

The City of Tallmadge, Ohio

INCOME TAX RULES AND REGULATIONS
Amended Version 10/1/2008

Adopted under the Authority of Chapter 181
Section 181.08(b), of the City of Tallmadge Code of Ordinances

ARTICLE I

PURPOSE

Section 181.01 of income tax Ordinance #92-2003, passed March 11, 2004, outlines the uses to which funds raised are to be put and the items on which the tax is to be applied. The effective period of the tax is specified in Section 181.04 of the Ordinance.

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. The singular shall include the plural, and the masculine shall include the feminine and the neuter. Unless otherwise expressly provided in this Ordinance, the definition of any term will be the same as such term is used in a comparable context in the Internal Revenue Code of 1986, as amended.

“Adjusted federal taxable income” means a “C” corporation’s federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, but including subsequent adjustments from required additions and deductions. Pass-through entities must compute “Adjusted Federal Taxable Income” as if the pass-through entity was a “C” corporation. This definition does not apply to any taxpayer required to file a return under Ohio Revised Code (ORC) section 5745.03 or to the net profit from a sole proprietorship. This definition is effective for tax years beginning on or after January 1, 2004.

“Active Trust” means a trust engaged in business or rental activities of any kind.

“Association” means a partnership, limited partnership, limited liability company, or any form of unincorporated enterprise owned by one or more persons.

“Board of Review” means the Board created by and constituted as provided in Section 181.13.

Article II - Definitions (cont.)

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

“City” means the City of Tallmadge, Ohio.

“Corporation” means a corporation, subchapter S Corporations as defined in the Federal Tax Code, 26 USC 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” means the permanent legal residence of a taxpayer. A taxpayer may have more than one residence but not more than one domicile.

“Employee” means an individual whose earnings are subject to the withholding of Federal Income Tax or Social Security Tax, and/or an individual who works for income, qualifying wages, salary, commissions or other types of compensation in the services and under the control of any employer.

“Employer” means an individual, partnership, limited partnership, association, corporation, government body, unit or agency or any other entity, whether or not organized for profit, who employs one or more persons on an income, salary, wage, commission or other compensation basis.

“Generic form” means an electronic or paper form designed for reporting estimated municipal income taxes, and/or annual municipal income tax liability, and/or separate requests for refunds that contain all the information required on City of Tallmadge’s regular tax return and estimated payment forms, and are in a similar format that will allow processing of the generic forms without altering the City of Tallmadge’s procedures for processing forms.

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

“Income” means all monies derived from any source whatsoever, including but not limited to:

(1) All salaries, income, qualifying wages, commissions, other compensation from whatever source received by residents of the City of Tallmadge, including distributive shares of an unincorporated business entity or association against which City of Tallmadge municipal income tax is not already levied.

(2) All salaries, income, qualifying wages, commissions, other compensation from whatever source received by nonresidents for work done or services performed or rendered or activities conducted in the City of Tallmadge. The net income received from the lease of property located in the City of Tallmadge is also taxable.

(3) The portion attributable to the City of Tallmadge of the net profits of all unincorporated businesses, associations, professions, corporations, or other entities,

Article II - Definitions (cont.)

from sales made, work done, services performed or rendered, and business or other activities conducted in the City of Tallmadge.

“Joint Economic Development District” means a district created under Ohio Revised Code 715.70 through 715.83, as amended from time to time.

“Net profits” for a taxpayer other than an individual means the "adjusted federal taxable income" as defined in Ohio Revised Code §718.01.

"Net Profits" for a taxpayer who is an individual means the individual's profit, other than amounts exempted under Ohio Revised Code §718.01(F) and are required to be reported on IRS Schedules C, E, or F.

“Nonresident” means an individual domiciled outside the City of Tallmadge.

"Nonresident Unincorporated Business Entity" means an unincorporated business entity not having any office or place of business within the City of Tallmadge.

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

“Place of business” means any bona fide office (other than a mere statutory office), a 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.

“Qualifying wage” means wages as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, but including subsequent adjustments from required additions and deductions. “Qualifying wage” represents employees’ income from which municipal tax shall be deducted by the employer, and any wages not considered a part of “qualifying wage” shall not be taxed by the City of Tallmadge.

“Resident” means an individual domiciled in the City of Tallmadge.

"Resident Unincorporated Business Entity" means an unincorporated business entity having an office or place of business within the City of Tallmadge.

“Tax Administrator” as designated by Article VI of The Charter of the City of Tallmadge, is the Director of Finance who administers and enforces the provisions of this Ordinance.

Article II - Definitions (cont.)

“Tax year” means the calendar year, or the fiscal year upon the basis of which net profits are to be computed under this ordinance, and, in the case of a return for a fractional part of a year, the period for which such return is required to be made.

"Taxable Income", excluding wage or other compensation exempted under “qualifying wages” and exemptions described in Section 181.03(e), means salaries, wages, commissions, or any other compensation paid by an employer before any deductions and/or the net profits from the operation of a business, profession, or other enterprise or activity, including rental property. The term "other compensation" includes all forms of earned income, including, but not limited to, tips, tax shelter plans, gifts of any type for services rendered, vacation and holiday pay, wage continuation benefits, director's fees, jury duty fees, stock options granted in connection with the performance of service and not designated as capital gains, property in lieu of cash, sick pay, bonuses, severance pay and any payments for covenants not to compete or the like when accrued, incentive payments in whatever form, company closing benefits, supplemental unemployment benefits, earnings designated as deferred compensation or compensation paid by an employer in whatever form for services rendered, employer paid premiums for group-term insurance in excess of fifty thousand dollars (\$50,000), strike benefits, depreciation recapture, ordinary income shown on Federal Form 4797, and a resident partner's or stockholder's distributive share of a nonresident partnership or S-corporation net profits (whether received as wages paid or a draw from a drawing or capital account and whether received or accrued). “Taxable income” also includes income reported on federal tax returns from gaming, wagering, lotteries (including the Ohio or any other State lottery), and schemes of chance effective during the year in which such income from gaming, wagering, lotteries, or schemes of chance is received.

“Taxpayer” means a person, whether an individual, partnership, association, or any corporation, trust or other entity, required hereunder to file a return and/or pay a tax. It does not include any person that is a disregarded entity or a qualifying subchapter S (if the subchapter S is a subsidiary entity). The term “taxpayer” does include any other person who owns the disregarded entity or qualifying subchapter S subsidiary.

ARTICLE III

IMPOSITION OF TAX

A. Bases.

1. Resident:

a. In the case of residents of the City of Tallmadge an annual tax at the rate of two percent (2%) is imposed on and after March 1, 2004, on income, salaries, qualifying wages, commissions, and other compensation earned and/or received during the effective period of Chapter 181, whether such income is received and/or earned directly or through an agent and whether paid in cash and/or in property. For the purpose of **Article III - Imposition of Tax (cont.)**

determining the tax on the earnings of resident taxpayers taxed under Section 181.03 of Chapter 181, the source of the earnings and the place or places in or at which the services were rendered, are immaterial. All such earnings wherever earned or paid are taxable.

b. The following items are subject to the tax imposed by Section 181.03:

(1) Income, including but not limited to salaries, qualifying wages, bonuses and incentive payments earned by an individual, whether directly or through an agent, and whether in cash and/or in property for services rendered during the tax period as an officer, director or employee of a corporation (including charitable and other non-profit organizations), or association or any other entity or person; an officer or employee (whether elected, appointed, or commissioned) of the United States Government or any of its agencies or of the State of Ohio or any of its political sub-divisions or agencies thereof; or any foreign country or dependency.

(a) "Qualifying wages" means wages, as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:

(1A) Deduct any amount included in wages if the amount constitutes compensation attributable to a plan or program described in section 125 of the Internal Revenue Code.

(2A) Add the following amounts:

(i) Any amount not included in wages solely because the employee was employed by the employer prior to April 1, 1986;

(ii) Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option. This sub-paragraph applies only to those amounts constituting ordinary income.

(iii) Any amount not included in wages if the amount is an amount described in section 401(k) or 457 of the Internal Revenue Code. This sub-paragraph applies only to employee contributions and employee deferrals.

(iv) Any amount that is supplemental unemployment compensation benefits described in section 3402(o)(2) of the Internal Revenue Code and not included in wages.

(b) The definition for "qualifying wage" is effective for taxable years beginning after 2003.

(2) The employer is not required to make any withholding with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the
Article III - Imposition of Tax (cont.)

disqualifying disposition, the individual is not an employee of the corporation with respect to whose stock the option has been issued. However, if an incentive stock option is exercised as a disqualifying disposition, the income is then considered ordinary income (vs. capital gains) and therefore is subject to Medicare, and consequently subject to tax by the City of Tallmadge.

(3)(a) An employee is not relieved from liability for a tax by the failure of the employer to withhold the tax as required by the City of Tallmadge or, if the income is subject to Medicare withholding, by the employer's exemption from the requirement to withhold the tax.

(3)(b) The failure of an employer to remit to the City of Tallmadge the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer in connection with the failure to remit the tax withheld.

(4) 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 Chapter 181, regardless of how computed or by whom or wheresoever paid.

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

(b) 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 income for the purpose of determining his net profits taxable under Federal law, and the employee is not required to include such receipts as income on his Federal income tax return.

(c) If commissions are included in the net earnings of the trade, business, profession, enterprise or activity, carried on by an unincorporated entity or association of which the individual receiving such commission is owner or part owner and therefore subject to Article III A3 or A4 of the Rules and Regulations, they shall not be subject to Article A1 of the Rules and Regulations.

(5) Fees, unless such fees are properly includible as part of the net profits of a trade, business, profession, or enterprise regularly carried on by an unincorporated entity or association owned or partly owned by said individual and such net profits are subject to Article III A3 and/or A4 of the Rules and Regulations.

(6) For clarification, other compensation and income, as reported on W-2's or 1099's, includes but is not limited to tips, bonuses, lump sum distribution from qualified pension and profit sharing trusts not made pursuant to employees retirement, profit sharing, portions of stock options that are not considered capital gains by the City of Tallmadge, and gifts of any type in connection with services rendered, compensation paid to casual employees and other types of employees, and compensation received by

Article III - Imposition of Tax (cont.)

domestic servants. Income from "non-competition" covenants shall be included as taxable income.

(7) Payments made to an employee by an employer as sick leave, vacation pay, or any other types of payments made under a wage or salary 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.

(8) Payments made to an employee by an employer as separation or severance pay-outs (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 payments from pension plans, are exempt from City of Tallmadge income tax.

(9) Moving expenses, to the extent they are reimbursed by employers, are not taxable if deducted on the Federal return.

(10) On all income derived anywhere from lottery, gambling and sports winnings, and games of chance by residents of the City of Tallmadge. No deductions shall be allowed against these sources of income. However, if the taxpayer is considered a professional gambler for federal income tax purposes, related deductions as permitted by the Internal Revenue Code shall be allowed against gambling and sports winnings.

(11) Loss from the operation of a business, including rental losses, may not be used to offset the income on a taxpayer's W-2 form, nor offset the income on the W-2 form of the taxpayer's spouse.

(12) For an individual who has income required to be reported on federal schedules C, E, and/or F, the income shall be considered to be "net profits".

c. When compensation is paid or received in property, its fair market value at the time of receipt shall be subject to the tax and to withholding. Board, lodging and similar items received by an employee in lieu of additional cash compensation shall be included in earnings at their fair market value, except in the case of domestics 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 City of Tallmadge, or compensation from a non-resident broker for sale of property located in the City of Tallmadge, that total compensation is taxable at the City of Tallmadge's tax rate and is payable to the City of Tallmadge. The site of the property sold or residence of the purchaser of insurance has no bearing on the taxing of the compensation.

Article III - Imposition of Tax (cont.)

e. The distributive shares of net profits earned and/or received by residents of Tallmadge from all resident and non-resident unincorporated businesses, professions, other entities, and associations (i.e., pass-through entities). The tax shall apply whether or not the distributive share was attributable to Tallmadge, and whether or not the tax on the distributive share was withheld by the entity remitting the tax. (For withholding requirement see Article III A1b.)

2. Non-Resident Employee:

a. In the case of individuals who are not residents of the City of Tallmadge, there is imposed under Section 181.02 of Chapter 181, a tax of two percent (2%) is imposed on and after March 1, 1971, on all income, salaries, qualifying wages, commissions, and other compensation earned and/or received during the effective period of Chapter 181 for work done or services performed or rendered within the City of Tallmadge, whether such income is received and/or earned directly or through an agent and whether paid in cash and/or in property. The location of the place from which payment is made is immaterial. Separation pay, termination pay, reduction-in-force pay, and other compensation paid as a result of an employee leaving the service of an employer shall be allocable only to the City of Tallmadge. Tax shall not be levied on expenses reported in accordance with Federal guidelines for Federal Form 2106, subject to audit and approval by the City of Tallmadge Income Tax Department. An employee who is permitted to deduct business expenses from income, qualifying wages, salaries, or commissions must file a return in order to claim such deductions even though all or part of such income, qualifying wages, salaries, or commissions are subject to withholding. Form 2106 expenses must be allocated proportionally as income related to the 2106 has been allocated.

b. The items subject to tax for non-residents are the same as those listed and defined in Article III A1 above, with the following exceptions:

(1) Article III A1b(10) shall be excluded from the tax.

(2) The tax on distributive shares in Article III A1e shall apply only to net profits allocated to the City of Tallmadge. For the methods of computing the extent of such work or services performed within the City of Tallmadge, in cases involving compensation for personal services partly within and partly without the City of Tallmadge, see Article V A6 of these regulations.

(3) Portions of stock options that are not considered capital gains by the City of Tallmadge are taxable at time of exercise if the non-resident is still employed in the City of Tallmadge at the time of exercise of the stock options, or has retired from employment with the employer that issued the stock options. The stock options are not subject to allocation or apportionment in any manner.

c. When a non-resident receives compensation for services for sales of real estate or insurance from an employer whose situs is the City of Tallmadge, or compensation from a non-resident broker for sale of property located in the City of

Article III - Imposition of Tax (cont.)

Tallmadge, that total compensation is taxable at the City of Tallmadge's tax rate and is payable to the City of Tallmadge. 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, the City of Tallmadge shall not tax the compensation paid to a non-resident individual for personal services or work performed by the individual in the City of Tallmadge 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:

(a) 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.

(b) 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 City of Tallmadge.

(2) For purposes of the 12-day calculation, any portion of a day worked in the City of Tallmadge shall be counted as one day worked in the City of Tallmadge.

(3) Beginning with the thirteenth day, the employer of said individual shall begin withholding City of Tallmadge income tax from remuneration paid by the employer to the individual, and shall remit the withheld income tax to the City of Tallmadge in accordance with Section 181.06 of Chapter 181. 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 the City of Tallmadge by the individual for the first twelve (12) days.

(4) Any tax withheld for the City of Tallmadge under Article III A2d(1) 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 employee has a liability to them.

3. Resident Unincorporated Businesses:

a. In the case of resident unincorporated businesses, associations, or other entities, there is imposed on and after March 1, 2004, an annual tax of two percent (2%) on the net profits earned, accrued or received during the effective period of Chapter 181 attributable to the City of Tallmadge under the formula (see Article III C1) or other method (see Article III C2), derived from work done or services performed or rendered and business or other activities conducted in the City of Tallmadge.

Article III - Imposition of Tax (cont.)

b. The tax imposed on resident associations or unincorporated entities owned by one or more persons is to be paid by the entities on behalf of 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 A3e and f below.

c. The tax imposed by Section 181.03 of Chapter 181 is imposed, on behalf of the members, on all resident unincorporated entities or associations having net profits attributable to the City of Tallmadge under the method of allocation provided for in Chapter 181, regardless of where the owner or owners of such resident unincorporated business entities or associations reside.

d. Resident unincorporated entities or associations owned by one or more persons, all of whom are residents of the City of Tallmadge, shall disregard the method of allocation provided for in Chapter 181 and pay the tax on their entire net profits thereof. In such case, the tax paid by the entity shall constitute all tax due from the owners or members of the entity for their distributive share of such net profits; however, in accordance with Chapter 181.05 and Article IV A1a of these Rules and Regulations, a return shall be required from any such owner or member.

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

f. In the case of a resident individual partner or part owner of a resident unincorporated entity or association, there is imposed an annual tax of two percent (2%) on such individual's distributive share of net profits earned, accrued or received during the effective period of Chapter 181 not attributable to the City of Tallmadge and not taxed against the entity.

g. Excluding rentals, a taxpayer's net profits and losses from businesses operating within Tallmadge may be combined to determine the profit or loss attributable to operations within Tallmadge.

4. Non-resident Unincorporated Businesses or Associations:

a. In the case of non-resident unincorporated businesses, associations, or other entities, there is imposed an annual tax of two percent (2%) on the net profits earned, accrued or received during the effective period of Chapter 181 attributable to the City of Tallmadge, under the formula or other method provided for Article III C2.

b. The tax imposed on non-resident unincorporated entities or associations owned by one 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 other method (Article III C2) and Article III A4d and e below.

Article III - Imposition of Tax (cont.)

c. Non-resident unincorporated entities or associations, owned by one or more persons all of whom are residents of the City of Tallmadge, may elect to disregard the method of allocation provided for in Chapter 181 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.

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

e. In the case of a resident individual partner or part owner of non-resident unincorporated entity or association, there is imposed an annual tax of two percent (2%) on such individual's distributive share of net profits earned, accrued or received during the effective period of Chapter 181 not attributable to the City of Tallmadge under the method of allocation provided for in Section 181.03 of Chapter 181 and not taxed against the entity.

f. Excluding rentals, a taxpayer's net profits and losses from businesses operating within Tallmadge may be combined to determine the profit or loss attributable to operations within Tallmadge.

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 the City of Tallmadge, there is imposed an annual tax of two percent (2%) on the net profits earned, received or accrued during the effective period of Chapter 181 attributable to the City of Tallmadge under the formula (see Article III C1) or other method (see Article III C2).

b. In determining whether a corporation is conducting a business or other activity in the City of Tallmadge, the provisions of Article III C of these Rules and Regulations shall be applicable.

6. 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 City of Tallmadge, and comply with all applicable provisions of the income tax ordinance and these Rules and Regulations.

B. Clarification of taxation of net profits:

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

1. Net Profits ("adjusted federal taxable income") means, for tax years 2004 and later, a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

Article III - Imposition of Tax (cont.)

a. Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.

b. Add an amount equal to five per cent of intangible income deducted under division B1a of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code;

c. Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;

d. (1) Except as provided in subparagraph B1d(2) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;

(2) Subparagraph B1d(1) of this section does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.

e. Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;

f. In the case of a real estate investment trust and regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;

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

(1) Guaranteed payments and other similar amounts paid or accrued to a partner, former partner, member, or former member shall not be allowed as a deductible expense; and

(2) Amounts paid or accrued to a qualified self-employed retirement plan with respect to an owner or owner-employee of the taxpayer, amounts paid or accrued to or for health insurance for an owner or owner-employee, and amounts paid or accrued to or for life insurance for an owner or owner-employee shall not be allowed as a deduction.

2. For taxable years 2003 and prior, Article III B2 through B4 shall be substituted for the provisions of Article III B1:

Article III - Imposition of Tax (cont.)

a. Net Profits as used in Chapter 181 and these Rules and Regulations means net profits derived from any business, profession or other activity or undertaking carried on for profit or normally carried on for profit.

b. Net Profits as disclosed on any return filed pursuant to the provisions of Chapter 181 shall be computed by the same accounting method (i.e., either cash or accrual) used in reporting net income to the Federal Internal Revenue Service, providing such method does not conflict with any provisions of Chapter 181 or these Rules and Regulations, or the provisions of Ohio Revised Code Chapter 718.

3. Gross Receipts:

a. 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 done or services performed or rendered as well as income from sales of stock in trade.

b. From gross receipts there shall be deducted allowable expenses to arrive at the net profit subject to tax.

4. Expenses:

a. All ordinary and necessary expenses of doing business 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, enterprise, or association.

(1) 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.

(2) 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.

(3) Bad debts in a reasonable amount may be allowed in the year ascertained worthless and charged off, or at the discretion of the Tax 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.

(4) 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

Article III - Imposition of Tax (cont.)

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 Chapter 181; (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.

5. Other Income or Losses:

a. Capital gains and losses (capital or other) from sale, exchange or other disposition of property used in the trade or business shall not be taken into consideration in arriving at net profits earned. However, any amount or value received, realized or recognized on a sale or other disposition of tangible personal property or real property used in business, in excess of original book value, shall be treated as taxable income under Chapter 181 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 in excess of the amount of depreciation recovered shall be treated as a capital gain.

(1) Definition of Property Used in the Trade or Business. For purposes of this Article, the term "property used in the trade or business" means property used in the trade or business of a character which is subject to the allowance for depreciation and real property used in the trade or business, held for more than 6 months, which is not:

(a) Property of a kind which would properly be includible in the inventory of the taxpayer if on hand at the close of the taxable year;

(b) Property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business; or

(c) A copyright, a literary, musical, or artistic composition, or similar property held by the taxpayer.

b. In general, non-taxable income (and expense 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 laws.

c. 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.

d. Expenses attributable to non-taxable income shall be considered to be five percent (5%) of non-taxable income.

Article III - Imposition of Tax (cont.)

6. Rentals from real property received by the taxpayer are to be included as net profits 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 taxpayers individually or through agents or other representatives) constitutes a business activity of the taxpayer in whole or in part. The net profits will be allocated in accordance with the 3-factor formula, unless approval is given by the Tax Administrator to use an alternate method (see Article III C2). Net profits not constituting a business activity remain taxable, and shall be taxed using the books and records method.

a. Where the gross monthly rental of real properties located in Tallmadge, regardless of number and value, aggregates in excess of \$1,000.00 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 as a business activity:

(1) 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 \$1,000.00 per month.

(2) Provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in the crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not such rental exceeds \$1,000.00 per month.

(3) 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 income exceeds \$1,000.00 per month.

b. In determining the amount of gross rental of any real property periods during which (by reason of vacancy or any other cause) rentals that are not received shall not be taken into consideration by the taxpayer.

c. Rentals received by a taxpayer engaged in the business of buying and selling real estate shall be considered as part of business income.

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

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

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

Article III - Imposition of Tax (cont.)

g. Non-residents of the City of Tallmadge are subject to such taxation only if the real property is situated within the City of Tallmadge. Non-residents, in determining whether gross monthly rentals exceed \$1,000.00, shall take into consideration only real estate situated within the City of Tallmadge.

h. To be considered non-taxable as ground rents, the property must be under a perpetual leasehold by the term of which the lessor performs no services of any type, including the payment of taxes on the property.

i. Corporations owning or managing real estate are taxable only on that portion of income derived from property located in the City of Tallmadge.

j. A taxpayer's net profits and losses from rentals within Tallmadge may be combined to determine the profit or loss attributable to rental operations within Tallmadge.

7. 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 taxation under the intangible personal property laws of the State. 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.

8. A taxpayer who incurs a combination of losses and profits from the operation of one or more resident businesses, including rental, during the same tax year, may offset the business losses against the business profits to compute the taxpayer's taxable income.

9. If a resident of the City of Tallmadge operates a business or businesses, including rental, in another taxing municipality or Joint Economic Development District in Ohio and the business or businesses incur a loss, the amount of the loss is deemed primarily subject to the taxing jurisdiction of the other taxing municipality or Joint Economic Development District and may not be used to reduce the taxpayer's tax base.

10. Net operating losses may not be carried forward or backward.

11. 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.

C. Allocation of Business Profits (Section 181.02 B):

1. Business Allocation Percentage Method:

a. STEP 1: Calculate the percentage allocable to the City of Tallmadge of the average original cost of total real and tangible personal property (including lease-hold improvements), wherever situated, owned or used in the business during the period covered by the return.

Article III - Imposition of Tax (cont.)

(1) The percentage of taxpayer's real and tangible personal property within the City of Tallmadge is determined by dividing the average original cost of such property within the City of Tallmadge by the average original cost of all such property within and without the City of Tallmadge. In determining such percentage, property rented to the taxpayer, as well as real and tangible personal property owned by the taxpayer, must be considered.

(a) The original cost of real and tangible personal property rented by the taxpayer shall be determined by multiplying gross annual rents payable by eight (8).

(b) Gross rent 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:

(1) 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;

(2) 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 allocable to the City of Tallmadge of the total qualifying wages, salaries, commissions, other compensation and other income of employees, within and without the City of Tallmadge, 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) Qualifying wages, salaries, and other compensation shall be computed on the cash or accrual basis in accordance within the method of accounting used for income tax purposes.

(3) In the case of an employee who performs services both within and without the City of Tallmadge the amount treated as compensation for services performed within the City of Tallmadge shall deemed to be:

(a) In the case of an employee whose compensation depends directly on the volume of business secured by him, such as a salesman on a commission basis, the amount received by him for the business attributable to his efforts within the City of Tallmadge;

(b) In the case of an employee whose compensation depends on other results achieved, the proportion of the total compensation received which the value of his services within the City of Tallmadge bears to the value of all his services; and

Article III - Imposition of Tax (cont.)

(c) 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 the City of Tallmadge is of his total working time.

c. STEP 3: Calculate the percentage allocable to the City of Tallmadge of the total gross receipts of the taxpayer derived from sales made, work done and services rendered, wherever derived, during the period covered by the return.

(1) The following sales shall be considered sales within the City of Tallmadge:

(a) All sales made through retail stores located within the City of Tallmadge to purchasers within or without the City of Tallmadge except such of said sales to purchasers outside the City of Tallmadge that are directly attributable to regular solicitations made outside the City of Tallmadge personally by the taxpayer or his employees.

(b) All sales of tangible personal property delivered to purchasers within the City of Tallmadge if shipped or delivered from an office, store, warehouse, factory or place of storage located within the City of Tallmadge.

(c) All sales of tangible personal property delivered to purchasers within the City of Tallmadge even though transported from a point outside the City of Tallmadge if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City of Tallmadge and the sale is directly or indirectly the result of such solicitation.

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

(e) Charges for work done or services performed incident to a sale, whether or not included in the price of the property, shall be considered gross receipts from such sale.

(2) In the application of the foregoing sub-paragraphs, a carrier shall be considered the agent of the seller regardless of the FOB point or other conditions of the sale; and the place at which orders are accepted or contracts legally consummated shall be immaterial.

(3) All solicitation of customers outside of the City of Tallmadge by mail, telephone, fax, electronic mail or other media from an office or place of business within the City of Tallmadge shall be considered a solicitation of sales within the City of Tallmadge.

Article III - Imposition of Tax (cont.)

d. STEP 4: Add the percentage 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 computing 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 the City of Tallmadge. 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 wherever derived to determine the net profits allocable to the City of Tallmadge.

2. Substitute Method:

a. In the event a just and equitable result cannot be obtained under the formula the Tax Administrator, upon application of the taxpayer, 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 Tax Administrator 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. The application shall state the specific grounds on which the substitution of factors or use of different method is requested and the relief sought to be obtained. 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. A request to change methods of allocation must be made, in writing, to the Tax Administrator before the close of the taxable year.

d. If the Tax Administrator approves the use of books and records as a substitute method, the following shall apply:

(1) The net profits allocable to the City of Tallmadge from business, professional or other activities conducted in the City of Tallmadge by corporations or unincorporated entities (whether resident or non-resident) may be determined from the records of the taxpayer only if the 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 the City of Tallmadge.

(2) If the books and records of the taxpayer are used as the basis for apportioning net profits, a statement must accompany the return explaining the manner in which such apportionment is made in sufficient detail to enable the Tax Administrator to determine whether the net profits attributable to the City of Tallmadge are apportioned with reasonable accuracy.

Article III - Imposition of Tax (cont.)

(3) In determining the income allocable to the City of Tallmadge 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 the City of Tallmadge.

D. Exemptions from tax (Section 181.03(e)):

The tax provided for in Section 181.03 of Chapter 181 shall not be levied on:

1. The military pay or allowances of members of the Armed Forces of the United States and of members of their reserve components, including the National Guard and the Peace Corps.
2. The income 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 and only to the extent that the said income is exempt from federal income tax.
3. Receipts by bona fide charitable, religious and educational organizations and associations, when those receipts are from seasonal or casual entertainment, amusement, sports events and health and welfare activities when any such are conducted by bona fide charitable, religious or educational organizations and associations and only to the extent that the said income is exempt from Federal Income Tax.
4. Social security benefits, unemployment compensation (excluding supplemental unemployment compensation), payments from pension plans or similar payments, including disability payments received from private industry, or local, state, or federal governments, or from charitable, religious or educational organizations under a 501c3 status, and the proceeds of sick, accident, or liability insurance policies. The disability benefits excludable must be a permanent nature as determined by a physician or government entity.
5. Proceeds of insurance paid by reason of the death of the insured; pensions, annuities or gratuities not in the nature of compensation for services rendered, from whatever sources derived.
6. Compensation for personal injuries or for damages to property by way of insurance or otherwise, but this exclusion does not apply to compensation paid for lost salaries or wages or to compensation from punitive damages.
7. Gains from involuntary conversions, cancellation of indebtedness, items of income already taxed by the State of Ohio 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).

Article III - Imposition of Tax (cont.)

8. Compensation paid to a precinct election official, to the extent that such compensation does not exceed \$1,000 annually.
9. Income of all individuals under 18 years of age, whether residents or nonresidents.
10. Alimony received.
11. Parsonage allowance, to the extent of the rental allowance or rental value of a house provided as a part of an ordained clergy's compensation. The clergy must be duly ordained, commissioned, or licensed by a religious body constituting a religious denomination, and must have authority to perform all sacraments of the religious body.
12. Income, salaries, wages, commissions and other compensation 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/or is prohibited by the Constitution of the State of Ohio or any act of the Ohio General Assembly limiting the power of a municipality to impose net income taxes.

ARTICLE IV

RETURN AND PAYMENT OF TAX

A. Date and Requirement for Filing.

1. a. On or before April 15th of each year, each taxpayer, eighteen (18) years of age or older if an individual, who was a resident of the City of Tallmadge at any time during the taxable year, shall make and file with the Tax Administrator a Tallmadge income tax return on a form prescribed by and obtainable, upon request, from the Tax Administrator, or on generic forms deemed acceptable by the Tax Administrator. Except as hereinafter provided, if the taxpayer had no income or only income on which no tax is due thereon, the taxpayer must still comply with the requirement for filing a Tallmadge tax return. Retirees, and individuals on permanent disability, having no taxable income shall be exempt from this filing requirement in accordance with the provisions in paragraph I.1. of this Article.

b. The fact that a taxpayer is not required to file a Federal tax return does not relieve the taxpayer from filing a City of Tallmadge tax return.

c. Notwithstanding any other provision of Chapter 181, the deadline for filing any return or paying any tax, when said deadline would otherwise fall on a day which is determined by this Code to be a holiday, a weekend, or a day wherein, because of weather or other conditions, the City of Tallmadge offices are closed, at least part of the day, the deadline for filing a return or paying a tax shall be the close of business on the next day which is not a holiday, weekend day or a day in which the offices are closed.

Article IV - Return and Payment of Tax (cont.)

Any return or payment mailed postage prepaid and U.S. postmarked on such extended day, shall be considered filed or paid in a timely fashion.

d. The Tax Return is considered received, if mailed, on the date postmarked by the United States Post Office Postal Service or on the date delivered without mailing to the City of Tallmadge Tax Office.

e. Payment of income tax by businesses shall be by ACH methods if feasible as determined by the Income Tax Administrator and the Rules and Regulations. Businesses shall make payment of income taxes via electronic ACH methods provided it is reasonable and feasible for the business entity without providing undue hardship. If a third party administers the preparation and submission of taxes on behalf of a business the third party entity shall submit taxes via ACH or other electronic means, including Ohio Business Gateway. In order of priority, the businesses that submits taxes electronically are payroll processing companies, large companies that operate nationwide, companies structured with the electronic capabilities in place for ACH transmissions, and other factors as deemed necessary. (Ord. 17-08)

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

3. Any taxpayer who received taxable income not subject to withholding under Chapter 181 must file a return.

4. Any taxpayer having income, qualifying wages, other compensation or other income 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 if self-employed.

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

6. Except as provided for herein, the tax is to be paid by the resident associations, and a return is required disclosing the net profits allocable to the City of Tallmadge and the tax paid thereon. However, any resident partner or resident member of an unincorporated entity or association is required to make a return and pay the tax in accordance with Article III A3f of these regulations.

B. Information Required and Reconciliation with Federal Returns.

1. Every person subject to the provisions of Section 181.03 of Chapter 181 shall, except as hereinafter provided, file a return setting forth the aggregate amount (if any) of income, salaries, qualifying wages, commissions, and other personal service compensation, net profits from business or other activities, including the rental from real and personal property, and other income taxable under Chapter 181, received for the period covered by the return and such other pertinent facts and information in detail as the Tax Administrator may require.

Article IV - Return and Payment of Tax (cont.)

2. The return shall be filed with the Tax Administrator on a form or forms furnished by or obtainable upon request from such Tax Administrator or on other forms deemed acceptable by the Tax Administrator, setting forth:

a. The aggregate amounts of income, qualifying wages, commissions and other compensation earned or received and gross receipts from the business, profession or other activity, less expenses allowable in the calculation of Adjusted Federal Taxable Income for tax years 2004 and later.

b. The amount of the tax imposed by Chapter 181 on such earnings and profits.

c. Such other pertinent statements, information returns or other information as the Tax Administrator may require, including but not limited to copies of all W-2 forms, 1099 Miscellaneous Income Forms, page one of form 1040 (income on Form 1040 not subject to the City of Tallmadge income tax may be deleted), Page one and two of Form 1120, 1120S (including (K-1), 2106, 1065, Schedule C (including cost of goods manufactured and/or sold), Schedule E, schedule F and any other Federal Schedules if applicable.

3. Any individual, partnership, person, corporation, association, business or other entity that pays to any other individual, partnership, person, corporation, association, business or other entity any compensation that is required by federal law to be reported on a federal form 1099 or other federal miscellaneous income forms, or any resident of the City of Tallmadge who receives a federal form 1099, shall forward to the City of Tallmadge along with their income tax forms copies of the 1099 form or other miscellaneous income forms. Only those 1099 miscellaneous forms that contain income taxable to the City of Tallmadge shall be forwarded to the City of Tallmadge.

4. Expenses reported on federal form 2106 are deductible, but are subject to review and audit by the City's Income Tax Department. The 2106 expenses must be apportioned to municipalities in the same manner to which the related income is apportioned.

5. Every taxpayer shall retain all records necessary to compute his tax liability for a period of six (6) years from the date his return is filed, or the withholding taxes are paid.

C. Acceptance of Federal Extensions.

1. Any taxpayer that has requested an extension for filing a Federal income tax return may request an extension for the filing of a City of Tallmadge income tax return. The taxpayer shall make the request by filing a copy of the taxpayer's request for Federal filing extension with the Tax Administrator.

2. Any taxpayer not required to file a Federal income tax return may request an extension for filing a City of Tallmadge tax return in writing.

Article IV - Return and Payment of Tax (cont.)

3. The request for an extension shall be filed not later than the last day for filing the City of Tallmadge tax return for calendar and fiscal year filers as prescribed by the Chapter.

4. A valid extension request extends the due date for filing a return to the last day of the month following the month to which the due date of the federal income tax return has been extended, provided however that in the case of businesses that file an extension request through the Ohio Business Gateway, the extended due date shall be the last day of the month to which the due date of the federal income tax return has been extended.

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

a. Fails to file a copy of the Federal extension (if applicable) by the original due date for the annual return.

b. Owes the City of Tallmadge any delinquent income tax or any penalty, interest, assessment or other charge for the late payment or nonpayment of income tax.

c. Has failed to file any required income tax return, report, or other related document for a prior tax period.

6. The Tax Administrator may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due. If the estimated tax is not paid at this time, such tax will be subject to interest and penalty as provided in Section 181.10 from the date it was normally due.

7. If a taxpayer wishes to extend the time for filing the City of Tallmadge tax return to a date beyond that provided above, the taxpayer must file such a request in writing to the Tax Administrator prior to the due date of the automatic extension.

D. Consolidated Returns (Section 181.03(d)):

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.

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

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

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

Article IV - Return and Payment of Tax (cont.)

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

3. a. If a corporation becomes a member of the group during the taxable year, the consolidated return must include the income from 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 beginning with the date it became a member of the affiliated group. 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 separate returns must be filed for the period after it ceases to be a member. 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.

b. If a subsidiary is a member of a 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.

4. 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 factor (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 factor, however, shall be computed at 8 times the annual rent. The gross receipts and wage factors shall be based on the actual figures.

5. 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 the parent corporation.

6. 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.

E. Amended Returns.

1. Where necessary an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Sections 181.11 and 181.15 of Chapter 181. Such amended return shall be on a form obtainable, upon request, from the Tax

Article IV - Return and Payment of Tax (cont.)

Administrator. A taxpayer may not change the method of accounting (i.e., cash or accrual) 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 the City of Tallmadge tax liability, such taxpayer shall make and file an amended the return showing income subject to the tax based upon such final determination of Federal tax liability, and pay any additional tax shown thereon or make claim for refund of any overpayment.

F. Information returns, schedules and statements and/or other documents required to support tax returns, which are incomplete without such information, shall be filed within the time limits set forth for the filing of the tax returns and the failure to file such information returns, schedules and statements and/or other documents shall be deemed to be a violation of the Chapter. Provided, however, that the taxpayer shall have ten days after notification by the Tax Administrator, or his authorized representative, to file the items required by this subsection.

G. Any business, profession, association or corporation reporting a net loss is subject to the filing requirements of the ordinance and these Rules and Regulations.

H. Payment With Return.

1. The taxpayer making a return shall, at the time of the filing thereof, pay to the Tax Administrator the amount of taxes due; provided, however, that where any portion of the tax so due has been withheld or where any portion of such tax has been paid through estimated payments or where an income tax is required to be paid to another municipality or Joint Economic Development District, credit for the amount so paid in accordance with Sections 181.06, 181.07, and 181.15 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 the return.

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

3. The officers and/or employees of such employer having control or supervision or charged with the responsibility of filing the return and making the payment, shall be personally liable for failure to file the return or pay the tax, penalties, or interest due as required herein. The dissolution, bankruptcy or reorganization of any such employer does not discharge an officer's or employee's liability for a prior failure of such business to file a return or pay taxes, penalties, or interest due.

4. An individual, association, corporation, or other entity engaged in the business of construction work and who will perform construction work in the City of Tallmadge shall obtain a tax account number, issued by the Tax Administrator prior to beginning

Article IV - Return and Payment of Tax (cont.)

construction work. The Tax Administrator shall also issue a Certificate of Registration, which the contractor shall file with the Building Department. Failure to possess a valid Certificate shall be cause for suspension of work by the Building Department and/or the Tax Administrator prior to the construction work commencing and/or during the performance of the construction work. Proof of possession of a valid Certificate shall be necessary to commence or resume suspended construction work. The Certificate of Registration may be revoked by the Tax Administrator for failure by the contractor to remain current in the filing of required payment of taxes, reporting withholding, and for failure to otherwise comply with this Ordinance. All employers that provide any contractual service within the City, and who employ subcontractors in conjunction with that service shall, prior to commencement of the service, provide the City the names and addresses of the subcontractors. The subcontractors shall be responsible for all income tax employer requirements under this Chapter.

I. Taxpayer exemptions.

1. Retirees, and individuals on permanent disability, having no taxable income shall be exempt from this filing requirement. This exemption from filing for retirees shall be in effect until such time that the retiree receives taxable income for municipal income tax purposes, at which time the retiree shall be required to comply with the provisions of this Section.

2. Resident taxpayers who are under 18 years of age at the end of the taxable year shall not be required to file a tax return.

ARTICLE V

COLLECTION AT SOURCE

A. Duty of Withholding.

1. Except as otherwise provided herein, each employer within or doing business within the City of Tallmadge shall deduct, at the time of payment, the City of Tallmadge income tax of two percent (2%) from all income, salaries, qualifying wages, bonuses, incentive payments, fees, commissions or other forms of compensation earned or received by employees for service rendered, work performed or other activities engaged in within the City of Tallmadge. For purposes of calculating taxes to be withheld from nonresident employees, the employer shall determine the amount of gross wages and other compensation allocable to the City of Tallmadge pursuant to Ohio Revised Code 718.02. The employer shall consistently allocate the employer's gross income in the same manner. This determination shall be prima facie evidence of where the taxpayer-employee's compensation was earned and may be rebutted only upon submission of tax returns filed in other jurisdictions or such other evidence satisfactory to the Tax Administrator.

Article V - Collection at Source (cont.)

2. Employers who do not maintain a permanent office or place of business in the City of Tallmadge, but who are subject to tax on net profits attributable to the City of Tallmadge under the method of allocation provided for in the Chapter and these Rules and Regulations, are considered to be employers within the City of Tallmadge and subject to the requirements of withholding.

3. 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 in accordance with Article IV. The officer(s) and/or employee(s) of such employer having control or supervision or charged with the responsibility of withholding the tax shall be personally liable for failure to withhold the tax, penalties, or interest due as required herein. The dissolution, bankruptcy or reorganization of any such employer does not discharge an officer's and/or employee's liability for a prior failure of such business to withhold and/or pay the taxes, penalties, or interest due. If the employer has withheld the tax and failed to pay the tax withheld to the Tax Administrator, the employee is not liable for the tax so withheld.

4. Commissions and fees paid to independent contractors 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 Chapter 181 and Articles IV and VI of these Rules and Regulations.

5. Where a non-resident receives compensation for personal services rendered or performed partly within the City of Tallmadge, the employer shall deduct, withhold and remit the tax on that portion of the compensation which is earned within the City of Tallmadge in accordance with the following rules of apportionment:

a. If the non-resident is a salesman, agent or other employee whose compensation depends directly on the volume of business transacted or chiefly effected by him, the deducting and withholding shall attach to the portion of the entire compensation which the volume of business transacted or chiefly effected by the employee within the City of Tallmadge bears to the total volume of business transacted by him, except as clarified in Article III. However, for real estate and insurance sales the allocation shall be in accordance with Article III A2c.

b. The deducting and withholding of personal service compensation of other non-resident employees, including officers of corporations, shall attach to the proportion of the personal service compensation of such employee which the total number of his working hours within the City of Tallmadge is of the total number of working hours.

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

Article V - Collection at Source (cont.)

d. 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.

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

7. 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 Rules and Regulations.

8. Every employer shall retain all records necessary to compute withholding taxes due Tallmadge for a period of six years from the date the Reconciliation form, W-2 Forms, and 1099 forms are filed.

9. All returns and forms required to be filed by an employer are considered received on the date postmarked by the United States Postal Service or on the date delivered without mailing by the taxpayer to the Tallmadge Tax Office.

10. The failure of any employer to receive or procure a return, or other required form shall not excuse the employer from preparing any information return, withholding tax returns or from filing such forms or from paying the tax due.

11. No person shall be required to withhold the tax on the wages or other compensation paid domestic employees employed exclusively in or about such person's residence, but such employee shall be subject to all of the requirements of the chapter, including making quarterly estimated payments.

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

1. Each employer within or doing business within the City of Tallmadge who employs one or more persons on an income, salary, qualifying wage, commission or other compensation or other income basis shall, at the time of the payment thereof, deduct the tax of two percent (2%) from the gross salaries, qualifying wages, commissions or other compensation or other income due by the employer to the employees for the salaries, qualifying wages, commissions or other compensation or other income earned within the City of Tallmadge.

2. The employer shall, on or before the last day of each month, make a return and pay to the Tax Administrator the tax withheld during the preceding month if taxes withheld for the preceding tax year averaged \$100 per month or more. Semimonthly payments of tax withheld are required if the average amount of tax withheld by an employer in the
Article V - Collection at Source (cont.)

prior calendar year exceeded \$1,000.00 per month. At the discretion of the employer, payments may be submitted more frequently than semimonthly.

a. If taxes withheld for the preceding tax year averaged less than \$100 per month the employer shall, on or before the last day of each month following the calendar quarters ending March 31, June 30, September 30, and December 31, make a return and pay to the Tax Administrator the tax withheld during the preceding calendar quarter.

b. Any employer who normally withholds \$100 or more per month for the City, and who wishes to file and remit on a quarterly basis, may request the authority for quarterly filing from the Tax Administrator. Such request must be in writing, stating the name and the City Withholding Account Number of the employer, the address to which tax documents should be mailed, the estimated amount of tax to be withheld each quarter, the reason or reasons for the request, and the name and title of the person responsible for complying with the withholding requirements of Chapter 181.

c. In considering such a request, the Tax Administrator will base his decision on the facts so that the best interests of the City are served. He shall refuse such authority if he has reason to believe that the employer is a below average credit risk, engaging in seasonal or transitory business in fact or as to location, or for any other reason known to him which might place a burden upon the City or where such request is contrary to the policy of the City. The Tax Administrator will notify the employer, in writing, of the decision made upon his request.

d. If the request is granted the notice will specify the effective date of the authorization. Once this approval is granted, the employer may continue on such basis unless notified in writing by the Administrator that approval to file quarterly is withdrawn.

e. The Tax Administrator shall have the authority to deny quarterly payments if the employer is not in full compliance with all the City income tax laws. Notice of the withdrawal shall be made in writing and may be served in person or mailed to the address where the returns are mailed. In such case, the employer must begin to file monthly or semi-monthly as required by the Tax Administrator.

3. Every employer is deemed to be a trustee for the City of Tallmadge in collecting and withholding the tax required to be withheld, and the funds so collected by such withholding are deemed to be trust funds in the hands of the employer.

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

5. a. On or before February 28th, following any calendar year in which such deductions have been made by any employer, such employer shall file with the Tax Administrator in the form prescribed by the Tax Administrator, a Form W-3 and an

Article V - Collection at Source (cont.)

information return for each employee from whom the City of Tallmadge municipal income tax has been withheld, or should have been withheld, clearly showing the name, address, and social security number of the employee, the total Medicare wage paid during the year and the amount of the City of Tallmadge income tax withheld from such employee.

b. On or before February 28th of each year all individuals, businesses, employers, brokers or other who engage persons, either on a fee or commission basis or as independent contractors and not employees (those who are not subject to withholding) must provide the City of Tallmadge Income Tax Department with copies of all 1099 Miscellaneous Income Forms and/or a list of names, addresses, Social Security numbers and a total amount of earnings, payments, bonuses, commissions and/or fees paid to each person. Only those 1099 miscellaneous forms that contain income taxable to the City of Tallmadge shall forwarded to the City of Tallmadge.

6. For the convenience of employers, the information return referred to in paragraph 5 above may be made in one of three ways, as follows:

a. W-2 copies that are complete (including all information required in paragraph 5 above) and fully legible may be submitted.

b. In lieu of W-2's, employers may submit the tax information using an employee list, as long as employee's full names, addresses, social security numbers, Medicare wages, and the City of Tallmadge withheld taxes are accurately reported.

c. Reporting of employee wages via diskettes, magnetic cartridges or magnetic tapes is permitted, using the standard formats currently used by the Social Security Administration for federal tax reporting. Other electronic reporting methods (such as reporting via the Internet) may be used if approval to do so is granted by the City of Tallmadge.

d. Upon written request of the taxpayer, permission to file W-2 information in other than the three specified ways may be granted by the Tax Administrator.

7. In addition to the Withholding Statements, and at the time they are filed, each employer shall file with the Tax Administrator a reconciliation of income tax withheld, comparing the returns of income tax withheld to the total amount of taxes withheld as disclosed by the Withholding Statements.

C. In deducting and withholding the tax at the source and in payment of any tax due under the Chapter, 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. No person shall be entitled to a refund merely because such rounding off of the tax results in an apparent overpayment based on his total earnings.

D. Employers for limited engagements, who make payment for services at said engagement, as set forth below, shall, for the purposes of the collection of the income

Article V - Collection at Source (cont.)

tax, be required to withhold, report, and pay over to the Tax Administrator the municipal income tax at the current rate on the gross amount so paid on completion of the engagement, said reports to be on forms approved by the Tax Commissioner. Employers for limited engagements include, but is not limited to:

1. Any person who employs or contracts for the services of any entertainer, entertainment act, sports event, promotional booth, special event, band, orchestra, rock group, or theatrical performance; or

2. Any person who, acting as a promoter, booking agent, or employer, engages the services of, or arranges the appearance of any entertainer, entertainment act, sports event participant, band, orchestra, rock group, or theatrical performance.

E. The officer or employee having control or supervision, or charged with the responsibility of withholding the tax, filing the return and/or making the payment, shall be personally liable for the failure to file the return or pay the tax due as required herein. The dissolution, bankruptcy, or reorganization of any such employer does not discharge an officer's or employee's liability for a prior failure of such business to file a return or pay taxes due.

ARTICLE VI

DECLARATIONS AND ESTIMATED TAX PAYMENTS

A. Requirements of Filing:

1. 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 in full by an employer or employers in accordance with the requirements of Section 181.06, or who engages in any business, profession, enterprise, or activity subject to the tax imposed by Section 181.03 hereof, shall file a declaration setting forth the estimated taxable income or the estimated profit or loss from such business activity together with the estimated tax due thereon. The declaration must be filed only if the estimated tax not withheld in whole or in part exceeds one hundred dollars (\$100.00) after deducting credits allowed under Sections 181.06 and 181.15 of the chapter, and any overpayment of the previous year's tax liability which the taxpayer elected not to have refunded.

2. A taxpayer's final return for the preceding year may be used as the basis for computing his declaration of estimated tax for the current year. No penalties or interest shall be assessed for not filing a declaration on any resident taxpayer who was not domiciled in the City of Tallmadge on the first day of January of the year in which they first 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 **Article VI - Declarations and Estimated Tax Payments (cont.)**

twelve-month period, nor for estimated payments that equal at least 90% of the final liability for the current tax year completed for which estimated payments have been made.

B. Form for Filing:

1. Such declaration shall be filed upon a form or forms furnished by, or obtainable upon request from, the Tax Administrator, or on generic forms deemed acceptable by the Tax Administrator.

2. The original estimate of tax liability or any subsequent amendment thereof may be increased or decreased by filing an amended declaration at any time. Such amendment may be made on the regular declaration form or a form furnished by and obtainable from the Tax Administrator. An amendment may be filed on or before each quarterly filing date, and must be filed on or before January 31 of the year following or a date fixed by regulation of the Tax Administrator if there is a change of more than 30% to the original estimate. Interest and penalty amounts may be assessed against estimated payments that result in being less than 100% of the prior tax year, or 90% of income taxable to the City of Tallmadge for the current year, or on any resident taxpayer who was domiciled in the City of Tallmadge on the first day of January in the year in which they became subject to estimated payments.

C. Dates of Filing and Payment:

1. A declaration shall be filed on or before April 15th of each year during the life of the Chapter, except as specifically exempted in paragraph A1 above.

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

3. In the case of individuals, the estimated tax shall be paid in four equal installments on or before April 15, July 31, and October 31 of the taxable year, and January 31 of the following year. The declaration of estimated tax shall be accompanied by a payment of at least twenty-five percent (25%) of the estimated annual tax and at least an equal amount shall be paid on the remaining quarterly payment dates; provided, however, that in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

4. In the case of associations, businesses, and corporations the estimated tax shall be paid in four equal installments on or before April 15, June 15, September 15, and December 15 of the taxable year. The declaration of estimated tax shall be accompanied by a payment of at least twenty-five percent (25%) of the estimated annual tax and at least an equal amount shall be paid on the remaining quarterly payment dates; provided, however, that in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates. In the case of a fiscal year taxpayer the second, third,

Article VI - Declarations and Estimated Tax Payments (cont.)

and fourth quarterly payments shall be due on the fifteenth day of the sixth, ninth, and twelfth months of the taxable year, respectively.

D. 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 and any balance which may be due the City of Tallmadge shall be paid therewith in accordance with the provisions of Article IV.

ARTICLE VII

POWERS AND DUTIES OF THE TAX ADMINISTRATOR

A. Collection of Tax and Retention of Records:

1. It shall be the duty of the Tax Administrator to receive the tax imposed by Chapter 181 in the manner prescribed therein from the taxpayers; to keep an accurate record thereof and to report all monies so received.

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

B. Enforcement Provisions:

1. The Tax Administrator is hereby charged with the enforcement of the provisions of this ordinance, and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce Rules and Regulations relating to any matter or thing pertaining to the collection of taxes and the administration and enforcement of the provisions of this ordinance, including provisions for the re-examination and corrections of returns. Taxpayers must comply with these Rules and Regulations as required by Chapter 181.08(b).

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

3. Failure to make any installment payment when due shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Sections 181.11 and 181.12 of Chapter 181 shall apply.

Article VII - Powers and Duties of the Tax Administrator (cont.)

4. Payments received shall first be applied to tax, and then to delinquent penalties and interest. Each delinquent tax year shall be paid in full, beginning with the oldest year, before delinquent payments are applied to the next subsequent year.

5. Payment plans shall not exceed twelve (12) months in length unless approved by the Tax Administrator or the Tax Administrator's designee.

C. Assessment by the Tax Administrator:

In any case where a taxpayer or employer has failed to file a return or has filed a return without paying the proper amount of tax due, the Tax Administrator may assess the amount of tax appearing to be due, together with interest and penalties thereon, if any, in the following manner:

1. If the Tax Administrator determines that any taxpayer subject to the provisions of Chapter 181 has a tax liability for which he has filed no return or has filed a return without paying the proper amount of tax due, the Tax Administrator may issue a proposed assessment showing the amount of tax due, together with any penalty and interest that may have accrued thereon.

a. Such a proposed assessment shall be served upon the taxpayer in person or by mail to his last known address. Proof of mailing furnished by the U. S. Post Office shall be presumptive proof of receipt thereof by the addressee.

b. A taxpayer may, within thirty (30) days after the date the proposed assessment was served or mailed, file a written protest with the Tax Administrator. Within thirty (30) days after receipt of the protest the Tax Administrator shall give the protestant an opportunity to be heard; provided further that the Tax Administrator may extend the date of hearing for good cause shown. After the hearing the Tax Administrator shall withdraw the assessment or shall adjust or reaffirm the assessment and it shall then become final. If no protest is filed as herein provided, such proposed assessment shall become final thirty (30) days after being served. Any taxpayer or employer who does not file a notice of appeal to the Board of Review from a final assessment issued against him shall pay the amount thereof within thirty (30) days after service of such final assessment.

c. After a proposed assessment becomes final, notice of such final assessment shall be issued and shall be served in the same manner as a proposed assessment. The taxpayer may then appeal to the Board of Review as provided for in Section 181.13 of Chapter 181.

2. The Tax Administrator may execute supplemental tax returns and may issue supplemental assessments whenever the Tax Administrator has knowledge derived from any source including the taxpayer's financial data that any executed tax return or assessment is imperfect or incomplete in any material respect.

Article VII - Powers and Duties of the Tax Administrator (cont.)

3. Neither the Tax Administrator's execution of a return nor the Tax Administrator's assessment of a taxpayer shall start the running of the period of limitations on prosecutions set forth elsewhere in the Chapter.

4. When any taxpayer subject to the provisions of Chapter 181 has filed a return indicating the amount of tax due and has failed to pay said tax to the City of Tallmadge as required by Chapter 181, the Tax Administrator need not issue an assessment but may proceed under the provisions of Section 181.11 of Chapter 181.

5. Subject to the consent of the Board of Review or pursuant to regulations approved by the Board, the Tax Administrator shall have the power to compromise any interest or penalty, or both, imposed by Chapter 181.

D. Collection of Delinquencies.

The Tax Administrator shall have the authority to outsource or contract for the collection of delinquencies, provided this is done in accordance with other City of Tallmadge rules and procedures regarding outsourcing and contracting for services.

ARTICLE VIII

INVESTIGATIVE POWERS OF THE TAX ADMINISTRATOR; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION

A. Investigations by the Tax Administrator:

1. The Tax Administrator or his duly authorized agent or employee, is hereby authorized to examine the books, papers, records and copies of Federal and State income tax returns of any employer, taxpayer or person subject to Chapter 181, for the purpose of verifying the accuracy of any return made to the City of Tallmadge; or if no return was made, to ascertain the tax due under Chapter 181. Every such employer, supposed employer, taxpayer or supposed taxpayer, is hereby directed and required to furnish upon written request by the Tax Administrator, or his duly authorized agent or employee, the means, facilities and opportunity to make such examination and investigations as are hereby authorized.

2. An employer or taxpayer shall furnish within ten (10) days following a written request by the Tax Administrator, or his duly authorized agent, the means, facilities and opportunity for making examinations and investigations authorized by Chapter 181.

B. Subpoena of Records and Persons:

1. The Tax Administrator, or any person acting in his capacity, is authorized to examine any person, under oath, concerning any income which was, or should have been, returned for taxation, or any transaction tending to affect such income. The Tax **Article VIII - Investigative Powers of the Tax Administrator; Penalty for Divulging Confidential Information (cont.)**

Administrator may compel the production of books, papers, records and copies of Federal and State income tax returns and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of the facts concerning any supposed income or supposed transactions of the taxpayer pertinent to such inquiry.

2. The Tax 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 Tax Administrator is specifically authorized to order the appearance of the local manager or representative of any taxpayer.

C. Penalty for Non-Compliance.

The refusal, by any employer or person subject or presumed to be subject to the tax or by any officer or agent or employee of a person subject to the tax or required to withhold tax, to produce books, papers, records and copies of Federal and State income tax returns, and/or to submit to examination by the Tax Administrator or his duly authorized agent, shall be deemed a violation of the Chapter, punishable as provided in Section 181.12. Further, the failure of any person to comply with the provisions of the section or with an order or subpoena of the Tax Administrator authorized hereby shall be deemed a violation of the Chapter, punishable as provided in Section 181.12.

D. Confidential Nature of Examinations.

1. Any information gained as a result of any returns, investigations, audits, verifications or hearings before the Tax Administrator required by Chapter 181 or authorized by these Rules and Regulations shall be confidential and shall be carefully preserved so that they shall not be available for inspection by anyone other than the proper agents of the City of Tallmadge for official tax purposes.

2. No disclosure of the confidential information shall be made except for official tax purposes, or as ordered by a court of competent jurisdiction, or upon receipt of a waiver signed by the individual who has submitted the return or other documents. Any person divulging such information shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine or penalty of not more than one thousand dollars (\$1,000.00) or imprisoned for not more than six (6) months, or both. Each disclosure shall constitute a separate offense. In addition to the above penalties, any employee or appointed official of the City of Tallmadge who violates the provisions of this Section relative to disclosures of confidential information shall be immediately dismissed from the service of the City.

E. Retention of Records. Every taxpayer is required to retain all records necessary to compute his tax liability for a period of six (6) years from the date his return is filed, or the withholding taxes are paid.

ARTICLE IX

INTEREST AND PENALTIES

A. All taxes imposed and moneys withheld or required to be withheld by employers under the provisions of this Ordinance and remaining unpaid after they become due shall bear interest at the rate of one percent (1%) per month or fraction of a month thereof and, effective for tax year 2007 and subsequent years one and one-half percent (1 1/2%) per month or fraction of a month thereof, compounded monthly.

B. In addition to interest as provided in division (A) hereof, penalties based on the unpaid tax are imposed as follows:

1. Failure to pay taxes due (other than taxes withheld): One and one half percent (1.5%) per month or fraction of a month thereof, compounded monthly.

2. Any person required to withhold the tax who fails to withhold such tax, or pay such tax or attempts in any manner to evade such tax or the payment thereof, shall be liable for the amount of tax withheld plus a penalty equal to one hundred percent (100%) of the amount due if the tax is not paid within thirty days from the date due. No other penalty under this section shall be applied to any offense to which this penalty is applied.

3. Failure to remit taxes withheld from employees: Five percent (5%) per month or fraction of a month thereof, compounded monthly.

4. Any person who fails, neglects, or refuses to make any return or declaration required by this ordinance shall be subject to the levy and imposition of a twenty-five dollar (\$25.00) late fee.

C. A penalty shall not be assessed on an additional tax assessment made by the Tax Administrator or his duly authorized agent or employee when a return has been filed in good faith, and the tax paid thereof within the time prescribed by the Tax Administrator or his duly authorized agent or employee. In the absence of fraud, neither penalty or interest shall be assessed on any additional tax assessment resulting from a Federal audit, providing an amended return is filed and the additional taxes paid within the three (3) months after final determination of the Federal tax liability.

D. Either the Tax Administrator hereunder or the Board of Review may abate penalty or interest, or other fees, for good cause shown.

ARTICLE X

COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS

A. Unpaid Taxes, Penalties, and Interest:

1. All taxes imposed by Chapter 181 and not paid when due become, together with interest and penalties thereon, are a debt due the City of Tallmadge from the taxpayer and are recoverable as are other debts by suit. Employers who are required under Section 181.06 of Chapter 181 to withhold and remit the taxes, and who fail to withhold and/or remit such taxes, become liable to the City of Tallmadge in a suit to enforce the payment of the debt created by such failure.

2. No additional assessment shall be made by the Tax Administrator after three (3) years from the time the return was due or filed, whichever is later. Provided, however, there shall be a six (6) year period of limitation on such additional assessments in the case of a return that omits 25% or more of income, or filing a false or fraudulent return to evade payment of the tax, or failure to file a return.

3. In those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the Federal statute of limitations, the period within which an assessment may be made by the Tax Administrator is extended to one (1) year from the time of final determination of the Federal tax liability.

4. Those officers or employees having control or supervision of, or charged with, the responsibility withholding tax, 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 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:

1. Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date on which such payment was made, or the return was due, or three (3) months after the determination of the Federal income tax liability, whichever is later. Should it appear that any taxpayer has paid more than the amount of the tax to which the City of Tallmadge is entitled under the provisions of this Chapter a refund of the amount so overpaid shall be made, provided a proper claim for refund of such overpayment of tax has been filed by the taxpayer, or same may be applied toward the declaration of tax due for the ensuing year. Claims for refunds shall be made on forms prescribed by and obtainable from the Tax Administrator or his duly authorized agent or employee, or on generic forms deemed acceptable by the Tax Administrator.

2. In the case of refunds due against tax paid on income from non-qualified deferred compensation plans, the following provisions shall apply:

Article X - Collection of Unpaid Taxes and Refunds of Overpayments (cont.)

a. (1) Except as provided in paragraph B2a(2) of this section, "qualifying loss" means the excess, if any, of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan over the total amount of income the taxpayer has recognized for federal income tax purposes for all taxable years on a cumulative basis as compensation with respect to the taxpayer's receipt of money and property attributable to distributions in connection with the nonqualified deferred compensation plan.

(2) If, for one or more taxable years, the taxpayer has not paid to one or more municipal corporations income tax imposed on the entire amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan, then the "qualifying loss" is the product of the amount resulting from the calculation described in division B2a(1) of this section computed without regard to division B2a(2) of this section and a fraction the numerator of which is the portion of such compensation on which the taxpayer has paid income tax to one or more municipal corporations and the denominator of which is the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan.

(3) With respect to a nonqualified deferred compensation plan, the taxpayer sustains a qualifying loss only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to that nonqualified deferred compensation plan.

b. "Qualifying tax rate" means the applicable tax rate for the taxable year for the which the taxpayer paid income tax to a municipal corporation with respect to any portion of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan. If different tax rates applied for different taxable years, then the "qualifying tax rate" is a weighted average of those different tax rates. The weighted average shall be based upon the tax paid to the municipal corporation each year with respect to the nonqualified deferred compensation plan.

c. (1) Except as provided in division B2d of this section, a refundable credit shall be allowed against the income tax imposed by a municipal corporation for each qualifying loss sustained by a taxpayer during the taxable year. The amount of the credit shall be equal to the product of the qualifying loss and the qualifying tax rate.

(2) A taxpayer shall claim the credit allowed under this section from each municipal corporation to which the taxpayer paid municipal income tax with respect to the nonqualified deferred compensation plan in one or more taxable years.

(3) If a taxpayer has paid tax to more than one municipal corporation with respect to the nonqualified deferred compensation plan, the amount of the credit that a taxpayer may claim from each municipal corporation shall be calculated on the basis of each municipal corporation's proportionate share of the total municipal corporation income tax paid by the taxpayer to all municipal corporations with respect to the nonqualified deferred compensation plan.

Article X - Collection of Unpaid Taxes and Refunds of Overpayments (cont.)

(4) In no case shall the amount of the credit allowed under this section exceed the cumulative income tax that a taxpayer has paid to a municipal corporation for all taxable years with respect to the nonqualified deferred compensation plan.

c. (1) For purposes of this section, municipal corporation income tax that has been withheld with respect to a nonqualified deferred compensation plan shall be considered to have been paid by the taxpayer with respect to the nonqualified deferred compensation plan.

(2) Any municipal income tax that has been refunded or otherwise credited for the benefit of the taxpayer with respect to a nonqualified deferred compensation plan shall not be considered to have been paid to the municipal corporation by the taxpayer.

d. The credit allowed under this section is allowed only to the extent the taxpayer's qualifying loss is attributable to:

(1) The insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan; or

(2) The employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation.

3. No refund shall be made to any taxpayer until he has complied with all provisions of Chapter 181 and these Rules and Regulations, and has furnished all information required by the Tax Administrator.

4. Items included on Federal Form 2106 are eligible as deductions, subject to review and approval by the Tax Administrator, and subject to limitations imposed by the Federal government.

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

a. To the taxes owed for any previous year in the order in which such taxes became due.

b. To unpaid penalty and interest assessments in the order in which they were assessed.

c. To his current estimated tax liability.

6. Refunds for days worked out of the City of Tallmadge are available only to non-residents whose primary work situs is deemed to be the City of Tallmadge. Refunds shall be computed by dividing wages by total days worked in order to determine an average daily wage. The work year shall be considered two hundred sixty (260) days.

Article X - Collection of Unpaid Taxes and Refunds of Overpayments (cont.)

Saturdays and Sundays shall not normally be considered work days. Wage continuation plans of any type (including, but not limited to, vacation days, holidays, personal days, and sick days) are deemed to be days spent in the City of Tallmadge for purposes of the refund calculation. Refunds shall be approved only after receipt, by the Tax Administrator, of all documents necessary to verify the accuracy of the refund request. The tax on stock options is considered fully taxable to the City of Tallmadge, and is not subject to reduction for days worked out of the City of Tallmadge. Additions, deletions, or other changes to the method for calculating refunds shall be at the discretion of the Tax Administrator.

7. Income tax that has been deposited with the City of Tallmadge, but should have been deposited with another municipality, is allowable by the City of Tallmadge as a refund but is subject to the three-year limitation on refunds. Income tax that should have been deposited with the City of Tallmadge, but was deposited with another municipality, shall be subject to recovery by the City of Tallmadge. The City of Tallmadge will allow a non-refundable credit for any amount owed the City of Tallmadge that is in excess of the amount to be refunded by the other municipality, as long as the tax rate of the other municipality is the same or higher than the City of Tallmadge's tax rate. If the City of Tallmadge's tax rate is higher, the tax representing the net difference of the rates is also subject to collection by the City of Tallmadge.

8. Tax amounts of less than five dollars (\$5.00) shall not be refunded or assessed.

ARTICLE XI

VIOLATIONS - PENALTIES

A. It shall be a violation of Chapter 181 for any person to:

1. Fail, neglect or refuse to make any return or declaration required by the Chapter; or
2. Make any incomplete, false or fraudulent return; or
3. Fail, neglect or refuse to pay the tax, penalties or interest imposed by the Chapter; or
4. Fail, neglect or refuse to withhold the tax from such persons' employees or remit such withholdings to the Tax Administrator; or
5. Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine the books, records, papers and federal and State income tax returns relating to the income or net profits of a taxpayer; or

Article XI - Violations - Penalties (cont.)

6. Fail to appear before the Tax Administrator and to produce the books, records, papers or federal and State income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator; or
7. Refuse to disclose to the Tax Administrator any information with respect to the income or net profit of a taxpayer; or
8. Fail to comply with the provisions of the Chapter or any order or subpoena of the Tax Administrator authorized hereby; or
9. Give to an employer false information as to his true name, correct social security number, and residence address, or fail to promptly notify an employer of any change in residence address and date thereof; or
10. Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid, and City of Tallmadge tax withheld, or to knowingly give the Tax Administrator false information; or
11. Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by the Chapter.

B. Any person who violates any of the provisions of Section 181.13 of Chapter 181 above shall be guilty of a first degree misdemeanor and shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned not more than six (6) months, or both, for each offense.

C. Prosecution for an offense made punishable under this section or any other provision of this ordinance shall be commenced within three (3) years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five percent (25%) or more of taxable income, prosecution may be commenced within six (6) years after the commission of the offense.

D. Failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him or her from filing any information return, tax return or declaration of estimated tax, or from paying any tax due.

ARTICLE XII

BOARD OF REVIEW

A. The Board of Review consists of three individuals each to be appointed by the Mayor. The members of such Board shall serve for a three (3) year term such that one member's term shall expire each year. Any member is eligible for reappointment to the Board of Review. No compensation shall be paid to the members unless otherwise provided by Council. All members of the Board of Review shall be resident citizens of

Article XII - Board of Review (cont.)

Tallmadge. Any Board member may be removed from office due to misfeasance, nonfeasance, malfeasance, or nonattendance to duty, and removal shall be made by the Mayor. Removal shall become effective upon receipt of notice either personally or by certified mail.

B. A majority of the members of the Board shall constitute a quorum. The Board shall elect a Chair, Vice-Chair, and Secretary from its membership. The Board shall adopt its own procedural rules and shall keep a record of its transactions. The Board shall follow Robert's Rules of Order, except as its own adopted procedures differ.

C. All Rules and Regulations and amendments or changes thereto, which are adopted by the Tax Administrator under the authority conferred by this Ordinance, must be approved by the Board of Review before the same become effective. After approval, such rules, regulations, amendments, and changes shall be filed with the Clerk of Council and shall be open to public inspection.

D. The Board of Review shall have the authority to absolve, upon recommendation of the Tax Administrator, delinquent income tax revenues deemed to be uncollectable.

E. Appeals by Taxpayers.

1. Any person dissatisfied with any ruling or decision of the Tax Administrator, which is made under the authority conferred by the Chapter, may appeal therefrom to the Board within thirty (30) days from the announcement of such ruling or decision by the Tax Administrator, provided the taxpayer making the appeal has filed with the City of Tallmadge 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. The Board shall, on hearing, have jurisdiction to affirm, reverse, or modify any ruling or decision or any part thereof. Such hearing shall be scheduled within forty-five (45) days from the date of appeal, unless the taxpayer waives a hearing. The Board's ruling must be made within thirty (30) days from the date of the closing of the record, shall be in writing and filed with the Tax Administrator, and within fifteen (15) days of its decision shall send notice of its decision by ordinary mail to the taxpayer making the appeal.

2. Any person dissatisfied with any ruling or decision of the Board of Review may appeal therefrom to a court of competent jurisdiction within thirty (30) days from the announcement of such ruling or decision. For matters relating to tax years beginning on or after January 1, 2004, any ruling or decision of the Board of Appeal may be appealed to a court of competent jurisdiction or to the State Board of Tax Appeals.

F. Organizational Procedures.

1. A majority of members present at any hearing or meeting shall constitute a quorum.

2. The Board of Review shall adopt its own procedural rules and keep records of all proceedings accordingly.

Article XII - Board of Review (cont.)

3. All hearings upon appeal by the Board shall be conducted privately, unless a public hearing is requested by the taxpayer, and the provisions of Section 181.09 of Chapter 181 with reference to the confidential character of information required to be disclosed by Chapter 181 shall apply to such matters as may be heard before the Board of Review.

4. The Board, as created, shall serve during the life of the Chapter.

ARTICLE XIII

ALLOCATION OF FUNDS

The funds collected under the provisions of this ordinance shall be paid into the General Fund of this City and applied for the following purposes:

A. At least ten percent (10%) of the gross funds collected each year shall be appropriated to Capital Improvements, including storm sewers, street paving, including curbs and gutters, sidewalks, street and road surfacing and resurfacing, development of public water supply and location of source thereof, and for the acquisition of lands and buildings, including the construction thereof, park and recreation program for the acquisition, maintenance, development and improvement of the Parks and Recreation facilities and programs of the City for the use of the residents of the City of Tallmadge, including equipment, furniture and fixtures having an estimated life or usefulness of five years or more as defined by Ohio Uniform Bond Law. Expenditures for such capital improvements may include the necessary costs of engineering and other costs of the City, including the payment of principal and interest on debt issued on capital projects.

B. Any remaining money shall be used for the General Operation of the City.

ARTICLE XIV

CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES

A. When a resident of this City is subject to a municipal income tax in another municipality or in a Joint Economic Development District, he shall not pay a total municipal income tax on the same taxable income greater than the tax imposed at the higher rate. Credit shall be given for municipal taxes withheld or paid to another municipality or Joint Economic Development District. Such credit shall be limited to the amount of taxes, which would have been paid at the Tallmadge tax rate and applies to each Federal Form W-2 or taxpayer's taxable income separately. Credit for taxes shall not be granted against tax liability on income not actually taxed.

B. Every individual taxpayer who resides in this City and who receives net profits, salaries, wages, commissions, or other forms of income received from sources outside
Article XII - Credit for Tax Paid to Other Municipalities (cont.)

of this City, if it be made to appear that he has paid a municipal income tax on the same income taxable under this ordinance to another municipality or Joint Economic Development District, shall be allowed a credit against the tax imposed by this ordinance in the amount so paid by him or on his behalf to such other municipality or Joint Economic Development District. The credit shall not exceed the tax assessed by this ordinance on such taxable income earned in such other municipality or municipalities or Joint Economic Development Districts where such tax is paid.

C. A claim for refund or credit under this section shall be made in such manner as the Tax Administrator may by regulation provide.

D. No credit will be given to taxpayers for school district taxes.

ARTICLE XV

APPLICABILITY AND SAVINGS CLAUSE

A. Chapter 181 and these Rules and Regulations shall not apply to any person, firm, corporation or income as to whom, or as to which it is beyond the power of Council to impose the tax herein provided for.

B. If any sentence, clause, section or part of Chapter 181 and these Rules and Regulations, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of Chapter 181 and these Rules and Regulations and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of the Chapter. It is hereby declared to be the intention of Council that Chapter 181 would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

ARTICLE XV

EFFECTIVE PERIOD; COLLECTION OF TAX AFTER TERMINATION OF CHAPTER

A. This ordinance shall continue in effect insofar as the levy of taxes is concerned until the same has been repealed. Insofar as the collection of taxes levied or enforcing any provision of this ordinance are concerned, it shall continue in effect until all of such taxes levied in the aforesaid period are fully paid and all suits and prosecutions for the collection of such taxes, or for the punishment of violations of this ordinance, shall have been fully terminated. The provisions of Section 181.17(a) are subject to the limitations contained in Sections 181.11 and 181.12.

B. Annual returns due for all or any part of the last effective year of this ordinance shall be due on the dates provided in Sections 181.05 through 181.06, as though the same were continuing.

ARTICLE XVI

AMENDMENT BY COUNCIL

Council may determine that the terms and conditions of the income tax law require amendment. Council may amend Chapter 181 as to terms and conditions contained herein, but may not amend the rate of taxation without submitting such question to the electorate for approval.