty-five percent (25%) or more of income required to be reported shall be considered a substantial omission.

C. In those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the Federal statute of limitations, the period within which the

Administrator may make an assessment is extended to one (1) year from the time of final determination of Federal Tax liability.

D. Refunds and Overpayments. Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date the tax was due or the return was filed, or three (3) months after the determination of the Federal Income Tax liability, whichever is later.

E. No refund shall be made to any taxpayer until he has complied with all provisions of the Ordinance and has furnished all information required by the Administrator.

F. Overpayments will be either refunded or credited to the taxpayer's current year's liability at his option. Where no election has been made by the taxpayer, overpayments of any year's taxes shall be applied as follows:

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

G. Limitation. Where the total amount due or refund claimed for a tax year is less than five dollars (\$5.00) such amount shall not be collected or refunded.

ARTICLE XI - VIOLATIONS; PENALTIES

A. Any person who shall:

1. Fail, neglect or refuse to make any return or declaration required by the Ordinance, or
2. Make any incomplete, false or fraudulent return, or
3. Willfully fail, neglect or refuse to pay the tax, penalties or interest imposed by this Ordinance, or
4. Willfully fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator, or
5. Refuse to permit the Administrator, or any duly authorized agent or employee, to examine his books, records, papers and Federal Income Tax returns relating to the income or net profits of a taxpayer, or
6. Fail to appear before the Administrator and to produce his books, records, papers or Federal Income Tax Returns relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator, or

7. Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer, or
8. Fail to comply with the provisions of the Ordinance or any order or subpoena of the Administrator authorized hereby, or
9. Give to any 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 of such change, or
10. Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and this municipality's income tax withheld, or to knowingly give the Administrator false information, or
11. Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by the Ordinance

Shall be guilty of a first degree misdemeanor and shall be fined not more than one thousand dollars (\$1,000.00), or imprisoned not more than six (6) months, or both, for each offense.

B. Prosecutions: Prosecutions for an offense made punishable under this Section, or any other provision of this Ordinance, shall be commenced within three (3) 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 (6) years after the commission of the offense.

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, declaration or return, from filing such form, or from paying the tax.

ARTICLE XII - BOARD OF REVIEW OR APPELLATE AUTHORITY

Refer to the Ordinance.

ARTICLE XIII – CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY

A. Credit is allowed to residents of the Village of Evendale for tax paid to another municipality or to a Joint Economic Development District.

1. Where a resident of the Village of Evendale is required to pay a tax to another municipality or joint economic development district or zone on qualifying wages, commissions or other compensation for work done or services performed in such other municipality or joint economic development district or zone, or net profits from businesses, professions or other activities conducted in such other

municipality or joint economic development district or zone, the resident may claim a credit of the amount of tax paid by them or on their behalf to such other municipality or joint economic development district or zone, but only to the extent of the tax imposed by the Ordinance on such compensation or net profits.

2. The allowable tax credit for taxes paid to another municipality or joint economic development district or zone is limited to the income determined to be taxable by the Administrator. The allowable credit is also limited to the income taxed by another municipality or joint economic development district or zone. In no case is the allowable credit greater than the tax imposed on income by the Village of Evendale.

3. The tax credit for taxes paid by a resident on income from unincorporated entities shall be limited to the income determined to be taxable by the Administrator. If the taxpayer paid tax for the unincorporated entity directly to another municipality or joint economic development district or zone and has another unincorporated entity that sustains a loss, the tax credit allowed will be computed only for the entity with taxable income reported.

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

ARTICLE XIV – AMENDMENTS AND SUPPLEMENTS

From time to time, amendments and supplements to these regulations may be recommended and issued by the Tax Administrator as approved by the Tax Board of Review.