

The Village of St. Henry

INCOME TAX RULES AND REGULATIONS

**Adopted under the authority of Section 8 of the
INCOME TAX ORDINANCE NO. 397**

ARTICLE I

Section 1 of the ordinance deals only with the purposes for which the tax collected will be used.

ARTICLE II

DEFINITIONS

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

Administrator means the individual designated by the ordinance, whether appointed or elected, to administer and enforce the provisions of ordinance no. 397 and these rules and regulations, regardless of the particular title assigned such individual.

Association means a partnership, cooperative, limited partnership, limited liability company, or any other form of unincorporated enterprise owned by two or more persons.

The Board means the Board of Review provided for by Section 13 of the ordinance.

Business means an enterprise, cooperative activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit whether by an individual, partnership, association, corporation or any other entity.

Corporation means a corporation, chapter S corporation as defined in the federal tax code, 26 U.S.C. 1361, 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.

Domicile - The permanent legal residence of a taxpayer. A taxpayer may have more than one residence but not more than one domicile.

Employee means one receives wages, salary, commission or other types of compensation or other income in the service of an employer. Any person upon whom an employer is required to withhold for either federal income or social security or on whose account payments are made under the Ohio Workmen's Compensation law shall prima facie be an employee.

Employer means and individual, partnership, association, corporations (including a corporation not for profit), governmental agency, board, body, bureau, department, sub-division, or unit or any other entity, who or that employs one or more persons on a salary, wage, commission or other compensation basis whether or not such employer is engaged in business. It does not include a person who employs only domestic help for such person's private residence.

Fiscal Year means an accounting period of twelve (12) months or less ending on any day other than December 31st. Only fiscal years accepted by the Internal Revenue Service for federal income tax purposes may be used for St. Henry tax purposes.

Gross Receipts means the total revenue derived from sales, work done, or service rendered, before any deductions, exceptions, or credits are claimed.

Income - Shall include all monies derived from any source whatsoever, including but not limited to:

(A) All salaries, wages, commissions, other compensation and other income from whatever source received by residents of the Village of St. Henry.

(B) All salaries, wages, commissions, other compensation and other income from whatsoever source received by nonresidents for work done or services performed or rendered or activities conducted in the Village of St. Henry.

(C) The portion attributable to the city of the net profits of all unincorporated businesses, associations, professions, corporations, or other entities, from sales made, work done, services performed or rendered, and business or other activities conducted in the Village of St. Henry, Ohio.

Net Profits means a net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system (i.e., either cash or accrual) used by the taxpayer for federal income tax purposes, without deduction of taxes imposed by ordinance no. 397 or by these rules and regulations, or federal, state, and other taxes based on income; and in the case of an association, without deduction of salaries paid to partners, and other owners, and otherwise adjusted to the requirements of ordinance no. 397 or by these rules and regulations. Net profits shall include any amount or value received, realized, or recognized in a sale or other disposition of tangible

personal property or real property used in business, in excess of book value.

Non-Resident means an individual domiciled outside the Village of St. Henry.

Non-Resident Unincorporated Business Entity means a business entity not having an office or place of business within the Village of St. Henry.

The Ordinance means Ordinance No. 397 enacted by the Council of St. Henry and any amendments and supplements thereto-effective January 9, 1975.
(NOTE: Hereinafter this will be referred to as “effective period of ordinance.”)

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

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

Resident means an individual domiciled in the Village of St. Henry.

Resident Unincorporated Business Entity means an unincorporated business entity having an office or place of business in St. Henry.

St. Henry means the Village of St. Henry, Ohio.

Taxable Income means income, minus the deductions and credits allowed by ordinance no. 397 and these rules and regulations.

Taxable Year means the calendar year, or the fiscal year, used as the basis on which net profits are to be computed under the ordinance, and in the case of a return for fractional part of a year, the period for which such return is required to be made.

Taxpayer means an individual, association, corporation, or other entity required by the ordinance to file a return and/or to pay a tax.

Village means the Village of St. Henry.

ARTICLE III IMPOSITION OF TAX

Bases Resident Employee:

In the case of residents of St. Henry an annual tax of one percent (1%) is imposed on all salaries, wages, commission, other compensation, and other income earned or received (including earnings deposited by the employee into deferred compensation or medical coverage plans) during the effective period for the ordinance. For the purpose of determining the tax on the earnings of resident taxpayers taxed under Section 3, paragraph A-1 of the ordinance, the source of the earnings and the place or places in or at which the services are rendered, are immaterial. All such earnings wherever earned or paid are taxable, except that tax shall not be levied on eligible expenses reported on Federal Form 2106.

- b. The following are items, which are subject to the tax imposed by Section 3, paragraph A-1 of the ordinance.
 - .1 Salaries, wages, bonuses, incentive payments, and other income earned by an individual whether directly or through an agent and whether in cash or in property for services rendered during the tax period as:
 - .01 An officer, director or employee of a corporation (including charitable and other non-profit organizations), joint stock association, chapter S corporation as defined in the federal tax code, 26 U.S.C. 1361, or joint stock company;
 - .02 An employee (as distinguished from a partner or member) of a partnership, limited partnership, limited liability company, or any form of unincorporated enterprise owned by two or more persons;
 - .03 An employee (as distinguished from a proprietor) of a business, trade or profession conducted by an individual owner;
 - .04 An officer or employee (whether elected, appointed or commissioned) of the United States Government or of a corporation created and owned or controlled by the United States Government, or any of its agencies; or of the State of Ohio or any of its political subdivisions or agencies thereof; or any foreign country or dependency except as provided in Section 3 of the ordinance;
 - .05 An employee of any other entity or person.
 - .2 Commissions earned by a taxpayer whether directly or through an agent and whether in cash or in property for services rendered

during the effective period of the ordinance, regardless of how computed or by whom or wheresoever paid.

- .01 If amounts received as a drawing account exceed the commissions earned and the excess is not subject to the demand of the employer for repayment, the tax is payable on the amounts received as a drawing account.
 - .02 Amounts received from an employer for expenses and used as such by the individual receiving them are not deemed to be compensation if the employer deducts such expenses or advances as such from his gross income for the purpose of determining his net profits taxable under federal law, and the employee is not required to include such receipts as income on his federal tax return.
 - .03 If commissions are included in the net earnings of the trade, business, profession, enterprise, or activity, carried on by an unincorporated entity of which the individual receiving such commission is owner or part owner and therefore subject to the tax under paragraphs A-3 or A-4 of Section 3 of the ordinance, they shall not be taxed under Section 3, paragraph A-1.
- .3 Fees, unless such fees are properly included as part of the net profits of a trade, business, profession, or enterprise regularly carried on by an unincorporated entity owned or partly owned by said individual and such net profits are subject to the tax under Section 3, paragraph A-3 of the ordinance.
- .4 Other compensations and income, as reported on W-2's or 1099's, including (but not limited to) tips, bonuses, lump sum distribution from qualified pension and profit sharing trusts not made pursuant to employee's retirement, profit sharing, "non-competition" covenants, portions of stock options that are not considered capital gains by the Village of St. Henry, lottery winnings, sports winnings, gambling winnings of any type, or gifts of any type, and including compensation paid to domestic servants, casual employees and other types of employees.
- .5 Payments made to employees by an employer as sick leave or vacation wages are taxable. Payments made to an employee by an employer under a wage continuation plan, including "sub" pay (such as pay received from unions by individuals in lieu of wages), during periods of absence from work are taxable when paid.
- .6 Payments made to an employee by an employer as separation or severance payouts (including but not limited to separation pay, termination pay, and early retirement incentives) and reportable as earned income (including, but not limited to, sick pay and vacation pay) are taxable when paid if applicable tax has not previously been

paid. On-going retirement benefits, such as pension payments, are exempt from St. Henry income tax.

.7 Moving expenses, to the extent they are reimbursed by employers, are not taxable if deducted on federal return.

.8 The employer's cost of group-term life insurance in excess of \$50,000 coverage is taxable to the employee as compensation.

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

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

d. When a resident receives compensation for services for sales of real estate or insurance from an employer whose situs is the Village of St. Henry, that total compensation is taxable at St. Henry's tax rate and is payable to the Village of St. Henry. The site of the property sold or residence of the purchaser of insurance has no bearing on the taxing of the compensation.

2. Non-resident Employee:

a. In the case of individuals who are not residents of St. Henry, there is imposed under Section 3, paragraph A-2 of the ordinance, a tax of one percent (1%) on all salaries, wages, income, commissions, and other compensation earned or received (including earnings deposited by the employee into deferred compensation or medical coverage plans) during the effective period of the ordinance for work done or services performed or rendered within St. Henry whether such compensation or remuneration is received or earned directly or through an agent and whether paid in case or in property. The location of the place from which payment is made is immaterial. The tax shall not be levied on eligible expenses reported on Federal Form 2106. Said expenses shall relate only to income earned or received for work done or services performed or rendered within St. Henry.

b. The items subject to tax under Section 3, paragraph A-2 of the ordinance are the same as those listed and defined in Article III-A. For the methods of computing the extent of such work or services performed within St. Henry, in cases involving compensation for personal services partly within and partly without St. Henry, see Article VI-A6.

c. When a non-resident receives compensation for services for sales of real estate or insurance from an employer whose situs is the village of St. Henry, that total compensation is taxable at St. Henry's tax rate and is payable to the village of St. Henry. The site of the property sold or residence of the purchaser of insurance has no bearing on the taxing of the compensation.

d. Occasional entrant.

.1 Effective January 1, 2001, St. Henry shall not tax the compensation paid to a non-resident individual for personal services or work performed by the individual in the village on twelve (12) or fewer days in a calendar year (which hereby classifies the individual as an "occasional entrant") unless one of the following applies:

.01 The individual is the employee of another person, the principal place of business in which the employee normally works is located in another municipal corporation in this state that imposes a tax applying to compensation paid to the individual for services performed on those days, and the individual is not liable to that other municipal corporation for tax on the compensation paid for such services.

.02 The individual is a professional athlete, the promoter of a professional entertainment or sports event, or an employee of such promoter, all as may be reasonably defined by the Village.

.2 For purposes of the 12-day calculation, any portion of a day worked in St. Henry shall be counted as one day worked in St. Henry.

.3 Beginning with the thirteenth day, the employer of said individual shall begin withholding St. Henry income tax from remuneration paid by the employer to the individual, and shall remit the withheld income tax to St. Henry in accordance with Section 6 of the income tax ordinance. Since the individual can no longer be considered to have been an occasional entrant, the employer is further required to remit taxes on income earned in St. Henry by the individual for the first twelve (12) days. If the individual is self-employed or an independent contractor, it shall be the responsibility of the individual to remit the appropriate income tax to the village of St. Henry.

.4 Any tax withheld for St. Henry under Article III A2d is subject to being refunded only to the municipality in which the employer's principal place of business is located, and only after the municipality has established that the municipality has a liability to them. However, any tax that has been withheld for St. Henry under the \$150 de minimus provisions of Article V A3 is not subject to refund even if the employee for which tax was withheld is an

occasional entrant.

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

.1 In the case of resident unincorporated businesses, professions, enterprises, undertakings or other entities conducted, operated, engaged in, prosecuted or carried on, there is imposed an annual tax of one percent (1%) on the net profits earned, accrued or received during the effective period of the ordinance attributable to St. Henry, under the formula or separate accounting method provided for in Section 3 of the ordinance, derived from sales made, work done or services performed or rendered and business or other activities conducted in St. Henry.

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

.3 The tax imposed by Section 3, paragraph A-3a of the ordinance is imposed on all resident unincorporated entities having net profits attributable to St. Henry under the method of allocation provided for in the ordinance, regardless of where the owner or owners of such resident unincorporated business entity reside.

.4 Resident unincorporated entities owned by two or more persons all of whom are residents of St. Henry shall disregard the method of allocation provided for in the ordinance and pay the tax of their entire net profits thereof. In such case, the tax paid by the entity shall constitute all tax due from the owners or members of the entity for their distributive share of such net profits; however, an additional return shall be required from any such owner or member having taxable income other than the distributive are of the net profits from the entity.

b. Imposition of Tax on Resident's distributive Share of Profits of a Resident Unincorporated Business entity, Not Attributable to St. Henry.

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

.2 In the case of a resident individual partner or part owner of a resident unincorporated entity, there is imposed an annual tax of one percent (1%) on such individual's distributive share of net profits earned, accrued or

received during the effective period of the ordinance not attributable to St. Henry, under the method of allocation provided for in Section 3 of the ordinance, and not taxed against the entity.

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

- .1 In the case of non-resident unincorporated businesses, professions, enterprises, undertakings, or other activities conducted, operated, engaged in, prosecuted or carried on, there is imposed an annual tax of one percent (1%) on the net profits earned, accrued or received during the effective period of the ordinance attributable to St. Henry, under the formula or separate accounting method provided for in the ordinance.
- .2 The tax imposed on non-resident unincorporated entities owned by two or more persons is upon the entities rather than the individual members or owners thereof. (For tax on that part of a resident owner's distributive share of net profits not taxed against the entity, see Article III-A4b).
- .3 Non-resident unincorporated entities owned by two or more persons all of whom are residents of St. Henry may elect to disregard the method of allocation provided for in the ordinance and pay the tax on the entire net profits. In such case, the tax paid by the entity shall constitute all tax due from the owners or members of the entity for their distributive share of the net profits; however, a return shall be required from such owner or member having taxable income other than the distributive share of the net profit from the entity. See Article XV for credits.

b. Imposition of Tax on Resident's Share of Profits of a Non-Resident Unincorporated Business Entity Not attributable to St. Henry.

- .1 A resident individual who is sole owner of a non-resident unincorporated business entity shall disregard the business allocation formula and pay the tax on the entire net profit of his unincorporated entity.
- .2 In the case of a resident individual partner or part owner of a non-resident unincorporated entity, there is imposed an annual tax of one percent (1%) on such individual's distributive share of net profits earned, accrued or received during the effective period of the ordinance not attributable to the city under the method of allocation provided for in Section 3 of the ordinance and not taxed against the entity.

5. Imposition of Tax on Net Profits of Corporations.

- a. In the case of corporations, whether domestic or foreign and whether or not such corporations have an office or place of business in St. Henry, there is

imposed an annual tax of one percent (1%) on the net profits earned, received or accrued during the effective period of the ordinance attributable to St. Henry under the formula or separate accounting method provided for in the ordinance.

- b. In determining whether a corporation is conducting a business or other activity in St. Henry, the provisions of Article III-B of these regulations shall be applicable.
 - c. Corporations, which are required by the provisions of Section 5727.38 to 5727.41, inclusive, of the Revised Code of Ohio, to pay an excise tax in any taxable year as defined by the ordinance, may exclude that part of their gross receipts upon which the excise tax is paid. In such case, expenses incurred in the production of such gross receipts shall not be deducted in computing net profits subject to the tax imposed by the ordinance.
6. Clarification of taxation of net profits:

The following information is provided to clarify the calculations for net profits subject to taxation.

a. NET PROFITS

- .1 Net profits as used in the ordinance and these regulations means net profits derived from any business, profession or other activity or undertaking carried on for profit or normally carried on for profit.
- .2 Net profits as disclosed on any return filed pursuant to the provisions of the ordinance shall be computed by the same accounting method used in reporting net income to the Federal Internal Revenue Service (providing such method does not conflict with any provisions of the ordinance). Net profits, shown on returns filed pursuant to the ordinance must be reconciled with the income reported to the Federal Internal Revenue Service.

b. GROSS RECEIPTS

- .1 Gross Receipts shall include but not be limited to income in the form of commissions, fees, rentals from real and tangible personal property, and other compensation for work or services performed or rendered as well as income from sales of stock in trade.
- .2 From gross receipts there shall be deducted allowable expenses to arrive at the net profit subject to tax.

c. EXPENSES

- .1 All ordinary and necessary expenses of doing business, including reasonable compensation paid employees, shall be allowed but no deduction may be claimed for salary or withdrawal of a proprietor or of the partners, members, or other owners of an unincorporated business or enterprise.
 - .01 If not claimed as part of the cost of goods sold or elsewhere in the return filed, there may be claimed and allowed a reasonable deduction for depreciation, depletion, obsolescence, losses resulting from theft or casualty, not compensated for by insurance or otherwise of property used in the trade or business, but the amount may not exceed that recognized for the purpose of the federal income tax. Provided, however, that loss on the sale, exchange or other disposition of depreciable property or real estate, used in the taxpayer's business shall not be allowed as a deductible expense.
 - .02 Current amortization of emergency facilities under the provisions of the Internal Revenue Code, if recognized as such for federal income tax purposes, may be included as an expense deduction hereunder.
 - .03 Where depreciable property is voluntarily destroyed only the cost of such demolition and the undepreciated balance thereof will be allowed as an expense in the year of such demolition, to the extent allowable for federal income tax purposes.
 - .04 Bad debts in a reasonable amount may be allowed in the year ascertained worthless and charged off, or at the discretion of the Administrator (if the reserve method is used), a reasonable addition to the reserve may be claimed, but in no event shall the amount exceed the amount allowable for federal income tax purposes.
 - .05 Only taxes directly connected with the business may be claimed as a deduction. If for any reason, the income from property is not subject to the tax, then taxes on and other expenses of said property are not deductible. In any event, the following taxes are not deductible from income: (1) the tax under the ordinance; (2) federal or other taxes based upon income; (3) gift, estate or inheritance taxes; and (4) taxes for local benefits or improvements to property which tend to appreciate the value thereof.
 - .06 In general, non-taxable income and expenses incurred in connection therewith are not to be considered in determining net profits. Income from intangibles, by way of dividends, interest and the like, shall not be included if such income is subject to taxation under the intangible

personal property laws of the state of Ohio or is specifically exempt from taxation under said law.

- .07 If the taxpayer reports income that is nontaxable under the ordinance and such amounts are deducted in order to reconcile the St. Henry return with the taxpayer's federal income tax return, expenses attributable to this nontaxable income shall not be allowed. In the absence of records showing the actual expenses attributable to such nontaxable income, and upon approval of the Administrator, such amount shall be deemed to equal five percent of such nontaxable income.
- .08 With respect to certain tangible personal property used in business, the "federal investment credit" for current year investments, as determined for federal income tax purposes, shall be treated as a deduction from income with respect to new or used property, (subject to federal tax limitations in the case of used property, acquired after December 31, 1974 and the remaining costs shall be depreciated in succeeding years on the same basis for federal income tax purposes. In the event the "Federal Investment Credit" is required to be adjusted by reason of a sale or other early disposition affecting the original amount of the "Federal Investment Credit", such adjustment must be reported and treated as taxable income under the ordinance in the year of such sale or other early disposition.)
- .09 Capital gains and losses from sale, exchange or other disposition of property shall not be taken into consideration in arriving at net profits earned. Any amount received on a sale or other disposition of tangible personal property, used in business, in excess of book value, shall be treated as taxable income under the ordinance to the extent of depreciation previously taken as a deduction. The method of calculating the depreciation deduction shall not be considered when recovering the depreciation as a result of the sale, exchange or other disposition of property. The balance shall be treated as capital gain.
- .10 Income derived from the operation of oil and/or gas wells shall be taxable, and expenses incurred in connection therewith shall be considered in determining net profits.

7. Rentals from Real Property.

- a. Rentals received by the taxpayer are to be included only if and to the extent that the rental, ownership, management or operation of the real estate from which such rentals are derived (whether so rented, managed or operated by the taxpayer individually or through agents or other representatives) constitutes a business activity of the taxpayer in whole or in part.

- b. Where the gross monthly rental of any real properties, regardless of number and value, aggregate in excess of \$100.00 per month, it shall be prima facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental properties shall be subject to tax; provided that in case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds \$100.00 per month; provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he share in the crops or when the rental is receipt derived from the farm, whether or not the gross income exceeds \$100.00 per month; and provided further that the person who operates a rooming house of five or more rooms rented shall be considered in business whether or not the gross income exceeds \$100.00 per month.
- c. In determining the amount of gross monthly rental of any real property, periods during which (by reason of vacancy or any other cause) rentals are not received shall not be taken into consideration by the taxpayer.
- d. Rentals received by a taxpayer engaged in the business of buying and selling real estate shall be considered as part of business income.
- e. 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.
- f. In determining the taxable income from rentals, the deductible expenses shall be of the same nature, extend and amount as are allowed by the Internal Revenue Service for federal income tax purposes.
- g. residents of St. Henry are subject to taxation upon the net income from rentals (to the extent above specified), regardless of the location of the real property owned.
- h. Non-residents of St. Henry are subject to such taxation only if the real property is situated within the Village of St. Henry. Non- residents, in determining whether gross monthly rentals exceed one hundred dollars (\$100.00), shall take into consideration only real estate situated within St. Henry.
- i. Corporations owning or managing real estate are taxable only on that

portion of income derived from property located in the Village of St. Henry.

- j. Patents, copyrights, and royalties:
Income from patents or copyrights is not to be included in net profits subject to the tax if the income from such patents or copyrights is subject to the State Intangible Tax. Conversely, such a State intangible tax is not deductible in determining village tax. Such items shall be clearly disclosed on an attachment to be filed with the village tax return. Income in the form of royalties is taxable if the taxpayer's activities produced the publication or other product, the sale of which produces the royalties.
9. In determining income subject to taxation, losses from the operation of a business or profession cannot be used to reduce wages from employment or other employment compensation.

B. Allocation of Business Profits:

A request to change the method of allocation must be made in writing before the end of the taxable year.

1. Separate Accounting Method.

- a. The net profits allocable to St. Henry from business, professional or other activities conducted in St. Henry by corporations or unincorporated entities (whether resident or non-resident) may be determined from the records of the taxpayer if taxpayer has bona fide records which disclose with reasonable accuracy what portion of his net profits is attributable to that part of his activities conducted within St. Henry.
- b. If the books and records of the taxpayer are used as the basis for apportioning net profits rather than the business allocation formula, a statement must accompany the return explaining the manner in which such apportionment is made in sufficient detail to enable the Administrator to determine whether the net profits attributable to St. Henry are apportioned with reasonable accuracy.
- c. In determining the income allocable to St. Henry from the books and records of a taxpayer an adjustment may be made for the contribution made to the production of such income by headquarters activities of the taxpayer, whether such headquarters is within or without St. Henry.

2. Business Allocation Percentage Method

- a. **Step 1:** Calculate the percentage which the average net book value of real and tangible personal property including leasehold improvements, owned or used in the business and situated within St. Henry is of the average net book value of all real and tangible personal property, including leasehold improvements, owned or used the business wherever situated, during the period covered by the return.
 - .1 The percentage of taxpayer's real and tangible personal property within St. Henry is determined by dividing the average net book value of such property within St. Henry (without deduction of any encumbrances) by the average net book value of all such property within and without St. Henry. In determining such percentage, property rented to the taxpayer as well as real and tangible personal property owned by taxpayer must be considered.
 - .01 The net book value of real and tangible personal property rented by taxpayer shall be determined by multiplying gross annual rents payable to eight (8).
 - .02 Gross rents means the actual sum of money or other consideration payable, directly or indirectly, by the taxpayer for the use or possession of property and includes:
 - .001 Any amount payable for the use or possession of real and tangible personal property or any part thereof, whether designated as a fixed sum of money or as a percentage of sales profits or otherwise;
 - .002 Any amount payable as additional rent or in lieu of rent such as interest, taxes, insurance, repairs, or other amounts required to be paid by the terms of a lease or other arrangement.
- b. **Step 2:** Calculate the percentage which the gross receipts of the taxpayer derived from sales made and services rendered in St. Henry is of the total gross receipts wherever derived during the period covered by the return.
 - .1 The following sales shall be considered St. Henry sales:
 - .01 All sales made through retail stores located within St. Henry to purchasers within or without St. Henry except such of said sales to purchases outside St. Henry that are directly attributable to regular solicitations made outside St. Henry personally by taxpayers employees.

- .02 All sales of tangible personal property delivered to purchasers within St. Henry if shipped or delivered from an office, store, warehouse, factory, or place of storage located within St. Henry.
 - .03 All sales of tangible personal property delivered to purchasers within St. Henry even though transported from a point outside St. Henry if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within St. Henry and the sale is directly or indirectly the result of such solicitation.
 - .04 All sales of tangible personal property shipped from an office, store, warehouse, factory or place of storage within St. Henry to purchasers outside St. Henry if the taxpayer is not, through its own employees regularly engaged in the solicitation or promotion of sales at the place of delivery.
 - .05 Charges for work done or services performed incident to a sale, whether or not included in the price of the property shall be considered gross receipts from such sale.
- .2 In the application of the foregoing subparagraphs a carrier shall be considered the agent of the seller regardless of the FOB point or other conditions of the sale; and the place at which orders are accepted or contract legally consummated shall be immaterial. Solicitation of customers outside St. Henry by mail, phone, or other electronic means from an office, or place of business within St. Henry, shall be considered a solicitation of sales within St. Henry.
- c. **Step 3:** Calculate the percentage which the total wages, salaries, commissions and other compensation of employees within St. Henry is of the total wages, salaries, commissions and other compensation of all the taxpayer's employees within and without St. Henry during the period covered by the return.
- .1 Salaries and reasonable compensation paid owners or credited to the account of owners or partners during the period covered by the return are considered wages for the purpose of this computation.
 - .2 Wages, salaries, and other compensation shall be computed on the cash or accrual basis in accordance with the method of accounting used in the computation of the entire net income of the taxpayer.
 - .3 In the case of an employee who performs services both within and without St. Henry the amount treated as compensation for services performed within the city shall be deemed to be:

.01 In the case of an employee whose compensation depends directly on the volume of business secured by him, such as a salesman on a commission basis, the amount received by him for the business attributable to his efforts within St. Henry.

.02 In the case of an employee whose compensation depends on other results achieved, the proportion of the total compensation received which the value of his services with St. Henry bears to the value of all his services; and

.03 In the case of an employee compensated on a time basis the proportion of the total amount received by him which his working time within St. Henry is his total working time.

- d. **Step 4:** Add the percentages determined in accordance with Steps 1, 2 and 3 or such of the aforesaid percentages as may be applicable to the particular taxpayer's business, and divide the total so obtained by the number of percentages used in ascertaining said total. The result so obtained is the business allocation percentage. In determining the average percentage, a factor shall not be excluded from the computation merely because said factor is found to be allocable entirely outside St. Henry. A factor is excluded only when it does not exist anywhere.
- e. **Step 5:** The business allocation percentage determined in Step 4 above shall be applied to the entire taxable net profits of the taxpayer whenever derived to determine the net profits allocable to St. Henry.

3. Substitute Method:

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

- b. Application to the board to substitute other factors in the formula or to use a different method to allocate net profits must be made in writing before the end of the taxable year and shall state the specific grounds on which the substitution of factors or use of a different method is requested and the relief sought to be obtained. A copy thereof shall be served at the time of filing upon the taxpayer or Administrator as the case may be. No specific form need be followed in making such application. Once a taxpayer has filed under a substitute method, he must continue to so file until given permission to change by the Tax Administrator.

C. Operating Loss Carry Forward.

1. The portion of a net operating loss, based on income taxable under the ordinance, sustained in any taxable year subsequent to January 1, 1975 allocable to St. Henry may be applied against the portion of the profit of succeeding year (s) allocable to St. Henry, until exhausted but in no event for more than five (5) taxable years. No portion of a net operating loss shall be carried back against net profits of any prior year.
2. In the event net profits are allocated both within and without St. Henry, the portion of a net operating loss sustained shall be allocated to St. Henry in the same manner as provided herein for allocating net profits to St. Henry. The portion of a net operating loss to be carried forward shall be determined in the year the net operating loss is sustained, on the basis of the allocation factors applicable to that year. The same method of accounting and allocation must be used in the year to which an operating loss is carried as was used in the year in which the operating loss was sustained.
3. In the case of fiscal years beginning prior to the effective date of the ordinance, the net operating loss deduction will be that portion of the operating loss that the number of month of the fiscal year after the effective date of the ordinance bears to the total number of months in such fiscal year.
4. A short fiscal year [a fiscal year of less than twelve (12) months] in cases where there has been a change in accounting period, where a new taxpayer selects a short fiscal year, or where a new taxpayer operates in St. Henry for less than his full accounting period shall be considered as a full taxable fiscal year.
5. In any return in which a net operating loss deduction is claimed, a schedule must be attached showing:
 - a. Year in which net operating loss was sustained.
 - b. Method of accounting and allocation, used to determine portion of net operating loss allocable to St. Henry.
 - c. Amount of net operating loss used as a deduction in prior years.
 - d. Amount of net operating loss claimed as a deduction in current

year.

6. The net operating loss of a business which loses its identity through merger, consolidation, etc., shall not be allowed as a carry-forward loss deduction to the surviving business entity.

In the case of a net operating loss in the filing of consolidated returns, see Article III, Paragraph D.

D. Consolidated Returns

1. Consolidated returns may be filed by a group of corporations who are affiliated through stock ownership provided such group files consolidated returns for federal income tax purposes pursuant to section 1501 of the internal revenue code. However, once the affiliated group has elected to file a consolidated return or a separate return with St. Henry, the affiliated group may not change their method of filing in any subsequent tax year without written approval from the village of St. Henry. For a subsidiary corporation to be included in a consolidated return, 80% of its stock must be owned by the other members of the affiliated group. A consolidated return must include all companies which are so affiliated.

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

Permission in writing is granted by the Administrator to file separate returns.

A new corporation other than a corporation created or organized by a member of the group has become a member of the group during the taxable year.

A corporation member of the group is sold or exchanged. Liquidating a corporation or merging one of the corporations of the group into another will not qualify the group for filing separate returns.

If a corporation becomes a member of the group during the taxable year the consolidated return must include the income for the entire taxable year of the common parent corporation and any subsidiaries which were members of the group for the entire year, plus the income of each subsidiary which becomes a member of the group during the year for the

period prior to the time any subsidiary became a member of the group, separate returns must be filed for that subsidiary. When a subsidiary ceases to be a member of the affiliated group, the consolidated return must include the income of such subsidiary for the period during which it was a member of the group, but for the period after it ceases to be a member, separate returns must be filed. If a corporation has been a member of the affiliated group for less than one month of the taxable year of the group, it may be considered as not being part of the group. Similarly, a subsidiary may be considered as being a member of the affiliated group during the entire taxable year of the group if the period during which it was not a member of the group does not exceed one month. If a subsidiary is a member of the consolidated group for only part of a taxable year, the income considered to be earned in such fractional part of the year shall be that portion of the net income for the entire year which the number of days it was a member of the group bears to the total number of days in the taxable year.

In determining the allocation fraction where a corporation becomes a member of the group or ceases to be a member of the group during the taxable year, the property fraction (Step 1 of the formula) shall be determined on the basis of the average net book value of the property during the period such corporation was a member of the group. The rental portion of the fraction, however, shall be computed at 8 times the annual rent. The gross receipt and wage fractions shall be based on the actual figures.

All subsidiary corporations must agree in writing to the filing of the consolidated return as they will be liable for the tax as well as will be the parent corporation.

The net operating loss carryover of a corporation which filed a separate return in a prior year may be carried over to the consolidated return but will be limited in amount to the amount of that same corporation's net income included in the consolidation. The net operating loss carryover from a separate year shall be deducted first before application of the allocation fraction. After application of the allocation fraction, the consolidated net operating loss carryover allocated to St. Henry shall be allowed.

In consolidating the net income, the taxable income of each corporation shall be computed in accordance with the provisions governing the taxable income of separate corporations except that there shall be

eliminated unrealized profits and losses in transactions between members of the affiliated group.

In determining expenses that are not allowable because they are allocable to non-taxable income, such calculations shall be based on the consolidated net income. As an example, inter-company dividends which are eliminated in the consolidation will not be taken into consideration in determining non-taxable income.

EXCEPTIONS

E. The following shall not be considered taxable.

1. Military pay or allowances of members of the Armed Forces of the United States and of members of their reserve components, including the Ohio National Guard;
2. The gross income and gross receipts of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property, or tax exempt activities;
3. Unemployment insurance benefits, welfare benefits, and pensions paid as a result of retirement;
4. Proceeds of insurance paid by reason of death of the insured; retirement disability benefits, annuities, or gratuities not in the nature of compensation for services rendered from whatever source derived;
5. Parsonage allowance, to the extent of the rental allowance or rental value of a house provided as a part of an ordained minister's compensation;
6. Receipts from seasonal or casual entertainment, amusements, fund raising, sports events, and health and welfare activities when conducted by bona fide charitable, religious, or educational organizations and associations;
7. Gains from involuntary conversion, cancellation of indebtedness, interest on federal obligations, items of income already taxed by the state from which the city is specifically prohibited from taxing, and income of a decedent's estate during the period of administration (except such

income from the operation of a business);

8. Compensation paid under Section 3501.28 or 3501.36 of the Revised Code to a person serving as a precinct election official, to the extent that such compensation does not exceed one thousand dollars annually.
9. Salaries, income, wages, commissions, other compensation, other income and net profits, the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the states or their political subdivisions to impose net income taxes on income derived from interstate commerce; and
10. Salaries, wages, commissions, other compensation, other income and net profits, including interest and dividends as provided in 718.01 R.C., the taxation of which is prohibited by the Constitution of the State or any act of the Ohio General Assembly limiting the power of the city to impose net income taxes.

ARTICLE IV

EFFECTIVE PERIOD OF TAX

The tax imposed by Section 3, paragraph A-1 and A-2 of the ordinance shall be levied, collected and paid with respect to salaries, wages, bonuses, incentive payments, commission, fees and other compensation earned during the effective period of the ordinance.

The tax imposed by Section 3, paragraph A-3, A-4 and A-5 of the ordinance, with respect to net profits of trades, businesses, professions, enterprises, undertakings and other activities is on the net profits earned during the effective period of the ordinance.

ARTICLE V

RETURN AND PAYMENT OF THE TAX

A. Date and Requirement for Filing:

1. On or before April 30th of the year following the effective date of the ordinance and each year thereafter, every person subject to the provisions of Section 3, paragraph A-1 to A-5, inclusive, of the ordinance shall,

- except as hereinafter provided, make and file with the 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 fiscal year or any period less than a year, said return shall be made within four (4) months from the end of each fiscal year or other period.
 3. Every person subject to the provisions of Section 3 of the ordinance shall, except as hereinafter provided, file a return setting forth the aggregate amount of income, salaries, wages, commission and other personal service compensation, net profits from business or other activities, including the rental from use of real and personal property, and other income taxable under the ordinance, received for the period covered by the return and such other pertinent facts and information in detail as the Administrator may require.
 4. Where an employee's entire earnings for the tax period are paid by an employer or employers, and the one percent (1%) tax thereon has in each instance been withheld and deducted by the employer or employers from the gross amount of the entire earnings of such employee-taxpayer, and where the employer of such employee has filed a report or return in which such employee's entire and only earnings are reported to the Administrator, and where such employee has not taxable income other than such earnings and the tax so withheld has been paid to the Administrator, such employee need not file a return.
 5. An employee who is permitted to deduct business expenses from gross wages, salaries, or commissions must file a return in order to claim such deductions even though all or part of such income, wages, salaries, or commissions are subject to withholding.

Any taxpayer who received taxable income not subject to withholding under the ordinance must file a return.

Any taxpayer having income, wages or other compensation for which a return must be filed, and also having net profits from a business covering the same or a different period, is required to file only one return.

Trustees of active trusts are required to file returns and pay the tax on the taxable income thereof.

Except as provided for herein, the tax is on the partnership or association as an entity whether resident or non-resident and a return is required disclosing the net profits allocable to St. Henry and the tax paid thereon. However, any resident partner or resident member of an unincorporated entity is required to make a

return and pay the tax in accordance with Article III-A-3b.2 of these regulations.

A husband and wife may, in any tax year, elect to file separate or joint returns.

In determining income subject to taxation, losses from the operation of a business or profession cannot be used to reduce wages from employment or other employment compensation.

12. Any business, profession, association, or corporation reporting a net loss is subject to the filing requirements of the ordinance and these Rules & Regulations.
13. The fact that a taxpayer is not required to file a Federal tax return does not relieve the taxpayer from filing a St. Henry tax return if required to do so under the provisions of article v.
14. The village of St. Henry accepts generic forms for St. Henry's annual tax return. However, to be acceptable the generic form must contain all the information on St. Henry's regular tax return forms, must comply with all the rules and ordinances of St. Henry regarding income tax forms, and must be in a format that will allow processing of the generic forms without altering St. Henry's procedures for processing forms. Determination as to whether a generic form meets the criteria shall be the responsibility of the administrator.

B. Information Required and Reconciliation with Federal Returns.

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

Where figures of total income, total deductions, and net profits are included, as shown by a federal return, any items of income as are not subject to St. Henry tax and unallowable expenses shall be eliminated in determining net income subject to St. Henry tax. In the absence of records showing the actual unallowable expenses, such expenses shall be determined in accordance with Article III A- 6.c.1.07 of these regulations.

If a change in federal income tax liability, made by the Federal Internal Revenue Service, or by a judicial decision, results in an additional amount of tax payable to St. Henry, a report of such change shall be filed by the

taxpayer within three (3) months after receipt of the final notice from the Federal Internal Revenue Service or final Court decision.

If a change in federal income tax liability results in a reduction of taxes owed and paid to St. Henry a claim for refund shall be filed with the Administrator as prescribed in Section II of the ordinance and Article XI-B of these regulations.

C. Extensions

1. Upon written request of the taxpayer made on or before the date of filing the return, and for good cause shown, the Administrator may extend the time for filing such return for a period of not to exceed six (6) months, or to one (1) month beyond any extension requested of or granted by the Federal Internal Revenue Service. Whenever he deems such necessary, the Administrator may require a tentative return accompanied by payment of the estimated tax. No penalty or interest will be assessed in those cases in which the return is filed and the final tax paid within the period as extended provided all other filing and payment requirements of the ordinance have been met. The Administrator may deny an extension if the taxpayer's St. Henry income tax account is delinquent in any manner.

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

D. Payment With Return

The taxpayer making a return shall, at the time of the 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 Section 6 of the ordinance, or where any portion of said tax shall have been paid by the taxpayer pursuant to the provisions of Section 7 of the ordinance, or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with Section 15 hereof, shall be deducted from the amount shown to be due, and only the balance, if any, shall be due and payable at the time of filing said return.

A taxpayer who has overpaid the amount of tax to which the Village of St. Henry is entitled under the provisions of the ordinance may have such overpayment applied against any subsequent liability hereunder, or, at his

election indicated on the return, such overpayment (or part thereof) shall be refunded, provided that no additional taxes or refunds of less than one dollar and one cent (\$1.01) shall be collected or refunded.

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 11 and 12. Such amended return shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.
2. Within three (3) months from the final determination of any federal tax liability affecting the taxpayer's St. Henry tax liability, such taxpayer shall make and file an amended St. Henry return showing income subject to the St. Henry tax based upon such final determination of federal tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment.

ARTICLE VI

COLLECTION OF TAX AT THE SOURCE

A. Duty of Withholding

Except as otherwise provided herein, it is the duty of each employer within or doing business within St. Henry, who employs one or more persons whether as an employee, officer, director or otherwise, to deduct each time any compensation is paid the tax of one percent (1%) from:

- a. The gross amount of all salaries, wages, bonuses, incentive payments, fees, commissions, other income or other forms of compensation paid to residents of St. Henry, regardless of the place where the services are rendered; and
- b. All compensation paid non-residents for services rendered, work performed or other activities engaged in within St. Henry.

All employers within or doing business within St. Henry are required to make the collections and deductions specified in this article, regardless of the fact

that the services on account of which any particular deduction is required, as to residents of St. Henry were performed outside St. Henry.

Employers who do not maintain a permanent office or place of business in St. Henry, but who are subject to tax or net profits attributable to St. Henry, under the method of allocation provided for in the ordinance, are considered to be employers within St. Henry and are subject to the requirement of withholding. However:

- a. If not currently required to withhold St. Henry income tax, then a non-resident employer, agent of such employer, or other payer not situated in St. Henry shall not be required to withhold St. Henry income tax from remuneration paid to employees of the employer until the collective liability of the employees working in St. Henry initially exceeds \$150.
- b. When the collective tax liability exceeds \$150, the non-resident employer is required to begin withholding the appropriate income tax for St. Henry on behalf of all employees performing work in St. Henry. The income tax withheld shall be remitted to St. Henry in accordance with the provisions of article v.
- c. Once the collective liability has exceeded \$150, the employer must withhold income tax for St. Henry (i.e., for work performed in St. Henry) for the remainder of that calendar year and for subsequent years, even if the liability in subsequent years does not exceed \$150. However, if the tax liability for each of the three (3) consecutive years (subsequent to that year in which the employer became liable for withholding St. Henry income tax) does not exceed \$150, the employer will be considered as not having performed work in St. Henry in regard to further tax liability, and will again be subject to the provisions of Article V.

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

Commissions and fees paid to professional men, brokers and others who are independent contractors, and not employees of the payor, are not subject to withholding or collection of the tax at the source. Such taxpayers must in all instances file a declaration and return and pay the tax pursuant to the provisions of the ordinance and Articles V and VI of the regulations.

Where a non-resident receives compensation for personal services rendered or performed partly within and partly without St. Henry, the withholding employer shall deduct, withhold and remit the tax on that portion of the compensation which is earned within St. Henry in accordance with the following rules of apportionment:

- a. If the non-resident is a salesman, agent or other employee whose compensation depends directly on the volume of business transacted or chiefly effected by him, the deducting and withholding shall attach to the portion of the entire compensation which the volume of business transacted or chiefly effected by the employee within St. Henry bears to the total volume of business transacted by him within and outside St. Henry.
- b. The deducting and withholding of personal service compensation of other non-resident employees, including officers of corporations, shall attach to the proportion of the personal service compensation of such employee which the total number of his working hours within St. Henry is of the total number of working hours.
- c. The fact that non-resident employees are subject to call at any time does not permit the allocation of pay for time worked within St. Henry on a seven-day per week basis. The percentage of time worked in St. Henry will be computed on the basis of a forty-hour week unless the employer notified the Administrator that a greater or lesser number of hours per week is worked.

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

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

An employer whose records show that an employee is a non-resident of St. Henry and has no knowledge to the contrary, shall be relieved of the responsibility of withholding the tax on personal service compensation paid to such employee for services rendered or work done outside St. Henry by such

employee, provided, however, that such employer must withhold the tax on all personal service compensation paid such employee after the Administrator notifies said employer in writing that such employee is a resident of St. Henry. All employees are required to notify the employer of any change of residence and the date thereof.

A St. Henry employer required to withhold the tax from a St. Henry resident for work done or services performed in another municipality, and who does so withhold and remit to such other municipality, shall be relieved from the requirement of withholding the St. Henry tax from such St. Henry resident except where the rate of tax for such other municipality is less than the rate of tax imposed by this ordinance. In such case, the employer shall withhold and remit the difference to St. Henry.

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

12. Wage continuation plans paid by the employer for purpose of health, rest, recuperation or other reward are deemed to have the same tax situs as the primary job assignment or job location of the employee and are taxable on the same ratio as the normal earnings of such employee for his primary job assignment.

B. Return and Payment of Tax Withheld and Status of Employers.

The deductions from salaries, wages and other compensation required to be made by employers are to begin with the compensation earned on and after the effective date of the ordinance. The employer (in addition to any return required to be filed with respect to his own earnings or net profits) shall, on or before the last day of the month next following each quarterly period, make a return (Form HW-1) and pay to the Administrator the full amount of the tax so deducted or withheld with respect to compensation paid all of his employees subject to the tax under the ordinance. Provided, however, that where he deems such precaution necessary, the Administrator may require an employer to remit withholding taxes at more frequent intervals. The return (Form HW-1) required to be filed under this article shall be made on a form furnished by or obtainable on request from the Administrator.

If more than the amount of tax required to be deducted ordinance is withheld from an employee's pay, such excess may be refunded by the employer or the Administrator, depending upon the circumstances and the time when the over-withholding is determined as follows:

a. Current employees:

- .1 If the over-withholding is discovered in the same quarterly period the employer shall make the necessary adjustment directly with the employee and the amount to be reported on the quarterly HW-1 as withheld shall be the corrected amount:
- .2 If the over-withholding is discovered in a subsequent quarter of the same calendar year the employer may make proper adjustment with the employee. In such case the HW-1 for the quarter in which the adjustment is made shall indicate the total amount actually withheld, the amount of the adjustment deducted there from, and the corrected amount reported on the HW-1;
- .3 If the over-withholding is discovered in the following year, the employer should notify the Administrator of such over-withholding and the circumstances thereof. Upon proper verification the Administrator shall refund to the employee the amount of such excess withholding.

b. Former employees:

- .1 If excess tax for St. Henry has been withheld from a former employee, the employer of that former employee shall notify the Administrator of the amount and circumstances of such over-withholding and the Administrator shall then refund to the former employee the amount of such excess withholding, or
- .2 If the error is discovered by the former employee such former employee shall file a claim with the Administrator and, upon verification thereof by the employer, the Administrator shall refund to the former employee the amount of such excess withholding;

c. Non-Residents Employed Outside the City:

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

d. Insufficient Withholding:

- .1 If less than the amount of tax required to be deducted is withheld from an

employee, such deficiency shall be withheld from subsequent wages. However, if the employee-employer relationship has terminated, the employer shall notify the Administrator of such deficiency and the reason therefore, and shall make payment to St. Henry in an amount equal to the under-withheld tax. (See point d.4 below)

Every employer is deemed to be a trustee for the Village of St. Henry in collecting and holding the tax required under the ordinance to be withheld and the funds so collected by such withholding are deemed to be trust funds.

Every such employer required to deduct and withhold the tax at the source is liable directly to St. Henry for payment of such tax whether actually collected from such employee or not.

On or before the 31st day of January, following any calendar year in which such deductions have been made by any employer, such employer shall file with the Administrator, in the form prescribed the Administrator, and information return for each employee from whom St. Henry income tax has been withheld, showing the name, address, and social security number of the employee, the total amount of compensation paid during the year and the amount of St. Henry income tax withheld from such employee.

For the convenience of employers, the information return may be made in one of three ways at the election of each employer as follows:

- a. Those employers using Form W-2 furnished commercially, may submit a copy of such commercial Form W-2 providing the copy furnished the Village of St. Henry clearly shows the information required in paragraph 5 immediately preceding.
- b. Those employers not using Form W-2 furnished commercially may obtain forms upon request from the Administrator.
- c. Where the furnishing of this information as above indicated will create a distinct hardship, the employer, upon written request to the Administrator, may be permitted to furnish a list of all employees subject to the tax showing the employee's full name, last known address, social security number, gross amount of compensation paid during the year and the amount of St. Henry income tax withheld. Such list may be compiled on any mechanical equipment presently used by the employer, but provision must be made for spacing equal to at least three lines between each name. The employer's name must be indicated on each sheet, each sheet

must be numbered and the total number of sheets comprising the complete report indicated on the first page.

- d. The gross compensation to be reported for each employee shall be for the full twelve (12) calendar months of the year or such portion thereof as the employee reported on was employed.

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

- 8. All employers that provide any contractual service within the Village, and who employ subcontractors in conjunction with that service, shall provide the Village the names and addresses of the subcontractors. The subcontractors shall be responsible for all income tax withholding requirements under this ordinance.
- 9. It is the responsibility of any entity or individual to provide copies to St. Henry of Federal Form 1099, or such other form used to report commissions, fees, and other compensation paid to non-employees.

C. Fractional Part of Cent.

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

ARTICLE VII

DECLARATIONS

A. Requirement of Filing.

A declaration of estimated tax shall be filed by every taxpayer who may reasonably be expected to have taxable income, the tax on which is not or will not be withheld by an employer or employers. Where required such declaration shall be filed within four (4) months after the beginning of the taxable year.

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

B. Date of Filing.

A person or other entity conducting a business not previously subject to the tax, or whose employer does not withhold the tax, shall file a declaration within four (4) months after the date he becomes subject to the tax, except that no penalties or interest shall be assessed, for not filing a declaration, on any resident taxpayer who was not domiciled in St. Henry on the first day of January of the year in which they became subject to estimated payments, nor shall penalties or interest be assessed on estimated payments if the taxpayer has remitted an amount equal to one hundred percent of the previous year's tax liability, provided that the previous year reflected a twelve-month period.

Those taxpayers having a fiscal year or period differing from the calendar year shall file a declaration within four (4) months after the start of such fiscal year.

C. Form for Filing.

Such declaration shall be filed upon a form or forms furnished by, or available from the Administrator, or on other forms deemed acceptable by the Administrator. Provided however, credit shall be taken for St. Henry tax to be withheld from any portion of such income. In accordance with the provisions of Section 15 of the ordinance, credit may be taken for tax to be withheld and remitted to another taxing municipality.

The original estimate of tax liability or any subsequent amendment thereof may be increased or decreased by filing an amended declaration on or before any quarterly payment date as set forth in Article VII-D-1. Such amendment may be made on the regular declaration form or on the back of any quarterly notice form (H-Q-1).

D. Dates of Payments

1. The estimated tax to be paid by taxpayers who are individuals may be paid in full with the declaration or in any equal installments on or before the last day of the fourth, seventh, tenth and thirteenth month after the

beginning of the taxable year.

2. Effective January 1, 2003, such declaration of estimated tax to be paid to the village of St. Henry by corporations and associations shall be accompanied by a payment of at least one-fourth OF 90% of the estimated annual tax and at least a similar amount shall be paid on or before June 15, September 15 and December 15. In the case of a fiscal year taxpayer the second, third, and fourth quarterly estimated payments shall be due on the fifteenth day of the sixth, ninth, and twelfth months of the taxable year, respectively.
3. The declaration must be accompanied by at least one-fourth (1/4) of 90% of the estimated tax shown due thereon.
4. In the event an amended declaration has been filed the unpaid balance shown due thereon shall be paid in equal installments over the remaining payment dates.

E. Final Returns Required.

The filing of a declaration does not relieve the taxpayer of the necessity of filing a final return even though there is no change in the declared tax liability. A final return must be filed to obtain a refund of any overpayment of over one dollar and one cent (\$1.01).

ARTICLE VIII

DUTIES OF THE ADMINISTRATOR

A. Collection of Tax and Retention of Records

It shall be the duty of the Tax Administrator to receive the tax imposed by the ordinance in the manner prescribed herein from the taxpayers; to keep an accurate record thereof, and to report all monies so received.

It shall be the duty of the Administrator to enforce the payment of all taxes owing St. Henry, to keep accurate records for a minimum of five (5) 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. Enforcement Provisions.

The Administrator is charged with the administration and enforcement of the provisions of the ordinance and is, subject to the approval of the Board of Review, empowered to adopt, promulgate, and enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the ordinance. The Administrator has the authority to correct or adjust any return submitted, when a correction or adjustment is necessary to accomplish the intent of the ordinance.

Any taxpayer or employer desiring a special ruling on any matter pertaining to the ordinance or these rules and regulations, should submit to the Administrator in writing all the facts involved and the ruling sought.

These regulations, together with all amendments and supplements hereto and all changes herein, will be on file at the Village Offices, St. Henry, Ohio, and will be open to public inspection.

The Administrator is authorized to arrange for the payment of un-paid 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 be granted until proper returns are filed by the taxpayer for all amounts owed by him under the ordinance.

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

6. Payments received shall first be applied to delinquent penalties and interest, and then to taxes.

C. Estimation of Tax by Administrator.

Whenever the Administrator has been unable to secure information from the taxpayer as to his taxable income for any year, He may determine the amount of tax appearing o be due and assess the taxpayer upon the basis of such determination, together with the interest and penalties as prescribed in Section 10 of the ordinance.

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

- D. Subject to the consent of the Board of Review or pursuant to regulation approved by said Board, the Administrator shall have the power to compromise any interest or penalty, or both, imposed by Section 10 of the ordinance.

ARTICLE IX

EXAMINATION OF BOOKS AND RECORDS INFORMATION SO OBTAINED CONFIDENTIAL: PENALTY

A. Investigations by Administrator

The Administrator, or his duly authorized agent, is authorized to examine the books, papers, records and federal income tax returns of any employer, taxpayer or persona subject to the ordinance, or whom the Administrator believes is subject to the provisions of the ordinance, or the purpose of verifying the accuracy of any return made; or, if no return was made, to ascertain the tax due under the ordinance.

An employer or taxpayer shall furnish, within ten (10) days following a written request by the Administrator, or his duly authorized agent, the means, facilities and opportunity for making examinations and investigations authorized by the ordinance.

B. Subpoena of Records and Persons.

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

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

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

Persons required to attend any hearings shall be notified not less than ten (10) days prior to the time of the hearing. The notice shall show the time and place of the hearing and what books, papers or records the witness is to make available at such hearings.

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

C. Penalty for Non-Compliance

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

D. Confidential Nature of Examinations.

Any information gained as a result of any returns, investigations, verifications or hearings before the Administrator or the Board, required by the ordinance or authorized by these rules and regulations, shall be confidential and no disclosure thereof shall be made except for official tax purposes or as ordered by a court of competent jurisdiction. Any person divulging such information shall be guilty of a misdemeanor punishable by a maximum fine of five hundred dollars (\$500.00) or imprisonment for not more than six (6) months, or both.

E. Retention of Records.

All employers and taxpayers are required to keep such records as will enable the filing of true and accurate returns, whether of taxes withheld at the source, of taxes payable upon earnings or net profits, or both. Such records shall be preserved for a period of not less than six (6) years from the date and the final

return is filed and paid or the withholding taxes are paid.

ARTICLE X

INTEREST AND PENALTIES

A. Interest

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

B. Penalties

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

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

For failure to remit taxes withheld from employees: three percent (3%) per month or fraction thereof.

C. Exceptions

No penalty shall be assessed on additional taxes found on audit to be due when a return was timely filed in good faith and the tax paid thereon within the prescribed time.

In the absence of fraud neither penalty nor interest shall be assessed on any additional taxes resulting from a federal audit for federal income tax purposes provided an amended return is filed and the additional tax paid within three (3) months after final determination of the federal tax liability.

D. Appeal from Assessment.

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.

ARTICLE XI

COLLECTION OF UNPAID TAXES AND REFUND OF OVERPAYMENTS

A. Unpaid Sums – A Civil Debt

1. All taxes imposed by the ordinance and not paid when due become, together with interest and penalties thereon, a debt due the Village from the taxpayer and are recoverable as are other debts by civil suit. Employers who are required, under Section 6 of the ordinance, to withhold and remit the taxes required to be withheld at the source, and who fail to withhold and/or remit, become liable to the village in a civil action to enforce the payment of the debt created by such failure. 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 (3) years after the tax was due or the return was filed, whichever is later. In the case of fraud, omission of 25% or more of income subject to this tax, or failure to file a return, all additional assessments shall be made and all civil actions to recover municipal income taxes and penalties and interest thereon shall be brought within six (6) years after the tax was due or the return was filed, whichever is later.
2. In those cases with the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitations, the period within which an assessment may be made by the Administrator is extended to three (3) years from the time of final determination of federal tax liability.
3. Those officers or employees having control or supervision of, or charged with, the responsibility of filing the return and making payments for a corporation or association shall be personally liable for failure to file the return or pay the taxes and penalties and interest due as required. The dissolution, bankruptcy, or reorganization of any employer does not discharge the officers' or employees' liability for a prior failure of such business to file a return or pay the taxes due.

B. Refunds and Overpayments.

Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date on which such payment was made,

or the return was due, or three (3) months after the determination of the federal income tax liability, whichever is later.

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

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

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

C. Limitation.

Where the total amount due or refund claimed for a tax year is less than one dollar and one cent (\$1.01) such amount shall not be collected or refunded.

ARTICLE XII

VIOLATIONS, PENALTIES

A. Any person who shall:

Fail, neglect or refuse to make any return or declaration required by this ordinance; or

Make any incomplete, false or fraudulent return; or fail, neglect or refuse to pay the tax, penalties or interest imposed by this ordinance; or

Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator; or

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

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

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

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

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

Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and St. Henry tax withheld, or to knowingly give the Administrator false information; or

Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this ordinance.

Shall be guilty of a misdemeanor and shall be fined not more than Five Hundred Dollars (\$500.00) or imprisoned not more than six (6) months, or both for each offense.

B. Prosecutions.

Prosecutions under the ordinance must be commenced within three (3) years from the time of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five percent (25%) or more of income required to be reported, prosecutions may be commenced within six (6) years after the commission of the offense.

C. Failure to Receive Forms – Not a Defense

The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him from making any

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

ARTICLE XIII

BOARD OF REVIEW OR APPELLATE AUTHORITY

A. Composition.

A Board of Review, consisting of a chairman and two other individuals to be appointed by the Mayor of St. Henry 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 9 hereof with reference to the confidential character of information required to be disclosed by the ordinance shall apply to such matters as may be heard before the Board of Review.

B. Duties

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

C. Appeals

An appeal from a ruling or decision of the Administrator by any person dissatisfied with the ruling or decision is effected by filing a notice of appeal with the Board within thirty (30) days after the announcement of the Administrator's ruling or decision, provided the taxpayer making the appeal has filed with the Village of St. Henry the required return or other documents concerning the obligation at issue. The appeal shall be in writing and shall state why the decision should be deemed incorrect or unlawful. A copy of such notice of appeal must be filed with the Administrator. The hearing shall be scheduled within 45 days from the date of appeal.

The Board, by a majority vote, may affirm, modify or reverse, in whole or in part any such ruling or decision of the Administrator. The Board's ruling must be made within 30 days from the date of the closing of the record, shall be in writing and filed with the Tax Commissioner, and within 15 days of its decision

shall send notice of its decision by ordinary mail to the taxpayer making the appeal. Any person dissatisfied with any ruling or decision of the Board may appeal there from to a court of competent jurisdiction by perfecting the appeal as required by state law within 30 days from the filing of such ruling or decision.

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

ARTICLE XIV

USE OF FUNDS

See Section 14 of the Ordinance.

ARTICLE XV

CREDIT ALLOWED FOR TAX PAID IN ANOTHER MUNICIPALITY

A. Limitation.

Where a resident of St. Henry is subject to a municipal tax, on or measured by income, in another municipality either located within or without the state of Ohio, he shall not pay a total municipal tax on the same income greater than the tax imposed at the higher rate.

B. Credits to Residents.

Resident individuals of St. Henry who are required to pay and do pay, a tax to another municipality on income, salaries, wages, commissions or other compensation for work done or services performed in such other municipality, or net profits from businesses, professions or other activities conducted in such other municipality, may claim a credit of the amount of tax paid by them or on their behalf to such other municipality but only to the extent of the tax imposed by the ordinance on such compensation or net profits.

C. Method of Applying for Credit

No credit will be given unless the taxpayer claims such on his final return or

other form prescribed by the Administrator, and presents such evidence of payment of a similar tax to another municipality, as the Administrator may require.

A statement satisfactory to the Administrator from the taxing Authority of the municipality to which the taxes are paid that a St. Henry resident or his employer is paying the tax shall be considered as fulfilling the requirements of this article.

ARTICLE XVI

SAVING CLAUSE

NO REGULATIONS. THIS SECTION PERTAINS TO THE LEGALITY OF THE ORDINANCE AND NOT TO ITS ADMINISTRATION.

ARTICLE XVII

COLLECTION OF TAX AFTER TERMINATION OF ORDINANCE

A. Authority to Collect after Termination of Ordinance.

Although the tax imposition of the ordinance will expire if the Ordinance is repealed, the ordinance remains in full force and effect for purposes of collection and payment of taxes due and payable beyond that date, subject, however, to the provisions of Section 11 of the ordinance with respect to the limitation of time within which an additional assessment may be made.

B. Payment of Taxes

Taxes due and unpaid on account of compensation paid or received and on account of profits earned in the last effective year of the ordinance or any part thereof which remain unpaid, are payable in full on or before the dates specified in Sections 5 and 6 of the ordinance and Articles 5 and 6 of these regulations, and all final returns and withholding reports must be filed on or before that date, unless extended by the Administrator.

For purposes of collection of delinquent or unpaid taxes, actions or proceedings for such collection and/or the collection of interest and penalties

thereon, or enforcing any provisions of the ordinance (including prosecutions under the criminal sections of the ordinance and including appeals before the Board of Review), the ordinance remains in full force and effect until such time as all taxes accruing during the term of the ordinance shall have been fully paid, and all actions, suits, prosecutions, appeals and other judicial or administrative proceedings relative to the collection or payment of such taxes, have been finally terminated.

ARTICLE XVIII

AMENDMENTS & SUPPLEMENTS

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