

ATTACHMENT A

890.01 PURPOSE.

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 there shall be, and is hereby, levied a tax on qualifying wages, and other taxable income, and on net profits as hereinafter provided.

890.02 DEFINITIONS.

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

- (a) “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:
- (1) 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;
 - (2) 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;
 - (3) 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;
 - (4) 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;
 - (5) Section 890.02(4) does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code;
 - (6) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;
 - (7) 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;
 - (8) 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.
 - (9) 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.

Nothing in this Section 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.

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

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

(d) “Board of Review” means the Board created by and constituted as provided in Section 890.14 of this Chapter.

(e) “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.

(f) “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.

(g) “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.

(h) “Employee” means one who works for wages, salary, commission or other types of compensation in the service of an employer.

(i) “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.

(j) “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.

(k) “Form 2106” means Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.

(l) “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.

(m) “Gross receipts” means the total income from any source whatsoever.

(n) “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.

(o) “Income Tax Department” means the office administering the Earnings Tax Ordinance.

(p) “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.

(q) “Internal Revenue Code” means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.

(r) “Internet” means the international computer network of both federal and non-federal interoperable packet switched data networks, including the graphical subnetwork known as the world wide web.

(s) “Joint Economic Development District” means districts created under the Ohio Revised Code Sections 715.70 and 715.71, as amended from time to time.

(t) “Limited Liability Company” means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.

(u) “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 which 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.

(v) “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.

(w) “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.

(x) “Non-resident incorporated business entity” means an incorporated business entity not having an office or place of business within the Village of Evendale.

(y) “Non-resident unincorporated business entity” means an unincorporated business entity not having an office or place of business within the Village of Evendale.

(z) “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.

(aa) “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.

(bb) “Owners 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.

(cc) “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.

(dd) “Person” means every natural person, partnership, fiduciary, association, or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to any unincorporated entity, shall mean the partners, shareholders or members thereof, and as applied to corporations, the officers thereof.

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

(ff) “Principal place of business” means in the case of an employer having its headquarters’ activities at a place of business within a taxing municipality, 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, the term means the largest place of business located in a taxing municipality.

(gg) “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.

(hh) “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.

(ii) “Resident incorporated business entity” means an incorporated business entity whose office, or place of operations or business situs is within the Village of Evendale.

(jj) “Resident unincorporated business entity” means an unincorporated business entity having an office or place of business within the Village of Evendale.

(kk) “Return Preparer” means any person other than a taxpayer that is authorized by a taxpayer to complete or file an income tax return, report, or other document for or on behalf of the taxpayer.

(ll) “Schedule C” means Internal Revenue Service Schedule C filed by a taxpayer pursuant to the Internal Revenue Code.

(mm) “Schedule E” means Internal Revenue Service Schedule E filed by a taxpayer pursuant to the Internal Revenue Code.

(nn) “Schedule F” means Internal Revenue Service Schedule F filed by a taxpayer pursuant to the Internal Revenue Code.

(oo) “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.

(pp) “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 which 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 this Ordinance. Stock options are taxed when exercised and reported on IRS Form W-2 or Form 1099.

(qq) “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.

(rr) “Taxing Municipality” means a municipality levying a tax on income earned by nonresidents working within such municipality or on income earned by its residents.

(ss) "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 that 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.

(tt) The singular shall include the plural, and the masculine shall include the feminine and the neuter and all periods set forth shall be inclusive of the first and last mentioned dates.

890.03 IMPOSITION OF TAX

Subject to the provisions of Section 890.19 set out in this Chapter, an annual tax for the purposes specified in Section 890.01 hereof shall be imposed on an after January 1, 2005, at the rate of one and two tenths of one percent (1.2%) per annum upon the following:

(a) Resident individual.

(1) On all taxable income as defined in Section 890.02 of the Codified Ordinances of Evendale during the effective period that any tax adopted under Chapter 890 of the Codified Ordinances of Evendale is in effect.

(2) On all compensation received in the form of property including, but not limited to stock options and deferred compensation. These are taxable when included on Form W-2 or Form 1099 for federal purposes.

(3) On contributions made by an employer to non-qualified pension plans and premiums paid by an employer for any insurance or annuity are taxable when made and reported on IRS Form W-2 or Form 1099.

For the purpose of determining the tax on the earnings of resident taxpayers taxed under Section 890.03 of the Ordinance, the sources of the earnings and the place or places in or at which the services were rendered are immaterial. All such earnings wherever earned or paid are taxable.

(b) Non-resident individuals.

(1) On all taxable income as defined in Section 890.02 of the Codified Ordinances of Evendale during the effective period that any tax adopted under Chapter 890 of the Codified Ordinances of Evendale is in effect, but limited to that portion of taxable income for work done or services performed or rendered in the Village of Evendale. The location of the place from which payment is made is immaterial.

(2) On all compensation received in the form of property including, but not limited to, stock options granted and/or deferred compensation earned during employment within the Village of Evendale. Stock Options are taxable when exercised when reported on IRS Form W-2 or Form 1099.

(3) On contributions made by an employer to non-qualified pension plans and premiums paid by an employer for any insurance or annuity are taxable when made and reported on IRS Form W-2 or Form 1099.

(c) Resident unincorporated business.

(1) On the portion attributable to the net profits earned during the effective period of this Chapter of all resident unincorporated businesses, pass-through entities, professions or other entities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the Village of Evendale. The tax applies to the income of the pass-through entity in the hands of the entity.

(2) On the portion of the distributive share of the net profits earned during the effective period of this Chapter of a resident partner or owner of a resident unincorporated business entity not attributable to this municipality and not levied against such unincorporated business entity by the Village of Evendale.

(d) Non-resident unincorporated businesses.

(1) On the portion attributable to the Village of Evendale of the net profits earned during the effective period of this Chapter of all non-resident unincorporated businesses, pass-through entities, professions or other entities, derived from sales made, work done or services performed or rendered and business or other activities conducted in the Village of Evendale, whether or not such unincorporated business entity has an office or place of business in the Village of Evendale. The tax applies to income of the pass-through entity in the hands of the entity. Net profit for individuals is based on amounts reported on federal schedules C, E, or F and non-employee compensation.

(2) On the portion of the distributive share of the net profits earned during the effective period of this Chapter of a resident partner or owner of a non-resident unincorporated business entity not attributable to the Village of Evendale and not levied against such unincorporated business entity by the Village of Evendale.

(e) Corporations.

On the portion attributable to the Village of Evendale, of the net profits earned during the effective period of this Chapter of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in the Village of Evendale, whether or not such corporations have an office or place of business in the Village of Evendale. Effective, for taxable years beginning on or after January 1, 2004, Municipal Net Profits are based on “adjusted federal taxable income” (AFTI).

(1) The tax is imposed on the net profits attributable to the Village of Evendale under the business allocation formula provided for in the Ordinance.

(2) In determining whether a corporation is conducting a business or other activity in the Village of Evendale, the provisions of the Rules and Regulations of this Ordinance shall be applicable.

(f) Rental Property.

As a general rule, rental of real estate for purposes of the Village of Evendale Earnings Tax Ordinance constitutes the operation of a business, and net profits earned are subject to taxation hereunder. Landlords must also comply with requirements of Section 890.18 of this Chapter.

(g) Royalties.

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

(h) On all amounts received as gambling winnings. Gambling means any scheme in which a participant gives a valuable consideration for a chance to win a prize, any game in which a player gives anything of value in the hope of a gain, the outcome of which is determined largely or wholly by chance, or hazarding of anything of value upon the result of an event, race, undertaking, athletic contest, or contingency. Gambling includes but is not limited to bingo, keno, slot machines, casino games, horse racing, dog racing, jai alai, sweepstakes, wagering pools, lotteries, prizes, raffles and any other wagering transactions. When reporting gambling winnings, all forms and schedules used to report gambling winnings to the Internal Revenue Service including, but not limited to IRS

Form W-2G or Form 5754 shall be attached to the return made to the Village of Evendale.

890.04 ALLOCATION OF PROFITS OR LOSSES, BUSINESS LOSSES, LOSS CARRY FORWARD, DEPRECIATION

(a) Allocation formula.

The portion of the net profits attributable to the Village of Evendale of a taxpayer conducting a business, profession or other activity both within and without the boundaries of the Village of Evendale shall be determined by multiplying the entire net profits of the business by a business allocation percentage formula to be determined by:

- (1) STEP 1. Ascertain the percentage which the average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession and situated with the Village of Evendale during the taxable period, is to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated. As used above, real property and tangible personal property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight.
- (2) STEP 2. Ascertain the percentage which the gross receipts of the business or profession from sales made and services performed in the Village of Evendale is to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.
- (3) STEP 3. Ascertain the percentage which the total 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 paid during the taxable period to persons employed in the business or profession for services performed in the Village of Evendale is of the total paid for the above items to all employees within and outside the Village of Evendale during the period.
- (4) STEP 4. Add together the percentages and divide the total by the number of percentages used in deriving such total. The result is the Business Allocation Formula.
- (5) A factor is applicable, even though it may be allocable entirely in or outside the village.

(b) Substitute method.

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

(c) Business losses

The net operating loss sustained by a business or profession is not deductible from employee earnings, but may be carried forward as provided in the rules and regulations. However, if a taxpayer is engaged in two or more taxable business activities to be included in the same return, the net loss of one unincorporated business activity (except any portion of a loss reportable for municipal income tax purposes to another

municipality) may be used to offset the profits of another for purposes of arriving at overall net profits. No portion of a net operating loss shall be carried back against net profits of any prior year.

(d) Three year loss carried forward, implemented in incremental stages.

(1) The portion of a net operating loss, based on income taxable under this Chapter, sustained in the taxable year beginning after December 31, 2000, allocable to the Village of Evendale may be applied against the portion of succeeding years allocable to the Village of Evendale, 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 the net profits of any prior year.

(2) The portion of a net operating loss, based on income taxable under this Chapter, sustained in any taxable year beginning after December 31, 2001, allocable to the Village of Evendale may be applied against the portion of succeeding years allocable to the Village of Evendale, 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.

(3) The portion of a net operating loss sustained shall be allocated to the Village of Evendale in the same manner as provided herein for allocating net profits to the Village of Evendale.

(4) The Administrator shall provide by Rules and Regulations the manner in which such net operating loss carry-forward shall be determined.

(5) The net operating loss of a taxpayer that loses its legal identity, by any means, such as a merger or consolidation, shall not be allowed as a carryforward loss deduction to the surviving or new taxpayer.

(d) Recapture of Depreciation.

Capital gains and losses from sale, exchange or other disposition of property shall not be taken into consideration in arriving at net profits earned. However, 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 this Chapter to the extent of depreciation allowed or allowable.

890.05 EFFECTIVE PERIOD.

Said tax shall be levied, collected and paid with respect to the qualifying wages, commissions other compensation and taxable income and with respect to the net profits of businesses, professions or other activities earned on and after July 1, 1992.

890.06 RETURN AND PAYMENT OF TAX.

(a) Returns required.

(1) On or before April 15th of each year, every person subject to the provisions of Chapter 890 of the Codified Ordinances of the Village of Evendale shall, except as hereinafter provided, make and file with the Administrator, a return on a form prescribed by and obtainable upon request from the Administrator, whether or not a tax is due.

(2) If the return is made for a fiscal year or any period less than a year, said return shall be filed on or before the fifteenth (15th) day of the fourth (4th) month following the end of such fiscal year or other period.

(b) Employer returns.

- (1) The Administrator is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of tax deducted by said employer or employers from the qualifying wages, commissions or other compensation of an employee, and paid by him or them to the Administrator shall be accepted unless otherwise specified as the return required of any employee whose sole income, subject to tax under this Chapter, is such qualifying wages, commissions, or other compensation.
- (2) An employee who is paid on a qualifying wage, commission or other compensation basis and who pays his business expense from his qualifying wage, commission or other compensation, without reimbursement from his employer, may deduct from his qualifying wage, commission or other compensation, business expenses allowed by the Internal Revenue service for federal income tax purposes, but only to the extent said expenses are incurred in earning commissions or other compensations subject to the tax imposed by the Ordinance. The employee must file a return in order to claim such deductions even though all or parts of such qualifying wage, commission or other compensation are subject to withholding. Business expenses allowed shall be those expenses allowed to be claimed on the federal Form 2106 and upon the request of the Tax Administrator, verifiable with supporting schedules and/or receipts. Failure to produce the supporting schedules and/or receipts upon request of the Tax Administrator shall result in disallowance of the expenses in question. No expenses claimed on Federal Form Schedule A, Itemized Deductions shall be allowed.

(c) Joint returns.

A husband and wife may file either separate returns or a joint return for municipal purposes, even though one of the spouses has neither taxable income nor deductions included on the Municipal return regardless of whether their Federal and State returns are filed separately or jointly. If a joint city return is made, the tax shall be computed on the aggregate taxable income and the liability with respect to the tax, shall be joint and several.

(d) Forms.

The return shall be filed with the Administrator on a form or forms furnished by or obtainable upon request from such Administrator, or an acceptable generic form that contains all of the information required to be submitted with the Village of Evendale's prescribed form setting forth:

- (1) The aggregate amounts of qualifying wages, including vacation pay, sick pay, disability pay, bonuses, separation pay, personal leave pay, commissions, bonuses, incentive payments, tips, severance pay, stock options, supplemental unemployment pay, or any other remuneration that is paid to or constructively received by the recipient; gambling winnings, and the net profits from any business profession or other activity, including the rental from use of real and personal property, distributive shares from pass through entities and other income defined by statute as taxable, received for the period covered by the return and such other pertinent facts and detail information as required by the Tax Administrator.;
- (2) The amount of the tax imposed by this Chapter on such earnings and profits;

and,

(3) Such other pertinent statements, information returns, or other information as the administrator may require, including statements that document the amounts used in the return are the amounts used on the return for federal income tax, adjusted to set forth only such income taxable under the provisions of this Ordinance.

(4) The Village of Evendale shall accept a generic form of any return, report, or document required to be filed if the generic form once completed and filed, contains all of the information required to be submitted with the Village of Evendale's prescribed returns, reports or documents, and if the taxpayer or return preparer filing the generic form otherwise complies with the rules or ordinances of the Village of Evendale governing the filing of returns, reports or documents.

(5) The fact that any taxpayer is not required to file a federal tax return does not relieve him from filing a Village of Evendale tax return.

(e) Extensions of Time.

(1) Any taxpayer that has requested an extension for filing a federal income tax return may request an extension for the filing of a Village of Evendale tax return. The taxpayer shall make the request by filing a copy of the taxpayer's request for a federal filing extension with the Administrator.

(2) Any taxpayer not required to file a federal income tax return may request an extension for filing a Village of Evendale tax return in writing.

(3) The request for extension shall be filed not later than the last day for filing the Village of Evendale tax return as prescribed by ordinance or rule of this municipal corporation.

(4) A valid extension request extends the due date for filing a 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.

(5) The Tax Administrator may deny a taxpayer's request for extension if the taxpayer:

- (A) Fails to timely file the request;
- (B) Owes the Village of Evendale any delinquent income tax or any penalty, interest, assessment or other charge for the late payment or nonpayment of income tax; or,
- (C) Has failed to file any required income tax return, report, or other related document for a prior tax period.

(6) The granting of an extension for filing a Village of Evendale income tax return does not extend the last date for payment of the tax; hence, penalty and interest may apply to any unpaid tax during the period of extension at the rate set out by Section 890.11. No penalty shall be assessed in those cases in which the return is filed and the final tax paid within the extension period provided all other filing and payment requirements of the Tax Code have been met. Any extension by the Administrator shall be granted with the understanding that declaration filing and payment requirements have been fulfilled; however, if, upon further examination it then becomes evident that declaration filing and payment requirements have not been fulfilled, penalty and interest may be assessed in full and in the same manner as though no extension had been granted.

(7) Information returns, schedules and statements required to support tax returns which are incomplete without such information shall be filed within the time

limits set forth for the filing of the tax returns and the failure to file such information returns, schedules and statements shall be a violation of this Tax Ordinance.

(f) Payment of Taxes

(1) The taxpayer making a return shall, at the time of filing thereof, pay to the Administrator the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of this Chapter, or where any portion of said tax shall have been paid by the taxpayer pursuant to the provisions of this Chapter, or where an income tax has been paid to another municipality, credit for the amount so paid is limited to the tax rate of the Village of Evendale, in accordance with this Chapter, shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing said return.

(2) A taxpayer who has overpaid the amount of tax to which the Village of Evendale is entitled under the provisions of this Chapter may have such overpayment applied against any subsequent liability hereunder or, at his election, indicated on the return, such overpayment (or part thereof) shall be refunded, provided that no additional taxes or refunds of less than five dollars (\$5.00) shall be collected or refunded.

(3) The fact that any taxpayer is not required to file a federal tax return does not relieve him from filing a Village of Evendale tax return.

(g) Consolidated returns.

(1) Consolidated returns may be permitted from affiliated groups of corporations that file consolidated returns (for the same tax reporting period) for Federal Income Tax purposes beginning January 1, 2003.

(a) Allocation data for each entity in the consolidated group must be applied to each separate company's income or loss before consolidation.

(2) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates, or some other method, or in the case any person operates a division, branch, factory, office, laboratory or activity within the Village of Evendale constituting a portion only of its total business, the Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are not properly allocated to the Village of Evendale by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates, or transactions with such division, branch, factory, office, laboratory or activity or by some other method, he shall make such allocation as he deems appropriate to produce a fair and proper allocation of net profits to the Village of Evendale.

(h) Amended returns.

(1) Where necessary an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Sections 890.12 and 890.16. Such amended returns shall be on a form obtainable on request from the Administrator or upon an acceptable generic form that contains all of the information required to be submitted with the Village of Evendale's prescribed form. A taxpayer may not change the method of accounting or allocation of net profits after the due date for filing the original return.

(2) Within three months from the final determination of any federal tax liability

affecting the taxpayer's tax liability to the Village of Evendale, such taxpayer shall make and file an amended return showing income subject to the income tax of the Village of Evendale based upon such final determination of federal tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment.

890.07 COLLECTION AT SOURCE.

In accordance with rules and regulations prescribed by the Administrator, each employer within or engaged in any business activity within the Village of Evendale shall deduct at the time of payment of such salary, wage, commission or other compensation, a tax at the rate provided in Section 890.03 hereof on the gross salaries, wages, commissions or other compensation due by the employer to the employee and shall, on or before the fifteenth (15th) day of the month following such withholding, make a return and pay to the Administrator the amount of taxes so deducted. However, the Tax Administrator shall have the authority to grant to employers with three (3) or fewer resident employees, permission for said employees to file individually. The return shall be on a form or forms prescribed by or acceptable to the Administrator and shall be subject to the rules and regulations prescribed by the Administrator. 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. Nothing in this section prohibits an employer from withholding tax on a basis greater than qualifying wages. The tax shall be deducted by the employer from:

- (a) The gross amount of all salaries, qualifying wages, including vacation pay, sick pay, disability pay, personal leave pay, commissions, bonuses, incentive payments, separation pay, tips, severance pay, any pay received as part of an employee buy out or wage continuation plan, stock options, supplemental unemployment pay, or any other remuneration or other forms of compensation subject to the municipal income tax paid.
- (a) So long as the taxes withheld by an employer for the Village of Evendale during the measurement period are less than five hundred dollars (\$500) per month, payments may be made quarterly on or before the last day of the month following the end of the quarter, subject to the approval of the Administrator. The Administrator may revoke the approval of quarterly filing and payments whenever he has reason to believe that the conditions for granting such authorization have changed, where judged incorrectly, where not met, or when it is in the best interest of the Village of Evendale to do so. Notice of withdrawal shall be made in writing and, in such case the employer must begin to file on a monthly basis in accordance with this Section.
- (b) Such employer in collecting said tax shall be deemed to hold the same, until payment is made by such employer of the Village of Evendale, as a Trustee for the benefit of the Village of Evendale and any such tax collected by such employer from his employees, shall, until the same is paid to the Village of Evendale, be deemed a trust fund in the hands of such employer. Each employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such tax, in fact, has been withheld.
- (c) Any person who is required to withhold tax from salaries, wages, commissions, and other compensation shall pay all such tax to the Village of Evendale in accordance with the provisions of this Section. In the event taxes withheld from the salaries, wages, commissions, and other compensation of the employees are not paid to the Village of Evendale in accordance with the provisions of this Section, all officers, members, managers, employees, and trustees having control or supervision of or charged with the responsibility of filing the return and making payment are jointly and severally personally liable for the tax not returned or paid to the Village of Evendale as well as any related interest and penalties, and are also liable under the provisions of Section 890.11 hereof. The dissolution, termination, or bankruptcy of a corporation, limited liability company, S-Corporation, or business trust does not discharge an officer's, members, managers, manager's employees, or trustee's liability for a failure of the corporation, limited liability company, or business trust to file returns or pay said taxes.
- (d) On or before February 28, of each year, each employer shall file a reconciliation

showing the sum total of all compensation paid all employees, the portion of which, (if any) was not subject to withholding along with an explanation for same, and the portion of which was subject to withholding, together with the amount of such withholdings remitted. Such return shall include information concerning each employee, from whom the tax was withheld, showing the name, address, zip code and social security number of each said employee, the total amount of compensation paid during the year and the amount of Municipal tax withheld. If the total tax withheld from any employee included tax withheld and remitted to another municipality, the amount of same shall be separately shown on the return of information to the Village of Evendale concerning each employee.

(e) In addition to the wage reporting requirements of this Section, any person required by the Internal Revenue Service to report on Form 1099-MISC payments to individuals not treated as employees for services performed shall also report such payments to the Village of Evendale when the services were performed in the village. The information may be submitted on a listing, and shall include the name, address and social security number (or Federal Identification Number), and the amount of the payments made. Federal Form(s) 1099 may be submitted in lieu of such listing.

(1) Commissions and fees paid to professionals, 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.

(2) Such taxpayers must, in all instances file a declaration and return and pay the tax pursuant to the provisions of the Ordinance and Rules and Regulations.

(f) Employers who do not maintain a permanent office or place of business in the Village of Evendale, but who are subject to tax on net profits allocable to the village, under the method of allocation provided for in the Ordinance, are considered to be employers within the Village of Evendale and are subject to the requirements of withholding.

(g) Where a nonresident receives compensation for personal services rendered or performed partly within and partly without the Village of Evendale, the withholding employer shall deduct, withhold, and remit the tax on that portion of the compensation which is earned within the Village of Evendale with the following rules of apportionment:

(1) If an employer is located within the Village of Evendale, all non-resident employees who report to the village location are taxable to the village unless the employer is withholding tax for other taxing municipalities where the employee's work is performed. For the purposes of determining the tax liability of non-resident employees who report to the Village of Evendale location and who perform their work in non-taxing locations, only the wages paid for services performed within the Village of Evendale are considered taxable to the village.

(2) If the nonresident is a salesman, agent or other employee whose compensation depends directly on the volume of business transacted or chiefly effected by him, the deducting and withholding shall attach to the portion of the entire compensation which the volume of business transacted or chiefly effected by the employee within the Village of Evendale bears to the total volume of business transacted by him within and outside the Village of Evendale.

(3) The fact that nonresident employees are subject to call at any time does not permit the apportionment of pay for time worked within the Village of Evendale on a seven-day per week basis. The percentage of time worked in the village will be computed on the basis of a forty-hour week unless the employer notifies the Tax administrator that a greater or lesser number of hours per week is worked.

a. 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 the village, divided by the total number of days worked during the year. The total number of days worked is considered to be 260 days, including vacation days and holidays. The resulting percentage applies to the total annual income from 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.

(h) Compensation deferred before the effective date of this amendment is not subject to any municipal corporation income tax or municipal income tax withholding requirement to the extent deferred compensation does not constitute qualifying wages at the time the deferred compensation is paid or distributed.

(i) The Tax Administrator for good cause may require immediate returns and payments to be submitted to his office.

(j) Domestic Servants. No person shall be required to withhold the tax on the wages or other compensation paid domestic servants employed exclusively in or about such person's residence. However, such domestic servants shall be responsible for filing and paying their own returns and taxes.

890.08 DECLARATIONS.

(a) Every person who anticipates any taxable income which is not subject to Section 890.07 hereof, or who engages in any business, profession enterprise or activity subject to the tax imposed by Section 890.03 hereof shall file a declaration setting forth such estimated income or the estimated profits or loss from such business activity together with the estimated tax due thereon, if any; provided, however, if a person's income is wholly from wages from which the tax will be withheld and remitted to the Village of Evendale, in accordance with Section 890.07 hereof, such person need not file a declaration.

(b) (1) Such declaration shall be filed on or before April 15th of each year during the life of this Chapter, or on or before the fifteenth (15th) day of the fourth (4th) month following the date the taxpayer first becomes subject to the tax for the first time.

(2) Those taxpayers reporting on a fiscal year basis shall file a declaration on or before the fifteenth (15th) day of the fourth (4th) month following the start of each fiscal year or period.

(c) (1) Such declaration shall be filed upon a form furnished by, or obtainable from, the Tax Administrator, or upon an acceptable generic form that contains all of the information required to be submitted with the village's prescribed form. Credit shall be taken for the Village's income tax to be withheld from any portion of such income. Credit may be taken for tax to be paid to or to be withheld and remitted to another taxing municipality.

(2) The original declaration (or any subsequent amendment thereof) may be increased or decreased on or before any subsequent quarterly payment date and provided for herein.

(d) For individuals, such declaration of estimated tax to be paid to the Village of Evendale shall be accompanied by a payment of at least 22 ½% of the estimated annual tax and at least a similar amount shall be paid on or before the last day of the seventh (7th), tenth (10th) and thirteenth (13th) months after the beginning of the taxable year. Provided, however, that in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

(e) For taxpayers that are not individuals, such declaration of estimated tax to be paid to the Village of Evendale shall be accompanied by a payment of at least 22 ½% of the estimated tax

liability for the current year and at least a similar amount shall be paid on or before the fifteenth (15th) day of the sixth (6th), ninth (9th), and twelfth (12th) months after the beginning of the taxable year.

(e) On or before the fifteenth (15th) day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed with any balance which may be due the Village of Evendale shall be paid therewith in accordance with the provisions of Section 890.06 hereof.

(f) The mere submission of a declaration of estimating a tax liability shall not constitute a filing unless accompanied by the required payment.

890.09 DUTIES OF THE ADMINISTRATOR.

(a) (1) It shall be the duty of the Village Tax Administrator to receive the tax imposed by this Chapter in the manner prescribed herein from the taxpayers; to keep an accurate record thereof; and to report all monies so received.

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

(b) Said Administrator is hereby charged with the enforcement of the provisions of this Chapter, and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and the administration and enforcement of the provisions of this Chapter, including provisions for the reexamination and correction of returns.

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

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 Sections 890.12 and 890.13 of the Chapter shall apply.

(c) In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Administrator may determine the amount of tax appearing to be due this municipality from the taxpayer and shall send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.

(d) The Tax Administrator, for good cause as set for by rules and regulation, has the authority to compromise any interest and penalty imposed by Section 890.11 of this Chapter.

890.10 INVESTIGATIVE POWERS OF THE ADMINISTRATOR; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.

(a) The Administrator, or any authorized agent or employee, is hereby authorized to examine the books, papers, records and federal income tax returns of any employer or of any taxpayer or person subject to, or whom the Administrator believes is subject to the provisions of this Chapter, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under this Chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and

required to furnish upon written request by the Administrator, or his duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

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

(c) The refusal to produce books, papers, records and federal income tax returns, or the refusal to submit to such examination by any employer or person subject or presumed to be subject to the tax or by any officer, agent or employee of a person with the provisions of this Section or with an order or subpoena of the Administrator authorized hereby shall be deemed a violation of this Chapter, punishable as provided in Section 890.13 hereof.

(d) Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this Chapter shall be confidential, except for official purposes, or except in accordance with proper judicial order. The Tax Administrator of the Village of Evendale may furnish copies of returns filed under this Ordinance to the Internal Revenue Service and to the Ohio Department of Taxation.

(e) The Tax Administrator, or any authorized agent or employee shall maintain complete confidentiality over all data and statistical information compiled by them in their capacity as employees of the Village of Evendale Income Tax Department, subject to the exceptions provide for in this Ordinance. This Ordinance shall apply only to the municipal income tax, and not to any other tax data gathered by such employees in the normal course of their employment. All confidential information may be subject to Court Order or subpoena, or may be disclosed upon a proper release executed by the affected taxpayer.

(f) The following statistical data may be transmitted to another Village of Evendale department for internal administrative purposes: information that may be obtained from a separate source, including names, addresses and telephone numbers; data regarding the collective payroll withholding taxes of a business entity located within the Village of Evendale, as long as such business entity involves more than one individual from whom the withholding tax payments are being generated; data regarding the number of employees and the total payroll generated by all employees of a business entity located within the Village of Evendale as long as the business entity employs more than one individual at any time. This data shall only include the total number of employees and the combined total payroll and payroll taxes, and shall not include earnings or payroll taxes of individual employees of such business entity.

(g) No employee or authorized agent of the Village of Evendale Income Tax Department shall disclose to the general public or to any other department within the Village of Evendale, data concerning individual earnings or profits earned by an individual or business entity. No statistical or administrative data shall be disseminated or disclosed to members of the general public.

(h) Any person divulging such information in violation of this Chapter, shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine or penalty of not more than \$500.00 or imprisoned for not more than six months, or both. Each disclosure shall constitute a separate offense.

(i) In addition to the above penalty, any employee of the village who violates the provision of this Section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

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

890.11 INTEREST AND PENALTIES.

(a) All taxes imposed and all monies withheld or required to be withheld by employers under the provisions of this ordinance and remaining unpaid after they become due shall bear interest as prescribed by Ohio R.C. 5703.47.

(b) In addition to interest as provided in paragraph (a) hereof, penalties based on the unpaid tax are hereby imposed as follows:

(1) For failure to pay taxes due - other than taxes withheld; one and one-half percent (1 1/2%) per month or fraction thereof.

(2) For failure to remit taxes required to be 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.

(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 percent (25%) of the tax due.

(c) Exceptions. A penalty shall not be assessed on an additional tax assessment made by the Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Administrator; and provided further, that, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, providing an amended return is filed and the additional tax is paid within three months after final determination of the federal tax liability.

(d) Upon recommendation of the Administrator, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the Administrator to recommend abatement of penalty and interest, the Board may nevertheless abate penalty or interest, or both.

890.12 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENT.

(a) All taxes imposed by this Chapter shall be collectible, together with any interest and penalties thereon, by a civil action at law. All additional assessments shall be made and all civil actions to recover municipal income taxes and penalties and interest thereon shall be brought within three years after the tax due or the return was filed, whichever is later.

(b) No additional assessment shall be made by the Tax Administrator after three (3) years from the time the tax was due or the return was filed, whichever is later. Provided, however, there shall be no period of limitation on an additional assessment in the case of a return that omits gross income in excess of twenty-five percent (25%) of that required

to be reported or in the case of filing a false or fraudulent return with intent to evade the tax, or in the case of failure to file a return.

(b) Taxes erroneously paid shall not be refunded unless a claim for a refund is made. Claims for refund of municipal income taxes must be brought within the time limitation provided in Division (a) of this Section.

(c) 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 Tax Administrator.

(c) Amounts of less than five (\$5.00) dollars shall not be collected or refunded.

(d) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment, with the following exception: No interest shall be allowed on any overpayment that is refunded within ninety (90) days after the final filing date of the annual return or ninety (90) days after the complete return is filed, whichever is later. For purposes of computing the interest on overpayments, no amount of tax for any taxable year shall be treated as having been paid before the date on which the tax return for that year was due without regard to any extension of time for filing the return. The interest shall be paid at the rate prescribed by Ohio R.C. 5703.47.

890.13 VIOLATIONS; PENALTIES.

(a) Any person who shall:

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

(4) Willfully fail, neglect or refuse to withhold the tax from this 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 a taxpayer, supposed taxpayer, income or net profits of a taxpayer; or

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

(9) Give to an employer false information as to his true name, correct social security number and residence address, or fail to promptly notify an employer of any change in residence address and date thereof; or

(10) Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and municipal income tax withheld, or to knowingly give the Administrator false information; or any part of the tax, penalties or interest imposed by this Chapter;

(11) Fail to cause the tax withheld from the 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 paid to the employees pursuant to this Ordinance to be paid to the Village of Evendale in accordance with the provisions of Section 890.07;

(12) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this Ordinance.

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

(b) Prosecutions for an offense made punishable under this Section or any other provision of this Chapter shall be commenced within three years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five percent (25%) or more of income required to be reported, prosecutions may be commenced within six years after the commission of the offense.

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

890.14 BOARD OF REVIEW.

(a) A Board of Review, consisting of a chairman and two other individuals to be appointed by the Mayor of the Village of Evendale, is hereby created. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board may be conducted privately and the provisions of Section 890.10 hereof with reference to the confidential character of information required to be disclosed by the Chapter shall apply to such matters as may be heard before the Board on appeal.

(b) All rules and regulations and amendments or changes thereto, which are adopted by the Administrator under the authority conferred by this Chapter, must be approved by the Board of Review before the same become effective. After such approval, such rules, regulations and amendments and changes shall be filed with the Village Clerk and shall be open to public inspection. The Board shall hear and pass on appeals from any ruling or decision of the Tax Administrator, and, at the request of the taxpayer or Tax Administrator, is empowered to substitute alternate methods of allocation.

(c) Whenever the Administrator issues a decision regarding an income tax obligation that is subject to appeal as provided in this Section, or in any ordinance or regulation of the Village of Evendale, the Administrator shall notify the taxpayer at the same time of the taxpayer's right to appeal the decision and of the manner in which the taxpayer may appeal the decision.

(d) Any person who is aggrieved by a decision by the Administrator and who has filed with the Village of Evendale the required returns or other documents pertaining to the municipal income tax obligation at issue in the decision may appeal the decision to the Board of Review by filing a request with the Board. The request shall be in writing, shall state with particularity why the decision should be deemed incorrect or unlawful, and shall be filed within thirty (30) days after the Administrator has issued the decision.

(e) 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.

(f) The Board of Review shall schedule a hearing within forty-five (45) days after receiving the request, unless the taxpayer waives a hearing.

(g) If the taxpayer does not waive the hearing, the taxpayer may appear before the Board and may be represented by an attorney at law, certified public accountant or other representative.

(h) The Board may affirm, reverse, or modify the Administrator's decision or any part of that decision. The Board shall issue a decision on the appeal within ninety (90) days after the Board's final hearing on the appeal, and send notice of its decision by ordinary mail to the petitioner within fifteen (15) days after issuing the decision.

(i) Hearings requested by a taxpayer before a Board of Review created pursuant to this Section are not meetings of a public body subject to Section 121.22 of the Ohio Revised Code.

890.15 ALLOCATION OF FUNDS.

The funds provided for herein shall be allocated by the Council of the Village of Evendale for such legal and public purposes as the Council shall from time to time determine, including but not limited to allocations for the general operations of the Village of Evendale and capital improvement of the Village of Evendale.

890.16 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(a) Credit for tax paid to another municipality or to a Joint Economic Development District.

(1) Where a resident of the Village of Evendale is subject to a municipal income tax in another municipality or in a Joint Economic Development District, he shall not pay a total municipal income tax on the same income greater than the tax imposed at the higher rate.

(2) Every taxpayer who resides in the Village of Evendale but receives net profits, qualifying wages and other taxable income, as defined by Section 890.02 of this Chapter, from a resident or nonresident business entity or association of which he is a partner or owner, for work done or services performed or rendered outside of the Village of Evendale, if it is made to appear that he or such business entity has paid a municipal or a Joint Economic Development District income tax on or with respect to the same income taxable under this Chapter to another municipality or to a Joint Economic Development District, shall be allowed a credit against the tax imposed by this Chapter in the amount so paid by him, in his behalf or by such business entity, to the other municipality or to a Joint Economic Development District. In no event, however, is any municipal income tax or any Joint Economic Development District income tax to the extent paid to another municipality or to a Joint Economic Development District and allowed as a credit hereunder deductible in computing the net profit of such taxpayer or such business entity. In addition, the credit shall not exceed the tax assessed by this Chapter on income earned in such other municipality or municipalities or Joint Economic Development District(s) where the tax is paid.

(3) A claim for refund or credit under this Section shall be made in such manner as the Administrator may, by regulation, provide.

(4) As used in this Section the term "Municipality" shall include Ohio Municipal Corporations (whether Cities or Villages), Ohio Townships, and Ohio Counties. It shall include similar units of government existing in other states which 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.

(5) As used in this Section, the term "Municipal Income Tax", shall include a tax

imposed by a "municipality" as defined by subsection (4) of this Section as a percentage of net profits, qualifying wages, and other taxable income or other personal service compensation for work done or services performed. It shall not include taxes upon tangible or intangible property, licensing fees, or other types of business taxes.

(b) Requirements for Joint Economic Development Districts.

(1) Specific provisions of this Chapter may be modified as they apply to Joint Economic Development Districts if the modifications are passed by Council in an ordinance which either specifically approves a Joint Economic Development District contract or specifically amends this Chapter.

890.17 EXCLUSION AND EXEMPTIONS

(a) Precinct Official.

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) annually. Such compensation in excess of one thousand dollars may be subjected to taxation. The payer of such compensation is not required to withhold Village of Evendale tax from that compensation.

(b) Transit Authority.

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 or commission in or through the City, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such a tax by reason of residence or domicile in the City, or the headquarters of the authority or commission is located within the city.

(c) Public Utility.

The income of a public utility when that public utility is subject to the tax levied under Section 5727.24 or 5727.30 of the Ohio Revised Code, except a municipal corporation may tax the following, subject to Chapter 5745 of the Ohio Revised Code:

(1) The income of an electric company or combined company, effective January 1, 2002.

(2) The income of a telephone company, effective January 1, 2004.

(d) Pensions.

Proceeds from welfare benefits, unemployment insurance benefits, social security benefits, and qualified retirement plans as defined by the IRS.

(e) 2106 Expenses.

The municipal corporation shall deduct from the taxpayer's taxable income the amount shown as a deduction on Federal Form 2106, as filed with the internal Revenue Service. (H.B. #65,2-11-82). Such amounts must be properly reported on Form 2106 and must be verifiable. An employee who is permitted to deduct business expenses from qualifying wages, salaries, or commissions must file a return in order to claim such deductions even though all or part of such qualifying wages, salaries, or commissions are subject to withholding.

(g) Other Exceptions.

The tax provided for herein shall not be levied upon the military pay or allowances of members of the armed forces of the United States, or upon the net profits of any civic, charitable, religious, fraternal or other organization specified in Ohio R.C. 718.01 to the extent that such net profits are exempted from municipal income taxes under said Section.

(h) Twelve Day Occasional Entry Rule

The Village of Evendale shall not tax the compensation of an individual if all of the following apply:

- (1) The individual does not reside in the Village of Evendale;
- (2) 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;
- (3) 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 in Section 890.03(b) of this Chapter to the city or village, if any, in which the employer's principal place of business is located, and no portion of that tax is refunded to the individual;

(i) Parsonage Allowance

Parsonage Allowances, as paid to a minister of the gospel in the form of a rental allowance as part of the minister's compensation or the rental value of a home furnished to the minister as compensation, are exempted from municipal income taxation beginning January 1, 2003.

(j) S-Corporation Distributive Shares

Effective January 1, 2004, an S-Corporation shareholder's distributive share of net profits of the S-Corporation, other than any part of the distributive share of net profits that represents wages as defined in section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in section 1402(a) of the Internal Revenue Code.

890.18 INFORMATION BY LANDLORDS.

- (a) Within thirty (30) days after a new tenant occupies property of any kind within the Village of Evendale, all owners of property who rent to tenants of apartments, rooms and other accommodations shall file with the Administrator a report showing the name, address and telephone number, if available, of each such tenant who occupies an apartment, room or other rental property within the Village of Evendale.
- (b) Within thirty (30) days after a tenant vacates an apartment, room or other 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 property and a forwarding address.
- (c) Failure to file such report shall be a violation of this Ordinance.

890.19 SAVING CLAUSE.

If any sentence, clause, Section or part of this Chapter, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid,

such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, Section or part of this Chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, Sections or other parts of this Chapter. It is hereby declared to be the intention of the Council of the Village of Evendale that this Chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, Section or part thereof not been included herein.