

# **CITY OF TIFFIN, OHIO**



## **INCOME TAX ORDINANCE**

**and**

## **REGULATIONS**

# Income Tax Regulations

DEFINITIONS .....	1
COMMENCEMENT AND DURATION OF THE TAX .....	2
IMPOSITION OF TAX - RESIDENT EMPLOYEES .....	3
IMPOSITION OF TAX - NON-RESIDENT EMPLOYEES .....	6
IMPOSITION OF TAX - NET BUSINESS PROFITS - RESIDENT UNINCORPORATED BUSINESS ENTITIES .....	6
IMPOSITION OF TAX - NET BUSINESS PROFITS - NON-RESIDENT UNINCORPORATED BUSINESS ENTITIES .....	7
IMPOSITION OF TAX - NET BUSINESS PROFITS - CORPORATIONS .....	8
USE OF BUSINESS ALLOCATION PERCENTAGE .....	8
FISCAL YEARS .....	14
NET BUSINESS PROFITS .....	14
RECONCILIATION WITH FEDERAL RETURN .....	16
RETURN AND PAYMENT OF TAX .....	17
COLLECTION OF TAX AT SOURCE .....	18
RETURNS OF TAX WITHHELD AND PAYMENT .....	20
LIMITATION ON CREDIT FOR TAX .....	21
STATUS AND LIABILITY OF EMPLOYERS .....	21
DECLARATIONS .....	21
RECIPROCITY CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES .....	22
INVESTIGATIVE POWERS OF THE TAX COMMISSIONER .....	23

RECORDS TO BE KEPT BY EMPLOYERS AND TAXPAYERS .....	23
COLLECTION OF DEFICIENCIES - ALLOWANCE .....	24
OF CREDIT FOR OVERPAYMENT	
PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION .....	24
INTEREST AND PENALTIES .....	24
COLLECTION OF UNPAID TAXES .....	25
VIOLATIONS - PENALTIES .....	26
CONSTRUCTION - SEVERABILITY OF PROVISIONS .....	26
COLLECTION OF TAX AFTER TERMINATION OF ORDINANCE .....	27
BOARD OF REVIEW .....	27

# CITY OF TIFFIN INCOME TAX REGULATIONS

## REGULATION 1 - 1

### DEFINITIONS

For use with these Regulations selected terms are defined as follows:

(A) "Association" means a partnership, limited partnership, or any other form of unincorporated enterprise, owned by two or more persons.

(B) "Board of Review" means the Board created by and constituted as provided in Section 191.13.

(C) "Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, co-partnership, association, corporation, or any other entity.

(D) "Commissioner of Taxation" means the person so designated and appointed by the Director of Finance and approved by Council or the person executing the duties of the aforesaid Commissioner.

(E) "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, foreign country or dependency.

(F) "Employer" means an individual, co-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.

(G) "Fiscal year" means an accounting period of twelve months ending on any day other than December 31.

(H) "Net profits" means the net gain from the operation of a business, profession, or enterprise, after provisions for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for Federal income tax purposes and, in the case of an unincorporated entity, without deduction of salaries paid to partners or other owners, or of taxes imposed by this chapter and Federal and other taxes based on income.

(I) "Nonresident" means an individual domiciled outside the City of Tiffin.

(J) "Nonresident unincorporated business entity" means an unincorporated business

entity not having an office or place of business within the City of Tiffin.

(K) "Persons" means every natural person, co-partnership, fiduciary, association, or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to association, shall mean the partners or members thereof, and as applied to corporation, the officers thereof.

(L) "Resident" means an individual domiciled in the City of Tiffin.

(M) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the City of Tiffin.

(N) "Taxable year" means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the 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 made. Unless approved by the Commissioner of Taxation, the taxable year of an individual shall be a calendar year.

(O) "Taxpayer" means a person, whether an individual, co-partnership, association, or any corporation or other entity, required hereunder to file a return or pay a tax. The singular shall include the plural, and the masculine shall include the feminine and neuter. (Ord. 68-24. Passed 6-10-68.) (Ord. 87-1. Passed 5-18-87.) (Ord. 87-33. Passed 7-6-87.)

(P) "Tax Rate and Effective Date" means an annual tax of one and three quarters percent (1 3/4%) on all salaries, wages, commissions, net profits and other compensation earned or accrued on and after July 1, 1987. (Ord. 87-1. Passed 5-18-87.) (Ord. 90-91. Approved by voters 5-7-91. Passed 6-17-91.)

## REGULATION 1 - 2

### COMMENCEMENT AND DURATION OF THE TAX

The tax imposed by the Ordinance is effective as to income and net profits earned or accruing on and after January 1, 1969, and payroll deductions and withholding must be made against all salaries, wages, commissions, bonuses, and other compensation earned or accruing on and after that date.

The Ordinance continues effective for the levy of taxes until amended or repealed by legal authority.

## REGULATION 2 - 1

## IMPOSITION OF TAX - RESIDENT EMPLOYEES

For residents of the City of Tiffin, an annual tax is provided in Regulation 1 - 1(P). For the purpose of determining the tax on the earnings of resident taxpayers, the source of the earnings and the places at which the compensation is earned are immaterial. All such earnings, wherever earned or paid, are taxable. No taxpayer may deduct a net loss from the operation of a business from compensation earned by the same taxpayer as an employee of a business. (Ord. 87-33. Sec. 7. Passed 7-6-87.) No taxpayer may carry a net operation loss for one taxable year forward or backward to another taxable year. (Ord. 87-33. Sec. 6. Passed 7-6-87.)

1. Items which are subject to the tax include but are not limited to:

(A) All wage related compensation. Examples include but are not limited to salaries, wages, commissions, bonuses, sheltered annuities or incentive payments, pay received for vacations, periods of sickness, sub pay, severance pay, wage continuation, or other periods of absence from employment, and other compensation, regardless of label, whether received directly or through an agent and whether in cash or in property, on and after January 1, 1969, in any of the following capacities:

(1) As an officer or employee, or both, of any corporation (including charitable and other non-profit corporations), joint stock association, or joint stock company;

(2) As an employee (as distinguished from a partner or member) of a general partnership, limited partnership, or any other form of unincorporated business entity owned by one or more persons;

(3) As an employee (as distinguished from the proprietor) of a business, trade or profession conducted by sole proprietor;

(4) As an officer or employee (whether elected, appointed, or commissioned) of a governmental agency of the State of Ohio or any of the political subdivisions thereof, or of the United States Government or any of its agencies;

(5) As an employee of any other entity or person;

(B) All wage-related compensation. Examples include but are not limited to salaries, wages, commissions, bonuses, sheltered annuities or incentive payments, pay received for vacations, periods of sickness, sub pay, severance pay, wage continuation, or other periods of absence from employment, and other compensation, regardless or label, whether received directly or through an agent and whether in cash or in property, on and after January 1, 1969, and under the following conditions:

(1) Whether based upon hourly, daily, weekly, semi-monthly, monthly, annually, unit of production or piece-work rates; and

(2) Whether paid by an individual or any other business entity, including charitable and other non-profit corporations, governmental agencies, or any other entity.

(C) Commissions received by a taxpayer whether directly or through an agent and whether in cash or in property, for services rendered on and after January 1, 1969, regardless of how computed, by whom or wheresoever paid. If amounts received as a drawing account exceed the commissions earned, the tax is payable on the gross amounts received. Amounts received from an employee by way of expenses and not by way of compensation, and used as such by the individual receiving them are not deemed to be compensation if the employer deducts such expense advances as such from his gross income for the purpose of determining his net profits taxable under the Ordinance. If such commissions are included in the net earnings of a trade, business, profession, enterprise, or activity regularly carried on by such individual and therefore subject to tax under the Ordinance, they shall not again be separately taxed. In such case, such net earnings shall be taxed as provided in Regulations 2 - 3, 2 - 4, or 2 - 5.

(D) The receipt of fees and other compensation for personal services rendered shall be deemed to be subject to taxation under the Ordinance.

(E) Domestic servants are not subject to deduction and withholding under the Ordinance; however, their compensation is subject to taxation under the Ordinance.

2. Items which are not subject to the tax are limited to:

(A) Funds received from local, state, or federal governments because of service in the Armed Forces of the United States by the person rendering such service, or as a result of another person rendering such service.

(B) Public Assistance, pensions, unemployment compensation or similar payments, including disability benefits received from private industry or local, state, or federal governments, or from charitable, religious or educational organizations.

(C) Alimony or child support received.

(D) Income of minors under eighteen years of age.

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

(F) Receipts from casual entertainment, amusements, sports events, and health and welfare activities conducted by charitable, religious and educational organizations and associations.

(Ohio Rev. Code Section 718.01).

(G) Receipts of any association, organization, corporation, club or trust, which is exempt from federal taxes on income by reason of its charitable, religious, educational, scientific, etc., purposes.

(H) Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations, and income of a decedent's estate during the period of administration, except income from the operation of a business.

(I) Interest on Investments and Dividends

(J) Income of:

(1) Public Utilities.

(2) Carriers operating under the regulations of Interstate Commissions.

(3) Dealers in intangibles.

(4) Financial Institutions (including small Loan Companies) to the extent that such income is derived from interest earned.

## REGULATION 2 - 2

### IMPOSITION OF TAX - NON-RESIDENT EMPLOYEES

In the case of individuals who are non-residents of Tiffin, there is imposed an annual tax as provided in Regulation 1 - 1(P) for work done or services performed or rendered within the City of Tiffin, whether such compensation or remuneration is received or earned directly or through an agent and whether paid in cash or in property. When the principal office or workstation of a non-resident is located within the City, only time spent working outside of the City is excluded from tax. The taxable income can be calculated by multiplying the income by the number of days worked in Tiffin and dividing by the total number of days worked. (The standard is 260 days for a calendar year.) The items subject to tax under this section are the same as those listed and defined in Regulation 2 - 1.

## REGULATION 2 - 3

### IMPOSITION OF TAX - NET BUSINESS PROFITS - RESIDENT UNINCORPORATED BUSINESS ENTITIES

1. In the case of unincorporated business conducted by residents of the City of Tiffin, there is

imposed an annual tax as provided in Regulation 1 - 1 (P).

2. The term "residents" in the phrase "conducted by residents of the City of Tiffin" will ordinarily be construed to have reference to the business entity itself, as distinguished from the partners, co-owners, proprietors, or other participants in its profits.

3. Generally, an unincorporated business entity owned by two or more persons will be taxed as a single entity. However, in the case of a non-resident unincorporated business entity which cannot be reached or taxed directly by the City of Tiffin, or if only part of its earnings may be directly taxed, then in either such case, resident owners or other resident participants in the profits thereof must include in their declaration and tax return or returns their distributive shares of such profits, or portion thereof not taxed to the business enterprise as a single entity, and must pay the tax thereon.

4. The tax imposed under the Ordinance is levied upon the entire net profits of the resident business, wherever earned, paid or accrued and regardless of the fact that any part of such business may have been conducted at or through a place or places of business located outside the City of Tiffin. Net operating losses shall not be carried forward or backward but must be allocated to the year realized.

#### REGULATION 2 - 4

##### IMPOSITION OF TAX - NET BUSINESS PROFITS - NON-RESIDENT UNINCORPORATED BUSINESS ENTITIES

1. In the case of a non-resident unincorporated business entity engaged in the conduct of any business, there is imposed an annual tax as provided in Regulation 1 - 1(P) of such business to the extent conducted in or derived from activity in Tiffin.

2. A non-resident unincorporated business entity which has a branch or branches, office or offices and/or store or stores, warehouse, or other place or places in which the entity's business is transacted, located in the City of Tiffin, shall be considered to be conducting a business to the full extent of the sum total of all transactions originating or consummated in, by or through such Tiffin branch, office, store, warehouse or other place of business, including (a) goods, chattels, merchandise, etc., sold, or (b) commissions, fees or other compensation earned or paid.

3. In the case of any unincorporated business entity owned by one or more persons the tax, generally, shall be upon said unincorporated business entity as a single entity and not ordinarily upon the partners or members thereof. However, the provisions of Regulation 2 - 3(3) are applicable to render taxable against such resident partners or members their distributive share of any profits of such non-resident entity not taxable under this Ordinance.

4. In determining the proportion or amount of the taxable net profits of a non-resident

unincorporated business entity having a place or places of business within and outside the City of Tiffin, such business entity may at its option use and apply the Business Allocation Percentage formula set forth in Regulation 2 - 6. Net operating losses may not be carried forward or backward but must be allocated to the year realized.

## REGULATION 2 - 5

### IMPOSITION OF TAX - NET BUSINESS PROFITS - CORPORATIONS

1. In the case of a corporation doing business in the City of Tiffin, whether domestic or foreign, and whether domiciled in the City of Tiffin or elsewhere, there is imposed an annual tax as provided in Regulation 1 - 1(P) on such corporations, as a result of work done or services performed or rendered and business or other activities conducted in the City of Tiffin.
2. The provisions of Paragraph 2 and of Paragraph 4 of Regulation 2 - 4 are applicable to such corporations.
3. A corporation doing business both within and outside the City of Tiffin may, in determining the part of the net profits which are taxable under the Ordinance, at its option:
  - (A) Use the usual accounting system of the taxpayer corporation, as long as said usual accounting system shall be one acceptable to the U. S. Internal Revenue Department as evidenced by acceptance and approval of income tax returns filed therein; or
  - (B) Use the Business Allocation Percentage formula set forth in Regulation 2 - 6.

## REGULATION 2 - 6

### USE OF BUSINESS ALLOCATION PERCENTAGE

In the absence of actual records to separate the accounting thereof, a business entity may, but is not obliged to, use the formula set forth in this Regulation to compute the percentage of its entire net profit (derived from activities both within and outside the City of Tiffin) which is taxable under the Ordinance, and to determine the tax payable to the City of Tiffin hereunder.

If the taxpayer did not have a place of business outside the City of Tiffin during the period covered by any declaration and/or return required under the Ordinance, its business allocation percentage is 100 percent; in other words, the taxpayer is required to pay a tax as provided in

Regulation 1 - 1(P) on the entire net profit of the business.

If the taxpayer had a place or places of business outside the City of Tiffin and was doing business in Tiffin during such period, the business allocation percentage shall be computed on the basis of each of the three following factors as may be applicable to the particular business activity:

- (a) Real and tangible property within and without the City of Tiffin;
- (b) Business receipts within and without the City of Tiffin;  
and
- (c) Payrolls within and without the City of Tiffin.

The business allocation percentage is computed by determining the percentages (a) which real and tangible personal property located in the City of Tiffin bears to all real and tangible personal property (including that situated in the City of Tiffin) of taxpayer wheresoever situated; (b) which business sales in the City of Tiffin bear to taxpayer's entire business sales derived (including those derived from the City of Tiffin); and © which payrolls paid by taxpayer within the City of Tiffin bear to taxpayer's entire payroll wheresoever paid (including the City of Tiffin payrolls); adding together the three percentages so arrived at, and dividing the total by three.

However, if one of the factors (property, sales or payrolls) is missing, the other two percentages are added and the sum is divided by two, and if two of the factors are missing the remaining percentage is the business allocation percentage. A factor is not to be deemed missing merely because all property, or the expenditures of the taxpayer for payrolls or the gross sales of the taxpayer, are found to be situated, incurred or received either entirely within or entirely without, the City of Tiffin.

EXAMPLE 1:

Corporation having places of business in Tiffin, Detroit and Cleveland.  
Tiffin real and tangible personal property \$10,000. All real and tangible property (Tiffin, Detroit and Cleveland).  
\$100,000. Percentage: 10%.  
Tiffin sales \$15,000. All sales \$75,000. Percentage: 20%.  
Tiffin payroll \$6,000. All payroll \$20,000. Percentage: 30%.  
Business allocation percentage:  
$$\frac{10\% \text{ plus } 20\% \text{ plus } 30\%}{3} \text{ equals } 20\%$$

EXAMPLE 2:

Same corporation owning no real or tangible personal property anywhere. Tiffin sales \$15,000; all sales \$75,000; (percentage: 20%) Tiffin payroll \$6,000; all payroll \$20,000; percentage: 30%. Business allocation percentage:

$$\frac{20\% \text{ plus } 30\%}{2} \text{ equals } 25\%$$

EXAMPLE 3:

Same corporation owning real and tangible personal property in Tiffin valued at \$10,000 and owning no real or tangible personal property outside Tiffin. Other factors same as in examples 1 and 2.

Business allocation percentage:

$$\frac{100\% \text{ plus } 20\% \text{ plus } 30\%}{3} \text{ equals } 50\%$$

After determining such business allocation percentage, the tax shall be determined by applying that percentage to the entire net profits of the taxpayer, wherever derived (thus arriving at the taxable net profit), and computing the tax as provided in Regulation 1 - 1 (P), tax on the resultant taxable net profit.

In case it shall appear to the Commissioner of Taxation that any activity, business, income or capital of the taxpayer is improperly or inaccurately reflected, the Commissioner of Taxation may adjust items of income, deductions, and capital, and disregard assets in computing any allocation percentage.

1. Explanation of "Property" factor.

The percentage of the taxpayer's real and tangible personal property within the City of Tiffin is determined by dividing the net book value (during the period covered by the report) of such property within the City of Tiffin, without deduction of any encumbrances, by the average net book value similarly computed of all such property within and without the City of Tiffin. Only property owned by the taxpayer is considered in determining such percentage.

2. Explanation of "Business Receipts" factor.

"Business Receipts" means ascertaining the percentage which the gross sales of the taxpayer within the City of Tiffin, plus the gross credits or charges for the work done and performed or services rendered in the City of Tiffin bears to the total gross sales wherever made, plus the total gross credits or charges for work done and performed or services rendered. "Within the City" sales shall be deemed to include:

- (A) Work done and performed or services rendered in the City of Tiffin.

(B) Rentals from property situated in the City of Tiffin, where the rental of such property is a usual or normal part of the taxpayer's business activity.

(C) All other business receipts earned in the City of Tiffin. For the purpose of determining business allocation percentage, no account shall be given to receipts, within or without the City of Tiffin, of income derived from intangibles (including stocks, bonds, royalties and the like), the income of which is taxable under the statutes of the State of Ohio.

(D) Compensation and other receipts from work done or services rendered within the City of Tiffin are allocated to the City of Tiffin and taxable under the Ordinance. All amounts so received, credited or charged by a taxpayer in payment for such work or services are so allocable, irrespective of whether done or performed by employees or agents of the taxpayer, by sub-contractor or by any other persons. It is immaterial where such amounts were payable or where they were received.

(E) Commissions or fees received by the taxpayer are allocated to the City of Tiffin if the service for which the commissions or fees were paid were performed in the City of Tiffin. If the taxpayer's services for which commissions or fees were paid were performed for the taxpayer by salesmen or other agents or employees attached to or working out of a place of business of the taxpayer within the City of Tiffin, the taxpayer's services will be deemed to have been performed in the City of Tiffin.

(F) Where a lump sum is received by the taxpayer in payment for services within and without the City of Tiffin, the amount attributable to services within the City of Tiffin is to be determined on the basis of the relative values of, or amounts of time spent in the performance of, such services within and without the City of Tiffin.

(G) Other business receipts from the sale of capital assets (property not held by the taxpayer for sale to customers in the regular course of business) are not business receipts. Receipts from the sale of real property held by the taxpayer as a dealer for sale to customers in the regular course of business are business receipts and are allocable to the City of Tiffin if the real property was situated in the City of Tiffin. Receipts from sales of intangibles included in business capital, held by the taxpayer as a dealer for sale to customers in the regular course of business, are business receipts and are allocable to the City of Tiffin if the sales were made in the City of Tiffin or through a regular place of business of the taxpayer in the City of Tiffin.

All receipts of the period covered by the report (computed on the cash or accrual basis, in accordance with the method of accounting used in the computation of the taxpayer's entire net income) must be taken into account.

3. Explanation of "Payroll" factor.

"Payrolls" means the total wages, salaries, and other personal service compensation exclusive of compensation of general executive officers.

The percentage of the taxpayer's payroll allocable to the City of Tiffin is determined by dividing the wages, salaries and other personal service compensation of the taxpayer's employees (except general executive officer, as defined below) within the City of Tiffin during the period covered by the report, by the total amount of compensation of all taxpayer's employees (except general executive officers) during such period.

Wages, salaries and other compensation are 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.

Employees within the City of Tiffin include all employees regularly connected with or working out of a place of business maintained by the taxpayer in the City of Tiffin, irrespective of where the services of such employee were performed. However, if the taxpayer establishes to the satisfaction of the Commissioner of Taxation that because of the fact that a substantial part of its payroll was paid to employees attached to a place of business in the City of Tiffin who performed a substantial part of their services outside the City of Tiffin, the computation of the payroll factor according to the general rule stated above would not produce an equitable result, then the Commissioner of Taxation may, in his discretion, permit the payroll factor to be computed on the basis of the amount of compensation paid for services rendered within and without the City of Tiffin. On the other hand, wherever it appears that, because a substantial part of the taxpayer's payroll was paid to employees attached to places of business outside the City of Tiffin who performed a substantial part of their services within the City of Tiffin, the computation of the payroll factor according to the general rule would not properly reflect the amount of the taxpayer's business done within the City of Tiffin by its employees, the Commissioner of Taxation may require the payroll factor to be computed on the basis of the amount of compensation paid for services performed within and without the City of Tiffin. In any such case, where an employee performed services both within and without the City of Tiffin, the amount treated as compensation for services performed within the City of Tiffin shall be deemed to be (a) in the case of an employee whose compensation depends directly on the volume of business secured by him, such as a salesman on a commission basis, the amount received by him for the business attributable to his efforts within the City of Tiffin; (b) in the case of an employee whose compensation depends on other results achieved, the proportion of the total compensation which the value of his services within the City of Tiffin bears to the value of all his services; and (c) in the case of an employee compensated on a time basis, the proportion of the total amount received by him which the working time employed in the City of Tiffin bears to the total working time.

Personal service compensation paid to general executive officers of the taxpayer for acting as such should not be included in the computation of the payroll factor. General executive officers include the chairman, president, vice president, secretary, assistant secretary, treasurer, assistant treasurer, comptroller, director and any other officer charged with and performing general executive duties of the corporation. In the case of unincorporated entities, an executive officer shall be deemed to be a partner, co-owner, proprietor or other active participant in the profit of the enterprise. An executive officer whose duties or services are primarily restricted to one place of business of the taxpayer, whether within or without the City of Tiffin, is not a general executive officer for the

purpose of this Regulation.

4. Adjustment of business allocation percentage formula.

Generally, the formula will result in a fair apportionment of the taxpayer's net profits within and without the City of Tiffin. However, due to the peculiar circumstances of certain businesses, the formula may work a hardship in some cases or result in a tax avoidance in others, and thus not do justice to the taxpayer or the City of Tiffin. Accordingly, in such cases, the Commissioner of Taxation may substitute factors calculated to bring about a fair and proper allocation in any case where the taxpayer has chosen to use the business allocation percentage formula.

## REGULATION 2 - 7

### FISCAL YEARS

Where the fiscal year of a business differs from the calendar year, the tax shall be applicable to the net profits of the fiscal year. A fiscal year will be recognized only if it ends on the last day of some calendar month, and has been or may be recognized by the Internal Revenue Service.

## REGULATION 2 - 8

### NET BUSINESS PROFITS

In amplification of the definition contained in Regulation 1 - 1(E) of these Regulations, but not in limitation thereof, the following additional information and requirements respecting net business profits are furnished:

(A) Where necessary to properly reflect income, inventories must be used. The basis of pricing used for the purpose of the Federal Income Tax must in each instance be used.

(B) Where the books and records are kept on an "Accrual basis", "long-term contract basis" or "installment basis" or such basis is used in the filing of Federal Income Tax Returns, such basis must be used for the purpose of this tax.

(C) If the return is made on a "cash basis", Gross Profit shall include receipts from commissions, fees and interest as well as the gross profit or loss from sales of merchandise, chattels, goods, wares, securities, notes, and services, except as hereinafter provided.

(D) If the return is made on an "accrual basis", Gross Profit shall include (1)

commissions, fees and interest earned, plus (2) the gross profit or loss from sales of merchandise, chattels, goods, wares, securities, notes, and services earned except as hereinafter provided.

(E) From Gross Profit there shall be subtracted allowable expenses to arrive at the net profits subject to tax.

(F) All ordinary and necessary expenses of doing business, including reasonable compensation paid employees, shall be allowed, but no deduction may be claimed for "salary" or withdrawals of a sole proprietor or of the owners of an unincorporated business entity.

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

(H) Bad debts in a reasonable amount may be allowed in the year ascertained worthless and charged off, or (if the reserve method is used), a reasonable addition to the reserve may be claimed, but in no event shall the amount allowed exceed the amount recognized as a deduction for the purpose of the Federal Income Tax.

(I) Taxes. Only taxes directly connected with the taxpayer's business and actually paid may be claimed as deduction. The following taxes are not deductible from income:

- (1) The tax under the Ordinance;
- (2) Any Federal or other taxes based upon income;
- (3) Gift, estate or inheritance taxes;
- (4) Taxes or assessments for local benefits or improvements to property which tend to appreciate the value thereof.

(J) Capital gains and losses (including gains and losses from the sale, exchange, or other disposition of depreciable business property and real property used in the taxpayer's business) shall not be taken into consideration in arriving at net business profits.

(K) If the taxpayer is a non-resident, only the amount of net profits applicable to the activities of the business in the City of Tiffin shall be subjected to tax. If the non-resident taxpayer's records do not disclose the actual net profits for the Tiffin branch, office, store, or activity separately, then the basis of allocation shall be disclosed in the return. If such basis of allocation is not deemed correct, in view of all the known circumstances, the Commissioner of Taxation may make a re-allocation based upon gross receipts or any other basis or bases which shall, under the circumstances of the case, more accurately reflect the net profits.

(L) In general, all business expenses recognized and allowed as such for the purpose of

determining Federal Income Tax will be recognized and allowed for determining Tiffin Income Tax under the provisions of the Ordinance. However, no expenses connected with the acquisition or carrying of securities, the income from which is not recognized as taxable under the Ordinance, may be deducted in determining taxable net profits hereunder.

(M) In general, unearned income is not to be included in computing the tax levied hereunder. Gain or loss from the sale, exchange, or other disposition of capital assets, including depreciable property and real estate used in business, shall not be included in determining net profits. Income from intangibles such as dividends, interest and the like, should not be included if the property from which such income is derived is subject to taxation under the Intangible Personal Property Tax Laws of the State of Ohio, or is specifically exempted from taxation under said laws.

(N) Rentals including real property will be treated like any other business activity and the net profit shall be taxable.

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

(2) In determining the taxable net profits 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.

(3) Residents of Tiffin are subject to taxation upon the net income from rentals to the extent above specified regardless of the location of the real property owned. Non-residents of Tiffin are subject to such taxation only on net profits from real property situated within the City of Tiffin.

(O) Income from royalties or copyrights is not taxable under the ordinance.

## REGULATION 2 - 9

### RECONCILIATION WITH FEDERAL RETURN

In a form satisfactory to the Commissioner of Taxation, there shall be submitted with each return filed by a taxpayer subject to tax under Regulation 2 - 3, 2 - 4, and 2 - 5, a reconciliation between the net profit shown in the return filed with the Commissioner of Taxation and the adjusted gross income reported to the Internal Revenue Service.

If, as a result of a change made in the Internal Revenue Code or Regulations or by a judicial decision, an additional amount of tax will result under the Ordinance, a report of such change shall be filed by the taxpayer within thirty days after receipt of the final notice of such change from the Internal Revenue Service or after final decision of a Court adjudicating any such Federal Income Tax liability.

## REGULATION 3

### RETURN AND PAYMENT OF TAX

1. On or before April 15th of each year, every person subject to the provisions of this Ordinance shall make and file with the Commissioner of Taxation a final return on a form furnished by or obtainable from the Commissioner of Taxation. For all taxable years, whether full 12 months or less, all taxpayers who are subject to the income tax of the City of Tiffin must file the return required by Section 191.05(a) regardless of whether their entire tax obligation has been withheld and paid by their employer. (Ord. 87-33. Sec. 2. Passed 7-6-87.)
2. In all returns filed hereunder there shall be set forth the aggregate amount of compensation received and/or net profits earned during the preceding year subject to said tax, together with such pertinent information as the Commissioner of Taxation may require. A return is not considered to be "filed" until all required information and documentation is attached.
3. If the return is made for a fiscal year other than a calendar year, the return shall be made within four months after the end of said fiscal year, whether or not a tax be due thereon.
4. The return shall also show the amount of the tax imposed by the Ordinance on such earned compensation and/or net profits.
5. The taxpayer making the return shall, at the time of filing the return, pay to the Commissioner of Taxation the amount of tax shown to be due and unpaid by the return. If the taxpayer has, at the time of making such final return, overpaid his tax, such taxpayer shall show the amount of overpayment and may in said return either (a) request a refund thereof, or (b) request that the amount thereof be credited against the amount which will be required to be paid by taxpayer on the next succeeding installment of tax which may become due. No refund may be made to any taxpayer who has failed to comply with any provision of the Ordinance or these Regulations.
6. When any portion of the tax due is deducted at the source and paid to the Commissioner of Taxation by the person making the deduction, a credit equal to the amount so paid 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 the filing of the return.
7. Upon written request of the taxpayer, the Commissioner of Taxation may extend the time for filing the annual return for a period of not more than six months or not more than thirty days beyond any extension requested of and granted by the Internal Revenue Service for the filing of the Federal Income Tax Return.

## REGULATION 4 - 1

### COLLECTION OF TAX AT SOURCE

1. It is the duty of each resident employer who employs one or more persons subject to tax under the Ordinance to deduct from the compensation paid to each employee the tax as provided in Regulation 1 - 1(P) of such compensation paid by said employer to said employee. The tax shall be deducted by the employer from:

(A) All compensation paid to employees who are non-residents of the City of Tiffin for services rendered, work performed, or other activities engaged in within the City of Tiffin, and

(B) From the gross amount of all compensation paid to employees who are residents of the City of Tiffin, regardless of the place where the compensation activity occurs.

2. All employers who maintain an office or other place of business in Tiffin are required to make the deductions specified in this Regulation, regardless of the fact that the activity for which residents of the City of Tiffin are compensated occurs outside the City of Tiffin.

3. The mere fact that the tax is not deducted and withheld does not relieve the employee of the responsibility of filing a return and of paying the tax on the compensation received.

4. Compensation paid to independent contractors, not employees of the payor, is not subject to deduction and withholding of the tax at the source. Such independent contractors must in all instances file returns and pay the tax pursuant to the provisions of Regulation 2 - 3, 2 - 4, and 2 - 5.

5. In the case of employees who are non-residents of the City of Tiffin, the amount to be deducted as provided in Regulation 1 - 1(P) is based on the compensation paid with respect to activity occurring in Tiffin.

Where a non-resident receives compensation for activity occurring partly within and partly outside the City of Tiffin, the withholding employer shall deduct, withhold, and remit that portion of the compensation which is earned within the City of Tiffin in accordance with the following rules of apportionment:

(A) If the non-resident is an employee who is compensated on the basis of a commission which depends directly on the volume of business transacted by him, then the tax deducted and withheld shall be as provided in Regulation 1 - 1(P) of the portion of the entire compensation which the volume of business transacted by the employee within the City of Tiffin bears to the volume of all business transacted by him.

(B) The tax deducted and withheld for compensation of all other employees, including officers of corporations, shall be as provided in Regulation 1 - 1(P) of the portion of the personal service compensation of such employee which the total number of working days employed within the City of Tiffin bears to the total number of working days employed everywhere. Any portion of a day employed within the City of Tiffin shall count as one entire day.

(C) If it is impossible to apportion the earnings as provided above, either because of (1)

the peculiar nature of the service of the employee, or (2) the unusual basis of compensation, apportionment shall be made in accordance with the facts and the tax deducted and withheld accordingly.

(D) The occasional entry into the City of Tiffin of a non-resident employee, who performs the duties for which he is employed entirely outside the City of Tiffin, for the purpose of reporting, receiving instructions, accounting, or other matters incidental to his duties outside the City of Tiffin, shall not cause said employee to be subject to taxation under the Ordinance.

6. An employer shall deduct and withhold the tax on the full amount of any advances made to an employee on account of commissions, whether by way of drawing account or otherwise, where such advances are in excess of commissions earned.

7. An employer required to deduct and withhold the tax on compensation paid to an employee shall, in determining the amount of tax to be withheld, ignore any amount allowed and paid by the employer to the employee for ordinary and necessary expenses incurred by the employee in the actual performance of his employment. Such expenses are limited to the kind and the amount recognized and allowed as deductible expenses for Federal Income Tax purposes.

#### REGULATION 4 - 2

#### RETURNS OF TAX WITHHELD AND PAYMENT

Each employer who employs one or more persons on a compensation basis subject to earned income tax under the Ordinance shall deduct and withhold at the time of the payment of such compensation, the tax as provided in Regulation 1 - 1(P) of the taxable compensation paid by said employer to said employee and shall make a return and pay to the Commissioner of Taxation the amount of taxes so deducted as follows:

For the three (3) months ending March 31st, on or before April 30th;

For the three (3) months ending June 30th, on or before July 31st;

For the three (3) months ending September 30th, on or before October 31st;

For the three (3) months ending December 31st, on or before the following January 31st.

The employer may use the same quarterly accounting period for reporting taxes withheld under the Tiffin Income Tax Ordinance as he uses in reporting quarterly taxes withheld and paid to the Internal Revenue Service.

If, however, the amount of money so withheld by an employer exceeds \$500.00 in any single month, then the return and payment for that month shall be made on or before the last day of the

following month. (Ord. 87 - 33. Sec. 3. Passed 7-6-87.)

Said return shall be on a form or forms prescribed by and obtainable from the Commissioner of Taxation and shall be subject to the rules prescribed therefor by the Commissioner of Taxation. Each employer, in collecting said tax, shall be deemed to hold the tax until payment is made by the employer to the City of Tiffin as a Trustee for the benefit of the City of Tiffin, and any such tax collected by the employer from his employees shall, until the same is paid to the City of Tiffin, be deemed a trust fund in the hands of the employer.

#### REGULATION 4 - 3

#### LIMITATION ON CREDIT FOR TAX

#### PAID AT SOURCE

The failure of any employer to deduct and withhold the tax and to make any return prescribed herein, shall not relieve the employee from the payment of such tax.

#### REGULATION 4 - 4

#### STATUS AND LIABILITY OF EMPLOYERS

Every employer is deemed to be a trustee for the benefit of the City of Tiffin in deducting and withholding the tax required under the Ordinance to be deducted and withheld, and the funds so collected are deemed to be trust funds.

Every employer required to deduct and withhold the tax at the source is liable directly to the City of Tiffin for the payment of such tax, whether actually collected by such employer or not.

#### REGULATION 5 - 1

#### DECLARATIONS

1. An employee whose entire compensation for any taxable year will be subjected to the withholding provisions of Regulation 4 and who during such taxable year expects to derive no other compensation which is subject to tax under the Ordinance need not file the declaration otherwise required by this Regulation.

2. Every taxpayer who anticipates any earned income or net profits not subject to deduction and withholding shall file with the Commissioner of Taxation a declaration of his estimated tax, not

subject to withholding for the taxable year.

3. Every qualifying taxpayer shall file a declaration of this estimated tax on or before the 15th day of April of each year and such declaration shall contain a statement of the taxpayer's estimated tax for the full taxable year in which such declaration is filed. A qualifying taxpayer, not previously subject to paying the tax, but later becoming subject to the tax, shall file a declaration within one (1) month of the date he becomes subject to the tax.

4. Taxpayers who are permitted to file their return and pay their tax on a fiscal year basis, shall file their declarations on or before the last day of the fourth month following the beginning of each fiscal year.

5. The estimated tax may be paid in full with the filing of the declaration or in installments on or before April 15, June 30, September 30, and December 31 of each year. Those taxpayers on a fiscal year basis may make quarterly payments on or before the last day of the fourth, sixth, ninth, and twelfth months following the beginning of such fiscal year or they may pay the entire estimated tax with the filing of their declaration. Each installment must be equal to at least one-fourth of the estimated tax and the first installment must accompany the declaration.

If the taxpayer did not pay eighty percent of his tax liability, as shown on such return, on or before January 31, or the thirteenth month following the beginning of the fiscal year, the difference between eighty percent of the taxpayer's liability and the amount of estimated tax he actually paid shall be subject to interest and penalty as provided in Regulation 7. However, any taxpayer whose declared taxes is equal or greater than the tax paid in the previous year shall not be assessed any interest or penalty for any increased taxes found to be due in the current year.

6. The declarations required shall be filed upon a form furnished by the Commissioner of Taxation.

7. Any estimate declared may be amended by filing an amended declaration at the time prescribed for the payment of any installment.

## REGULATION 5 - 2

### RECIPROCITY CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES

Each individual taxpayer who resides in the City of Tiffin but receives net profits or compensation for work done outside of the City of Tiffin and has paid an income tax on such net profits or compensation to another municipality shall be allowed a credit on the tax imposed by the Ordinance equal to the amount so paid by him or in his behalf to such other municipality, however, the credit shall not exceed the amount of tax which would be assessed by the Ordinance if such net profit or compensation earned in such other municipality were subject to the Ordinance.

## REGULATION 6 - 1

## INVESTIGATIVE POWERS OF THE TAX COMMISSIONER

The Commissioner of Taxation and his agents are authorized and empowered to examine the books, papers and records, including federal forms and schedules of any employer, or of any taxpayer, in order to verify the accuracy of any return made, or, if no return was made, to ascertain the tax imposed by the Ordinance.

Every employer and every taxpayer is required to furnish to the Commissioner of Taxation and his agents the means, facilities, and opportunity for such examinations, investigations, and audits as are authorized by the Ordinance and these Regulations.

The Commissioner of Taxation and his agents are authorized and empowered to examine under oath any person concerning any income which was or should have been reported for taxation, and to this end the Commissioner of Taxation has the right and power to compel the production of books, papers, and records and the attendance of all persons before him, whether as parties or witnesses, whom he believes to have knowledge of such income.

Refusal of any examination by any employer, taxpayer, or witness constitutes a misdemeanor punishable under the terms of Regulation 9.

## REGULATION 6 - 2

### RECORDS TO BE KEPT BY EMPLOYERS AND TAXPAYERS

Employers and taxpayers are required to keep such records of each taxable year as will enable the filing of true and accurate returns, and such records are to be preserved for seven years after the close of each taxable year to enable the Commissioner of Taxation and agents to verify the correctness of the returns filed or to ascertain the tax imposed by the Ordinance if no return is filed.

## REGULATION 6 - 3

### COLLECTION OF DEFICIENCIES - ALLOWANCE OF CREDIT FOR OVERPAYMENT

If a return is found to be incorrect, the Commissioner of Taxation is authorized to assess and collect any underpayment of tax withheld at the source or any underpayment of tax owed by a

taxpayer. If no return has been filed and a tax is owed, the tax may be assessed and collected with or without the formality of obtaining a delinquent return from the employer or taxpayer.

If it is discovered that an overpayment has been made, the Commissioner of Taxation will refund such overpayment. No additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded for any single taxable year.

## REGULATION 6 - 4

### PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION

Tax returns, declarations of estimated tax, all information reported to the Commissioner of Taxation, and all audits connected therewith, are confidential. Any information gained by the Commissioner of Taxation and his agents or by any other official or agent of the City as a result of any returns, investigations, hearings, or verifications required or authorized by the Ordinance shall be held confidential, except for official purposes and except in accordance with proper judicial order, or as otherwise provided by law. Violation of this provision in the Ordinance constitutes a misdemeanor, punishable under the terms of Regulation 9. Every such breach of confidence constitutes a separate offense.

## REGULATION 7

### INTEREST AND PENALTIES

1. All taxes imposed, including taxes deducted and withheld by employers, which remain unpaid after they have become due, shall bear interest, in addition to the amount of the unpaid tax, at the rate established in Section 191.10. (Ord. 87 - 33. Sec. 5. Passed 7-6-1987.)

2. In addition to interest as provided in paragraph A hereof, penalties for failure to file taxes are hereby imposed as follows:

(A) In the case of a taxpayer, whether an individual or business, who fails to file a return by the due date as referred to in Regulation 3, the penalty shall be as established in Section 191.10. However, the penalty shall not be assessed on an additional tax assessment made by the Commissioner of Taxation when a return has been filed by the taxpayer in good faith and the tax paid thereon within the time prescribed herein and provided further, that neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, provided an amended return is filed and the additional tax is paid within three (3) months after final determination of the federal tax liability. (Ord. 87 - 33. Sec. 4. Passed 7-6-87.)

(B) In the case of employers required to deduct and withhold taxes, the penalty shall be as established in section 191.10 for each delinquent quarter. (Ord. 87 - 33. Sec. 4. Passed 7-6-87.)

3. Upon recommendation of the Commissioners of Taxation, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the Commissioner of Taxation to recommend abatement of penalty and interest, the Board of Review may nevertheless abate penalty or interest, or both, for good cause shown.

## REGULATION 8

### COLLECTION OF UNPAID TAXES

All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable. Except in the case of fraud, omission of a substantial portion of income subject to this tax, or failure to file a return, an additional assessment shall not be made after five years from the time of payment of any tax due hereunder, provided, however, in those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the Federal statute of limitation, the period within which an additional assessment may be made by the Commissioner of Taxation shall be three years from the time of the final determination of the Federal tax liability. Taxes erroneously paid shall not be refunded unless a claim for refund is made within five years from the time of payment thereof, or within three years after final determination of the Federal tax liability.

## REGULATION 9

### VIOLATIONS - PENALTIES

Any employer or taxpayer who knowingly fails to make any return or declaration required by the Ordinance and any employer or taxpayer who refuses to pay the tax, interest, or penalties imposed by the Ordinance, and any person who refuses to permit the Commissioner of Taxation or his agents to examine his books, records and papers, or who knowingly makes any incomplete, false, or fraudulent return, or who attempts to do anything whatsoever to evade the payment of all or part of the tax due under the Ordinance, and any person violating the confidentiality requirements of Regulation 6 - 4 is guilty of a misdemeanor of the first degree.

The failure of any employer or taxpayer to receive or procure a return, a declaration, or other form(s) is not a defense to the crimes established in this Regulation.

The Commissioner of Taxation and his agents shall carry proper identification, which shall be subject to examination by any person whose records are sought to be examined.

The penalties provided in this section are in addition to and not exclusive of the penalties

provided by all pertinent criminal statutes of the State of Ohio and to the civil remedies provided in the Ordinance.

## REGULATION 10

### CONSTRUCTION - SEVERABILITY OF PROVISIONS

If any part of the Ordinance or these Regulations, or any tax imposed under the Ordinance, is found to be unconstitutional, illegal, or invalid, such part of the Ordinance or these Regulations shall not affect or impair the effectiveness of any of the remaining parts of the Ordinance or these Regulations. It is hereby declared to be the intention of the Council of the City of Tiffin that the Ordinance and these Regulations would have been adopted had such unconstitutional, illegal, or invalid part thereof not been included.

## REGULATION 11

### COLLECTION OF TAX AFTER TERMINATION OF ORDINANCE

1. The Tax Ordinance and these Regulations shall continue to be effective for the levy of taxes, and for the collection of taxes levied, and for civil and criminal actions for collecting any tax or enforcing any provisions of the Ordinance or these Regulations until all taxes levied are fully paid and all civil and criminal actions for the collection of taxes or for the punishment of violations of the Ordinance shall have been fully prosecuted, subject to the Statute of Limitations established in these Regulations, even if the earned income tax is later modified or eliminated prospectively.
2. Annual returns for the last year in which the Ordinance shall be effective shall be filed within four (4) months from any termination date of the Ordinance and any tax due for such year shall be paid within said four (4) month period.

## REGULATION 12

### BOARD OF REVIEW

Any person dissatisfied with any ruling or decision of the Commissioner of Taxation which is made under the authority conferred by this chapter may appeal to the Board of Review within thirty days from the announcement of such ruling or decision by the Commissioner of Taxation, and the Board of Review shall, on hearing, have jurisdiction to affirm, reverse, or modify any such ruling or decision, or any part thereof.

Any correspondence the taxpayer wishes to have with the Board of Review should be

directed in care of the Mayor's office at 51 E. Market Street, Tiffin, Ohio 44883.