

CITY OF FREMONT, OHIO INCOME TAX REGULATIONS

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REGULATION I PURPOSE OF REGULATIONS

To explain the application of the various parts of the tax ordinance in order that taxpayers subject to the tax and tax practitioners have a clear understanding of the obligation to file accurate tax returns and to pay the tax, penalties, and interest due thereon. Nothing in the Ordinance or Regulations shall be construed as limiting or removing the ability of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax.

REGULATION II DEFINITIONS

For the purpose of these Regulations the following terms and/or words as found in the Ordinance and Regulations shall have the definitions hereafter given and the said definitions are applicable, except as and if the context clearly indicates or would be required by law.

- A. "Adjusted federal taxable income" means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, 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 section 5745.03 or to the net profit from a sole proprietorship.

1. Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income,
2. Add an amount equal to five percent (5%) of intangible income deducted under division (A)(1)(a) 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;
3. Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;
4. Except as provided in division (A)(1)(d)(ii) 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;
 - a. Division (A)(1)(d)(i) 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.
5. Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;
6. 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;
7. 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;
 - a. 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
 - b. 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.

Nothing in division (A)(1) of this section shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.

- B. "Association" means a partnership, general partnership, limited partnership, limited liability company (recognized or taxed as a partnership by the Internal Revenue Service), limited liability partnership, or cooperative; or a form of unincorporated entity owned by two or more persons. Association also means a limited liability company owned by only one entity that is not an individual. A limited liability company owned by one individual is not an association.
- C. "Board of Review" (Board of Appeals, Board of Adjudication, etc.) means the Board created by and constituted as provided for in section 171.17 of the Ordinance.
- D. "Business" means an enterprise, cooperative activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity, including but not limited to the renting or leasing of property, real, personal or mixed. The ordinary administration of a decedent's estate by the executor or administrator, and the mere custody, supervision and management of trust property under passive trust, whether intervivos or testamentary, unaccompanied by the actual operation of a business or unaccompanied by the management or control of lottery winnings as herein defined shall not be construed as the operation of a business.

If, in the case of an audit, the Internal Revenue Service determines or accepts that the taxpayer's activity or undertaking is a business, the activity or undertaking shall be considered a business by the City of Fremont subject to the provisions of these Regulations.

- E. "Corporation" means an Internal Revenue Code Subchapter C corporation, an Internal Revenue Code Subchapter S corporation, a limited liability company (recognized or taxed as a corporation by the Internal Revenue Service), or a 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. A limited liability company owned by one individual is not a corporation.
- F. "Domicile" means a principal residence that the taxpayer intends to use for an indefinite time and to which whenever he is absent he intends to return. A taxpayer has only one domicile even though he may have more than one residence.
- G. "Employee" means one who works for wages, salary, commission or other types of compensation in the services of an employer. Any person upon whom an employer is required to withhold for either federal income or Social Security or on whose account payments are made under the Ohio Workers' Compensation law shall prima facie be an employee.
- H. "Employer" means an individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profits, who or that employs one or more persons on a salary, wage, commission or other compensation basis. It does not include a person who employs only domestic help for such person's private residence.
- I. "Fiscal year" means an accounting period of twelve (12) months or less ending on any day other than December 31. Only fiscal years accepted by the Internal Revenue Service for federal income tax purposes may be used for City of Fremont income tax purposes.

- J. Form 2106" means Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
- K. "Generic form" means an electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability or for filing a refund claim that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation's tax on income.
- L. "Gross receipts" means total income of taxpayers from whatever source derived. In the case of S corporations, general partnerships, limited partnerships, limited liability companies, limited liability partnerships, and other associations, gross receipts shall include income from rentals and leases of real and tangible personal property.
- M. "Income from a pass-through entity" means partnership income of partners, membership interests of members of a limited liability company, distributive shares of shareholders of an S corporation, or other distributive or proportionate ownership shares of income from other pass-through entities.
- N. "Intangible income" means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701. of the Ohio Revised Code, and patents, copyrights, trademarks, tradenames, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings or other similar games of chance.
- O. "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.
- P. "Internet" means the international computer network of both Federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork known as the world wide web.
- Q. "Joint Economic Development District" means districts created under the Ohio Revised Code sections 715.70 through 715.83, as amended from time to time.
- R. "Limited liability company" means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.
- S. "Municipality" means the City of Fremont.
- T. "Net profit" for a taxpayer other than an individual means adjusted federal taxable income as defined in item (A) of Regulation II and "net profit" for a taxpayer who is an individual means the individual's profit, other than amounts described in item (H) of section 171.03 of the Ordinance, without deduction of taxes imposed by this Ordinance, federal, state, and other taxes based on income exclusive of the amount of Ohio franchise taxes computed on the net worth basis; and in the case of an association, without deduction of salaries paid and guaranteed payments issued to partners, members, and other owners; including amounts required to be reported on schedule C, schedule E, and schedule F; and otherwise adjusted to the requirements of the Ordinance.

- U. "Nonqualified deferred compensation plan" means a compensation plan described in section 3121(v)(2)(C) of the Internal Revenue Code.
- V. "Nonresident" means an individual domiciled outside the Municipality and who does not meet the definition of "resident" under Regulation II.
- W. "Nonresident incorporated business entity" means an incorporated business entity not having an office or place of business within the Municipality.
- X. "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Municipality.
- Y. "Other payer" means any person, other than an individual's employer or the employer's agent that pays an individual any amount included in the federal gross income of the individual.
- Z. "Owner" means a partner of a partnership, a member of a limited liability company, a shareholder of an S corporation, or other person with an ownership interest in a pass-through entity.
- AA. "Owner's proportionate share", with respect to each owner of a pass-through entity, means the ratio of (a) the owner's income from the pass-through entity that is subject to taxation by the municipal corporation, to (b) the total income from that entity of all owners whose income from the entity is subject to taxation by that municipal corporation.
- BB. "Pass-through entity" means a partnership, limited liability company, S corporation, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code.
- CC. "Person" includes every natural person, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities, and any other entity. Whenever used in a clause prescribing or imposing a penalty, the term "Person" as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to a corporation not having any partner, member or officer within this municipality, or any employee or agent of such unincorporated entity or within this municipality, and employee or agent of such unincorporated entity or corporation who can be found within the Municipality. A monetary penalty can be imposed on an entity that is not an individual.
- DD. "Place of business" means any bona fide office, other than a mere statutory office, factory, warehouse, or other space which is occupied and used by the taxpayer in carrying on any business activity, individually or through one or more of his regular employees regularly in attendance.
- EE. "Principal place of business" means in the case of an employer having headquarters' activities at a place of business within a taxing municipality, the place of business at which the headquarters is situated. In the case of any employer not having its headquarters' activities at a place of business within a taxing municipality, the term means the largest place of business located in a taxing municipality.
- FF. "Qualified plan" means a retirement plan satisfying the requirements under section 401 of the Internal Revenue Code as amended.

- GG. "Qualifying wages" means wages, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted in accordance with section 718.03(A) of the Ohio Revised Code.
- HH. "Resident" means an individual domiciled in the Municipality. The following criteria shall be used in determining residence or domicile: (1) mailing address, (2) voter registration, (3) location of school attended by children, (4) driver's license address, (5) automobile registration, (6) residence specified on Ohio Income Tax Return by school district, (7) county in which personal property tax return is filed, if any, and (8) other evidence which is related to residency/domicile.
- II. "Resident incorporated business entity" means an incorporated business entity whose office, place of operations or business situs is within the Municipality.
- JJ. "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the Municipality.
- KK. "Return preparer" means any person other than a taxpayer that is authorized by a taxpayer to complete or file an income tax return, report, or other document for or on behalf of the taxpayer.
- LL. "Schedule C" means Internal Revenue Service schedule C filed by a taxpayer pursuant to the Internal Revenue Code.
- MM. "Schedule E" means Internal Revenue Service schedule E filed by a taxpayer pursuant to the Internal Revenue Code.
- NN. "Schedule F" means Internal Revenue Service schedule F filed by a taxpayer pursuant to the Internal Revenue Code.
- OO. "S corporation" means a corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.
- PP. "Tax Administrator" means the person appointed to administer the Municipality's Income Tax Ordinance and to direct the operation of the Municipal Income Tax Department or the person executing the duties of the Tax Administrator.
- QQ. "Taxable income" means qualifying wages paid by an employer or employers, compensation for personal services, other income defined by statute as taxable, before deductions of any kind, and/or adjusted federal taxable income from the operation of a business, profession, or other enterprise or activity adjusted in accordance with the provisions of the Ordinance and these Regulations.
- RR. "Taxable year" means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.
- SS. "Taxing municipality" means a municipality levying a tax on income earned by nonresidents working within such municipality or on income earned by its residents.
- TT. "Taxpayer" means a person subject to a tax on income as required by the Ordinance. "Taxpayer" does not include any person that is a disregarded entity or a qualifying subchapter S subsidiary for federal income tax purposes, but "taxpayer" includes any other person who owns the disregarded entity or qualifying subchapter S subsidiary.

In all definitions in these Regulations the singular shall include the plural, and the masculine shall include the feminine and the neuter, and all periods set forth shall be inclusive of the first and last mentioned dates.

REGULATION III IMPOSITION OF TAX

- A. Basis of Imposition. Subject to provisions of Chapter 171 of the Codified Ordinances of the City of Fremont, Ohio, an annual tax shall be, and is hereby, levied on and after April 1, 1988, at the rate of one and one-half percent (1-1/2%) per annum upon the following, except as specifically excluded in Regulation III, item H:
1. On all qualifying wages, commissions, other compensation, and other taxable income earned or received by residents of the Municipality, regardless of the source of the earnings, the place or places in or at which the services were rendered, or the location at which the earnings were paid. All such earnings, whether received or earned directly or through an agent, and whether paid in cash or in property are taxable.
 - a. The following are items which are subject to the tax imposed by the Ordinance: salaries, wages, bonuses, incentive payments, commissions or other compensation paid to an individual in cash or in kind on an hourly, daily, weekly, monthly, annual, or other basis, including, but not limited to, the following: severance or termination pay; wage continuation payments made as a result of early retirement or employment termination; wage continuation payments made as a result of sickness or temporary disability and whether paid by the recipient's employer or by a third party; vacation or holiday pay; tips or gratuities received; group term insurance premiums paid on an employee's behalf; employee contributions to tax sheltered annuities, non-qualified pension plans, or into employer or third party trusts or pension plans as permitted by the Internal Revenue Service or employer contributions to non-qualified pension plans or deferred compensation plans, and which may be excludable from wages for federal tax purposes; ordinary income portion of stock options or employee stock purchase plans' supplemental unemployment benefits (SUB Pay); strike pay; jury pay; working condition fringe benefits subject to tax by the Internal Revenue Service; guardian, executor, conservator, trustee, or administrator fees; bonuses; gifts of any type; compensation paid to domestic servants, casual employees and other types of employees; back pay; retroactive pay increases; ordinary income portion of lump sum distributions which become subject to federal tax because the recipient did not roll over the distribution within the time required by the Internal Revenue Service; any form of income not listed above but included in the definition of "qualifying wages" as defined in section 3121 (a) of the Internal Revenue Code, and adjusted in accordance with section 718.03 (A) of the Ohio Revised Code.
 - b. Residents who are able to itemize deductions on their federal tax return and deduct thereon unreimbursed employee business expenses, may deduct those same expenses from their income subject to Fremont city income tax. In support of said deduction the taxpayer must furnish a copy of their federal Form 2106 and Schedule A as filed with the Internal Revenue Service. The unreimbursed employee business expenses are deductible only on those wages on which Fremont city income tax is paid and are subject to a reduction of 2% of the taxpayer's adjusted gross income.

- c. Where compensation is paid or received in property, its fair market value at the time of payment or receipt, shall be subject to the tax imposed by the Ordinance. Except in the case of a home or parsonage furnished by a church or an integral agency of a church to a duly ordained, commissioned, licensed, or designated minister, board, lodging, utilities, and similar items received by an employee in lieu of additional cash compensation shall be subject to the tax.
 - .1 Board and lodging provided by the employer on the employer's premises shall not be considered wages or compensation if the employee is required to accept the board and lodging as a condition of employment.
 - .2 Meals provided by the employer on the employer's premises for the convenience of the employer shall not be considered wages or compensation to the employee.
- 2. On all qualifying wages, commissions, other compensation, and other taxable income earned or received by nonresidents for work done, or services performed or rendered, in the Municipality, whether such compensation or remuneration is received or earned directly or through an agent and whether paid in cash or in property. The location of the place at which payment is made is immaterial.
 - a. The items which are subject to the tax imposed by the Ordinance are the same as those listed and defined in Regulation III (A)(1)(a).
 - b. Nonresidents who are able to itemize deductions on their federal tax return and deduct thereon unreimbursed employee business expenses, may deduct those same expenses from their income subject to Fremont city income tax. In support of said deduction the taxpayer must furnish a copy of their federal Form 2106 and Schedule A as filed with the Internal Revenue Service. The unreimbursed employee business expenses are deductible only on those wages on which Fremont city income tax is paid and are subject to a reduction of 2% of the taxpayer's adjusted gross income.
 - c. The items subject to tax under Regulation III item (A)(1)(c) are the same for individuals who are not residents of the Municipality, for work done, or services performed or rendered in the Municipality.
- 3. On the portion attributable to the Municipality of the net profits earned by all resident unincorporated businesses, pass-through entities, professions or other activities, derived from work done or services performed or rendered, and business or other activities conducted in the Municipality. On the portion of the distributive share of the net profits earned by a resident owner of a resident unincorporated business entity or pass-through entity not attributable to the Municipality and not levied against such unincorporated business entity or pass-through entity.
- 4. On the portion attributable to the Municipality on the net profits by all nonresident unincorporated businesses, pass-through entities, professions or other activities, derived from work done or services performed or rendered and business or other activities conducted in the Municipality, whether or not such unincorporated business entity has an office or place of business in the Municipality. On the portion of the distributive share of the net profits earned by a resident owner of a nonresident unincorporated business entity or pass-through entity not attributable to the Municipality and not levied against such unincorporated business entity or pass-through entity.

- a. A non-resident entity which has a branch or branches, office or offices and/or store or stores, warehouse, or other place or places in which the entity's business is transacted, located in the Municipality, shall be considered to be conducting, operating, prosecuting or carrying on a trade, business, profession, enterprise, undertaking or other activity to the full extent of the sum total of all transactions originating or consummated in, by or through such Fremont branch, office, store, warehouse or other place of business, including (a) billings made on such transactions, or (b) services rendered, or (c) shipments made, or (d) goods, chattels, merchandise, etc. sold, or (e) commissions, fees or other remuneration or payments earned, regardless of whether paid in cash or in property.
 5. On the portion attributable to the Municipality of the net profits earned by all corporations that are not pass-through entities from work done or services performed or rendered and business or other activities conducted in the Municipality, whether or not such corporations have an office or place of business in the Municipality.
 - a. A non-resident corporation which has a branch or branches, office or offices and/or store or stores, warehouse, or other place or places in which the corporation's business is transacted, located in the Municipality, shall be considered to be conducting, operating, prosecuting or carrying on a trade, business, profession, enterprise, undertaking or other activity to the full extent of the sum total of all transactions originating or consummated in, by or through such Fremont branch, office, store, warehouse or other place of business, including (a) billings made on such transactions, or (b) services rendered, or (c) shipments made, or (d) goods, chattels, merchandise, etc. sold, or (e) commissions, fees or other remuneration or payments earned, regardless of whether paid in cash or in property.
 6. On all income received from gaming, wagering, lotteries or schemes of chance by residents, and all income received from gaming, wagering, lotteries or schemes of chance by nonresidents as a result of activities located in the Municipality, including the purchase in the Municipality of lottery tickets, as reported on IRS Form W-2G, Form 5754 and or any other Form required by the Internal Revenue Service that reports winnings from gambling, prizes and lottery winnings.
- B. Businesses Both In and Outside the Municipal Boundaries. This section does not apply to taxpayers that are subject to and required to file reports under Chapter 5745, of the Ohio Revised Code. Except as otherwise provided in division (D) of this section, net profit from a business or profession conducted both within and without the boundaries of a municipal corporation shall be considered as having a taxable situs in such municipal corporation for purposes of municipal income taxation in the same proportion as the average ratio of the following:
1. Multiply the entire net profits of the business by a business apportionment percentage to be determined by:
 - a. The average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in such municipal corporation during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

As used in the preceding paragraph, real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;

- b. Wages, salaries, and other compensation paid during the taxable period to persons employed in the business or profession for services performed in such municipal corporation to wages, salaries, and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed, excluding compensation that is not taxable by the municipal corporation under section 718.011 of the Ohio Revised Code;
 - c. Gross receipts of the business or profession from sales made and services performed during the taxable period in such municipal corporation to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.
 - d. Adding together the percentages determined in accordance with subsections B. 1. a. b. and c. hereof, or such of the aforesaid percentages as are applicable to the particular taxpayer and dividing the total so obtained by the number of percentages used in deriving such total.
 - .1 A factor is applicable even though it may be apportioned entirely in or outside the Municipality.
 - .2 Provided however, that in the event a just and equitable result cannot be obtained under the formula provided for herein, the Tax Administrator, upon application of the taxpayer, shall have the authority to substitute other factors or methods calculated to effect a fair and proper apportionment.
2. Net profits as disclosed on any return filed pursuant to the provisions of the Ordinance shall be computed by the same accounting method used in reporting net income to the Internal Revenue Service (providing such method does not conflict with any provisions of the Ordinance). Net profits, shown on returns filed pursuant to the Ordinance must be reconciled with the net income reported to the Internal Revenue Service.
- C. As used in item (B) of this Regulation, "sales made in a municipal corporation" mean:
- 1. All sales of tangible personal property delivered within such municipal corporation regardless of where title passes if shipped or delivered from a stock of goods within such municipal corporation;
 - 2. All sales of tangible personal property delivered within such municipal corporation regardless of where title passes even though transported from a point outside such municipal corporation if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such municipal corporation and the sales result from such solicitation or promotion;
 - 3. All sales of tangible personal property shipped from a place within such municipal corporation to purchasers outside such municipal corporation regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

- A. Rents received by the taxpayer are to be included only if and to the extent that the rental, ownership, management or operation of the real estate from which such rents are derived (whether so rented, managed or operated by the taxpayer individually or through agents or other representatives) constitutes a business activity of the taxpayer in whole or in part.
- a. Where the gross monthly rental of any real properties, regardless of number and value, aggregate in excess of \$100 per month, it shall be prima facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental properties shall be subject to tax; provided that in the case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds \$100 per month; 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 the gross income exceeds \$1200 per year; and provided further that the person who operates a rooming house of five or more rooms rented shall be considered in the business whether or not the gross income exceeds \$300 per month.
 - b. In determining the amount of gross monthly rental of any real property, periods during which (by reason of vacancy or any other cause) rents are not received shall not be taken into consideration by the taxpayer.
 - c. Rents 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 Regulation, 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 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 this Municipality are subject to such taxation on the net income from rentals (to the extent above specified), regardless of the location of the real property owned.
 - g. Non-residents of the Municipality are subject to such taxation only if the real property is situated within this Municipality. Non-residents, in determining whether gross monthly rentals exceed \$100 shall take into consideration only real estate situated within this Municipality.
 - h. S corporations, general partnerships, limited partnerships, limited liability companies, limited liability partnerships, and other associations, subject to the provisions of Regulation III items A and B, must include in gross receipts income from rentals and leases of real and tangible personal property.
- F. Net Operating Loss (NOL).
1. The Municipality does not allow a net operating loss carryback or carryforward.
 2. Nothing in Chapter 718.01 of the Ohio Revised Code requires a municipal corporation to allow a net operating loss carryforward.

G. Consolidated Returns.

1. A consolidated return may be filed by a group of corporations who are affiliated through stock ownership if that affiliated group filed for the same tax period a consolidated return for Federal income tax purposes pursuant to section 1501 of the Internal Revenue Code. A consolidated return must include all companies that are so affiliated.
2. Once a consolidated return has been filed for any taxable year, consolidated returns shall continue to be filed in subsequent years unless:
 - a. Permission is writing is granted by the Tax Administrator to file separate returns.
 - b. 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. If a corporation becomes a member of the group during the taxable year the consolidated return must include the income for the entire taxable year of the common parent corporation and any subsidiaries which were members of the group for the entire year, plus the income of each subsidiary which becomes a member of the group during the year for the period beginning with the date it became a member of the group. When a subsidiary ceases to be a member of the affiliated group, the consolidated return must include the income of such subsidiary for the period during which it was a member of the group, but for the period after it ceases to be a member of the group, separate returns must be filed. If a corporation has been a member of the affiliated group for less than one month of the taxable year, it may be considered as not being part of the group. Similarly, a subsidiary may be considered as being a member of the group during the entire taxable year of the group if the period during which it was not a member of the group does not exceed one month.

If a subsidiary is a member of the consolidated group for only part of a taxable year, the income considered to be earned in such fractional part of the year shall be that portion of the net income for the entire year which the number of days it was a member of the group bears to the total number of days in the taxable year.

4. In consolidating the net income, the taxable income of each corporation shall be computed in accordance with provisions governing the taxable income of separate corporations except that there shall be eliminated unrealized profits and losses in transaction between members of the affiliated group.
5. In determining expenses that are not allowable because they are allocable to non-taxable income, such calculations shall be based on the consolidate income. As an example, inter-company dividends which are eliminated in the consolidation will not be taken into consideration in determining non-taxable income.

H. Exclusions

The provisions of this Chapter shall not be construed as levying a tax upon the following:

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

2. Proceeds of insurance, annuities, workers' compensation insurance, permanent disability benefits, compensation for damages for personal injury and like reimbursements, not including damages for loss of profits and wages.
3. Dues, contributions and similar payments received by charitable, religious, educational organizations, or labor unions, trade or professional associations, lodges and similar organizations.
4. Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations and income of a decedent's estate during the period of administration (except such income from the operation of a business).
5. Alimony.
6. Compensation for damage to property by way of insurance or otherwise.
7. Interest, dividends, and other income from intangible property.
 - a. Income from intangible property is not to be included in net profits subject to the tax if the income from such intangible property is subject to the State intangible tax. Conversely, such a state intangible tax is not deductible in determining City tax. Such items shall be clearly disclosed on the attachment to be filed with the city tax return.
8. Military pay or allowances of members of the Armed Forces of the United States and of members of their reserve components, including the Ohio National Guard (ORC 718.01).
9. Income of any charitable, educational, fraternal or other type of nonprofit association or organization enumerated in Ohio Revised Code 718.01 to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.
10. Any association or organization falling in the category listed in the preceding paragraph receiving income from non-exempt real estate, tangible or intangible personal property, or business activities of a type ordinarily conducted for profit by taxpayers operating for profit shall not be excluded hereunder.
11. In the event any association or organization receives taxable income as provided in the preceding paragraph from real or personal property ownership or income producing business located both within and without the corporate limits of the Municipality, it shall calculate its income apportioned to the Municipality under the method or methods provided above.
12. If exempt for federal income tax purposes, fellowship and scholarship grants are excluded from Municipal income tax.
13. The rental value of a home furnished to a minister of the gospel as part of his compensation, or the rental allowance paid to a minister of the gospel as part of his compensation, to the extent used by him to rent or provide a home pursuant to section 107 of the Internal Revenue Code ("parsonage allowance").

14. Compensation paid under section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct official, to the extent that such compensation does not exceed one thousand dollars (\$1,000) annually. Such compensation in excess of one thousand dollars may be subjected to taxation. The payer of such compensation is not required to withhold Municipal tax from that compensation.
15. Compensation paid to an employee of a transit authority, regional transit authority, or a regional transit commission created under Chapter 306 of the Ohio Revised Code for operating a transit bus or other motor vehicle for the authority or commission in or through the Municipality, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such tax by reason of residence or domicile in the Municipality, or the headquarters of the authority or commission is located within the Municipality.
16. The Municipality shall not tax the compensation paid to a nonresident individual for personal services performed by the individual in the Municipality on twelve (12) or fewer days in a calendar year unless one of the following applies (“12-day rule”):
 - a. The individual is an employee of another person, the principal place of business of the individual’s employer is located in another municipality in Ohio that imposes a tax applying to compensation paid to the individual for services paid on those days; and the individual is not liable to that other municipality for tax on the compensation paid for such services.
 - b. The individual is a professional entertainer or 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 Municipality.
17. The income of a public utility, when that public utility is subject to the tax levied under section 5727.24 or 5727.30 of the Ohio Revised Code, except a municipal corporation may tax the following, subject to Chapter 5745. of the Ohio Revised Code:
 - a. The income of an electric company or combined company;
 - b. The income of a telephone company.

As used in division (F)(17) of this section, “combined company”, “electric company”, and “telephone company” have the same meanings as in section 5727.01 of the Ohio Revised Code.
18. A resident shareholder’s distributive share of the net profits of a non-resident S corporation to the extent the distributive share would not be allocated or apportioned to Ohio.
19. The distributive or proportionate share of net profits or losses of any resident pass-through entity. Provided, however, the tax due as a result of the net profits of the resident pass-through entity is paid by the pass-through entity and received by the Tax Administrator.
20. Generally the above noted items in this section are the only forms of income not subject to the tax. Any other income, benefits, or other forms of compensation shall be taxable.

REGULATION IV EFFECTIVE PERIOD OF THE TAX

Said tax shall be levied, collected and paid with respect to the qualifying wages, commissions, other compensation, and other taxable income earned and shall be levied with respect to the net profits of the businesses, professional or other activities earned from and after the effective date of this Tax Code.

REGULATION V RETURN AND PAYMENT OF THE TAX

- A. On or before April 15th of each year, every resident subject to the provisions of section 171.03 of the Ordinance shall, except hereinafter provided, make and file with the Tax Administrator a Municipal tax return on a form prescribed by and acceptable to the Tax Administrator, whether or not a tax is due. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed on or before the fifteenth (15th) day of the fourth (4th) month following the end of such fiscal year or period. The Tax Administrator is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of Municipal tax deducted by said employer or employers from the qualifying wages, commissions, other compensation, and other taxable income of a nonresident employee, and paid by him or them to the Tax Administrator may be accepted as the return required of a nonresident employee whose sole income, subject to tax under this Tax Code, is such qualifying wages, commissions, other compensation, and other taxable income.
- B. Resident pass-through entities must file a tax return and pay the tax due on the net profits of the business. Owners of resident pass-through entities may not report their individual share of the net profits therefrom on their individual Fremont tax return. Resident individuals and resident business entities may report their individual share of the net profits of non-resident pass-through entities on their Fremont tax return.
- C. Joint filing is permitted.
- D. The return shall be filed with the Tax Administrator on a form or forms furnished by or obtainable upon request from the Tax Administrator; or on a generic form, if the generic form, when completed and filed, contains all of the information required to be submitted with the Municipality's prescribed return and, if the taxpayer or return preparer filing the generic form otherwise complies with the Tax Code governing the filing of returns.
- E. The return shall set forth:
 - 1. The aggregate amounts of qualifying wages, commissions, other compensation received, allocated, apportioned or set aside, other income defined by statute as taxable, and gross income from any business, profession or other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to said tax; and
 - 2. The amount of the tax imposed by the Ordinance on such earnings and profits; and

3. Such other pertinent statements, information returns, copies of federal or state tax returns and/or schedules, or other information as the Tax Administrator may require, including a statement that the figures used in the return are the figures used for federal income tax adjusted to set forth only such income as is taxable under the provisions of the Ordinance.
- F. Any taxpayer having qualifying wages, commissions, or other compensation for which a return must be filed, and also having net profits (losses) from a business, profession, or other activity covering the same or a different period, is required to file only one return.
1. Losses from a business, profession, or other activity reported on a taxpayer's Schedule C, Schedule E, and/or Schedule F may not be netted with qualifying wages, commissions, or other compensation reported on Form W-2 in determining the amount of tax imposed by the Ordinance.
- G. Any taxpayer that has requested an extension for filing a federal income tax return may request an extension for the filing of a Municipal Income Tax Return by filing a copy of the taxpayer's federal extension request with the Municipal Tax Division. Any taxpayer not required to file a federal income tax return may request an extension for filing a Municipal Income Tax Return in writing. The request for extension must be filed on or before the original due date for the annual return. If the request is granted, the extended due date of the municipal income tax return shall be the last day of the month following the month to which the due date of the federal income tax return has been extended.
1. The Tax Administrator may deny a taxpayer's request for extension if the taxpayer:
 - a. fails to timely file the request; or
 - b. fails to file a copy of the federal extension request, (if applicable); or
 - c. owes the Municipality any delinquent income tax, penalty, interest or other charge for the late payment or nonpayment of income tax; or
 - d. has failed to file any required income tax return, report, or other related document for a prior tax period.
 2. The granting of an extension for filing a Municipal tax return does not extend the due date as provided in this section for payment of the tax; hence, penalty and interest may apply to any unpaid tax during the period of extension at the rate set out by section 171.03. No penalty shall be assessed in those cases in which the return is filed and the final tax paid within the extension period provided all other filing and payment requirements of the Tax Code have been met. Any extension by the Tax Administrator shall be granted upon the condition that declaration filing and payment requirements have been fulfilled; however, if, upon further examination it then becomes evident that declaration filing and payment requirements have not been fulfilled, penalty and interest may be assessed in full and in the same manner as though no extension had been granted.
- H. PAYMENTS WITH RETURNS.
1. The taxpayer making a return shall, at the time of the filing thereof, pay to the Tax Administrator the amount of taxes shown as due. However, credit shall be allowed for:
 - a. Any portion of the tax so due which shall have been deducted at the source pursuant to the provisions of section 171.06 of the Ordinance; and

- b. Any portion of said tax which shall have been paid by the taxpayer pursuant to the provisions of section 171.07 of the Ordinance; and
 - c. Credit to the extent allowed by section 171.15 of the Ordinance for tax paid to another municipality.
 - 2. Subject to the limitations contained in section 171.11 of the Ordinance, any taxpayer who has overpaid the amount of tax to which the Municipality is entitled under the provisions of the Ordinance may have such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such overpayment (or part thereof) shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded.
 - a. Any overpayment shall be first applied to any prior liability of the taxpayer whether said liability consists of tax, penalty, or interest.
- I. AMENDED RETURNS.
- 1. Where necessary, an amended return shall be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in section 171.11. The Tax Administrator shall provide by regulation the format in which such amended return shall be filed. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.
 - 2. Within three (3) months from the final determination of any federal tax liability affecting the taxpayer's Municipal tax liability, such taxpayer shall make and file an amended Municipal return showing income subject to the Municipal tax based upon such final determination of federal tax liability and pay any additional tax shown due thereon or make claim for refund of any overpayment.
 - a. If a change in federal income tax liability results in a reduction of taxes owed and paid to the Municipality, a claim for refund shall be filed with the Tax Administrator as prescribed in section 171.11 of the Ordinance and Regulation XI of these regulations.
- J. Information returns, schedules and statements required to support tax returns which are incomplete without such information shall be filed within the time limits set forth for the filing of the tax returns and the failure to file such information returns, schedules and statements shall be a violation of this Tax Code. Provided, however, that the taxpayer shall have ten (10) days after notification by the Tax Administrator, or his authorized representative, to file the items required by this paragraph.
- K. The fact that any taxpayer is not required to file a federal and/or state tax return does not relieve him from filing a return with the Municipality.

REGULATION VI COLLECTION OF TAX AT THE SOURCE

- A. Withholding by Employer. Each employer within, or doing business within, the Municipality who employs one or more persons on a salary, wage, commission or other compensation

basis shall deduct, when such salary, wage, commission or other compensation is paid, allocated, apportioned or set aside, the tax at the rate provided in section 171.03 of the Ordinance on the qualifying wages due by such employer to each such employee and shall, on or before the last day of the month following such withholding, make a return and pay to the Tax Administrator the amount of taxes so deducted. The return shall be on a form or forms prescribed by or acceptable to the Tax Administrator and shall be subject to the Rules and Regulations prescribed by the Tax Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in fact been withheld.

1. Employers who maintain a permanent office or place of business within the Municipality are subject to the provisions of section 171.03 of the Ordinance with regard to all employees, regardless of whether the employee is a resident or a non-resident of the Municipality.
 2. Employers who do not maintain a permanent office or place of business in the Municipality, are subject to the provisions of section 171.03 of the Ordinance with regard to the compensation paid to employees for services rendered, work performed, or other activities engaged in within the Municipality.
 3. Commissions and fees paid to professional men, brokers, and others who are independent contractors and not employees, are not subject to withholding or collection of the tax at the source. Such individuals must in all instances file a declaration and a return and pay the tax pursuant to the provisions of the Ordinance and Regulations.
 4. No tax is imposed on the compensation paid to a non-resident individual employee for personal services performed by the employee in the Municipality for twelve (12) or fewer days in a calendar year unless the employer's principal place of business is located in another Ohio municipal corporation that imposed an income tax.
 - a. As used in this paragraph, a day means any portion of a twenty-four (24) hour calendar day.
 - b. Upon exceeding twelve (12) days in a calendar year, the employee and the employer shall disregard the provisions set forth in paragraph 4 of this Regulation and in section 718.011 of the Ohio Revised Code and will be subject to all provisions set forth in section 171.03 of the Ordinance.
 5. If a non-resident employee is a salesman, agent or other employee whose compensation on the basis of commissions depends directly on the volume of business transacted or chiefly affected 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 Municipality bears to the total volume of business transacted by him within and outside the Municipality.
 6. Withholding from compensation required to be made by employers is to begin with the compensation earned on or after the effective date of the Ordinance.
- B. An 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 disqualifying disposition, the individual is not an employee of the corporation with respect to whose stock the option has been issued.

- C.
 - 1. An employee is not relieved from liability for a tax by the failure of the employer to withhold the tax as required by a municipal corporation or by the employer's exemption from the requirement to withhold the tax.
 - 2. The failure of an employer to remit to the municipal corporation 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.
- D. Compensation deferred before the effective date of this amendment is not subject to any municipal corporation income tax or municipal income tax withholding requirement to the extent the deferred compensation does not constitute qualifying wages at the time the deferred compensation is paid or distributed.
- E. Payment of taxes withheld by an employer for the Municipality during the measurement period are to be made quarterly on or before the last day of the month following the end of each quarter, subject to the approval of the Tax Administrator. The Tax Administrator may require monthly filing and payments whenever the Tax Administrator has reason to believe it is in the best interest of the Municipality to do so. Notice of a change in filing and payment requirements shall be made in writing and, in such case, the employer must begin to file in accordance with this section.
- F. Employer Considered as Trustee. Each employer in collecting such tax shall be deemed to hold the same, until payment is made by such employer to the Municipality, as a trustee for the benefit of the Municipality, and any such tax collected by such employer from his employees shall, until the same is paid to the Municipality, be deemed a trust fund in the hands of such employer. Each employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such tax, in fact, has been withheld.
- G. Any person who is required to withhold tax from qualifying wages shall pay all such tax to the Municipality in accordance with the provisions of the Ordinance . In the event taxes withheld from the qualifying wages of employees are not paid to the Municipality in accordance with the provisions of the Ordinance, all officers, members, managers, employees, and trustees having control or supervision of or charged with the responsibility of filing the return and making payment are jointly and severally personally liable for the tax not returned or paid to the Municipality as well as any related interest and penalties, and are also liable under the provisions of section 171.12 of the Ordinance. The dissolution, termination, or bankruptcy of a corporation, limited liability company, or business trust does not discharge an officer's, member's, manager's, employee's, or trustee's liability for a failure of the corporation, limited liability company, or business trust to file returns or pay said taxes.
- H. Withholding Return: List of Employees. Each employer shall file a withholding tax reconciliation showing the sum total of all compensation paid all employees, the portion of which, (if any) was not subject to withholding along with an explanation for same, and the portion of which was subject to withholding, together with the amount of such withholdings remitted. Such return shall include information concerning each employee from whom the Municipal tax was withheld, showing the name, address, zip code and social security number of each such employee, the total amount of compensation paid during the year and the amount of Municipal tax withheld. If the total tax withheld from any employee included tax withheld and remitted to another municipality, the amount of same shall be separately shown on the return of information to the Municipality concerning each employee. The withholding tax reconciliation shall be filed by each employer on or before February 28 following the end of such calendar year.

- I. In addition to the wage reporting requirements of this section, any person required by the Internal Revenue Service to report on Form 1099-Misc. payments to individuals not treated as employees for services performed shall also report such payments to the Municipality when the services were performed in the Municipality. The information may be submitted on a listing, and shall include the name, address and social security number (or federal identification number), and the amount of the payments made. Federal form(s) 1099 may be submitted in lieu of such listing. The information shall be filed annually on or before February 28 following the end of such calendar year.
- J. Domestic Servants. No person shall be required to withhold the tax on the qualifying wages, commissions, other compensation, and other taxable income paid domestic servants employed exclusively in or about such person's residence. However, such domestic servants shall be responsible for filing and paying their own returns and taxes.
- L. If more than the amount of tax required to be deducted by the Ordinance is withheld from any employee's pay, such excess may be refunded by the employer or the Tax Administrator, depending on the circumstances and the time when the over-withholding is determined as follows:
1. If the over-withholding is discovered in the same period the employer shall make the necessary adjustment directly with the employee and the amount to be reported on the return as withheld shall be the corrected amount.
 2. If the over-withholding is discovered in a subsequent period of the same calendar year the employer may make proper adjustment with the employee. In the case the return for the period in which the adjustment is made shall indicate the total amount actually withheld, the amount of the adjustment deducted therefrom, and the corrected amount reported on the return.
 3. If the over-withholding is discovered in the following year, the employer should notify the Tax Administrator of such over-withholding and the circumstances thereof. Upon proper verification the Tax Administrator shall refund to the employee the amount of such excess withholding.
 4. If the over-withholding is discovered by a former employee, such employee shall file a claim with the Tax Administrator and, upon verification thereof by the employer, the Tax Administrator shall refund to the employee the amount of such excess withholding.
 5. Where an employer has withheld the tax from all wages of a non-resident of the Municipality and such non-resident has been employed outside the Municipality for all or part of the time, such employee shall file a claim with the Tax Administrator covering such erroneous withholding and the Tax Administrator shall, upon verification by the employer, refund to the employee the amount of such excess withholding.
- M. If less than the amount of tax required to be deducted is withheld from an employee, such deficiency shall be withheld from subsequent wages. However, if the employee-employer relationship has terminated, the employer shall notify the Tax Administrator of such deficiency and the reason therefor.

REGULATION VII DECLARATIONS

A. Requirement for Filing.

Every person who anticipates an annual tax liability to Fremont of \$100.00 or more on taxable income which is not subject to withholding by an employer or who engages in any business, profession, enterprise or activity subject to the tax imposed by section 171.03 of the Ordinance, shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon for the full taxable year for which such declaration is filed, if any. Provided, however, if a person's income is wholly from qualifying wages from which the tax will be withheld and remitted to this Municipality in accordance with section 171.06 of the Ordinance, such person need not file a declaration.

1. A taxpayer's final return for the preceding year may be used as the basis for computing the declaration of estimated tax for the current year. In the event a taxpayer, other than a resident individual who did not reside within the Municipality on January 1 of the tax year, has not previously been required to file a return, a declaration of estimated tax on anticipated income shall be filed in good faith and within the time prescribed in paragraph (B) of this Regulation.
2. In any case where a taxpayer has failed to file a declaration, the Tax Administrator may estimate the income on behalf of the taxpayer and shall issue a statement of said estimated to the taxpayer.

B. Dates for Filing.

1. Such declaration shall be filed on or before April 15 of each year during the life of the Ordinance, or on or before the fifteenth (15th) day of the fourth (4th) month following the date the taxpayer becomes subject to tax for the first time.
2. Those taxpayers having a fiscal year or period differing from the calendar year shall file a declaration on or before the fifteenth (15th) day of the fourth (4th) month following the start of each fiscal year or period.

C. Forms; Credit for Tax Withheld or Paid Another Community.

1. Such declaration shall be filed upon a form furnished by or obtainable from the Tax Administrator or an acceptable generic form, and credit shall be taken for the Municipal tax to be withheld from any portion of such income. In accordance with the provisions of section 171.15 of the Ordinance, credit may be taken for tax to be withheld and remitted to another taxing municipality.
2. The original declaration (or any subsequent amendment thereof) may be increased or decreased by filing an amended declaration on or before any subsequent quarterly payment date as provided for herein.
3. For taxpayers who are individuals, such declaration of estimated tax to be paid the Municipality shall be accompanied by a payment of at least one-fourth of the estimated annual tax and at least a similar amount shall be paid on or before the last day of the seventh, tenth and thirteenth months after the beginning of the taxable year.

4. For taxpayers that are not individuals, such declaration of estimated tax to be paid the Municipality shall be accompanied by a payment of at least one-fourth of the estimated annual tax and at least a similar amount shall be paid on or before the last day of the seventh, tenth and thirteenth months after the beginning of the taxable year.
5. The mere submission of a declaration estimating a tax liability shall not constitute filing unless accompanied by the required payment.

D. Amended Declaration.

1. A declaration may be amended at any time.
2. In the event that 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 such manner that the balance of the estimated tax shall be fully paid on or before the last day of the thirteenth month following the beginning of the taxable year.

E. Annual Return Required.

1. On or before the fifteenth (15th) day of the fourth (4th) month of the calendar or fiscal year, an annual return shall be filed and any balance which may be due the Municipality shall be paid therewith in accordance with the provisions of section 171.05 of the Ordinance.
2. The filing of a declaration does not relieve the taxpayer of the necessity of filing a final return even though there is no change in the declared tax liability. A final return must be filed to obtain a refund of an overpayment.

REGULATION VIII APPOINTMENT AND DUTIES OF TAX ADMINISTRATOR

- A.
 1. It shall be the duty of the Tax Administrator to collect and receive the tax imposed by the Ordinance in the manner prescribed therein, 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 income taxes owing the Municipality, to keep accurate records for a minimum of six (6) years, showing the amount due from each taxpayer required to file a declaration or make any return, including a return of taxes withheld, and to show the dates and amounts of payments thereof.
- B. The Tax Administrator is hereby charged with the administration and enforcement of the provisions of the 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 the Ordinance. The Tax Administrator has the authority to correct or adjust any return submitted, when a correction or adjustment is necessary to accomplish the intent of the Ordinance.
- C. In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Tax Administrator may determine the amount of tax

appearing to be due the Municipality from the taxpayer and may send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.

- a. Such determination of tax may be adjusted upon submission by the taxpayer of actual records from which his tax may be computed.
 - b. If no return has been filed and a tax is found to be owing, the tax actually owing may be assessed and collected with or without the formality of obtaining a delinquent return from the employer or taxpayer.
- D. Subject to the consent of a majority of the Board of Review/Adjudication or pursuant to a regulation approved by said Board, the Tax Administrator shall have the power to compromise penalty and interest liabilities imposed by the Ordinance.
 - E. Upon the demonstration and documentation of good cause, the Tax Administrator shall have the power to compromise penalty and interest liabilities imposed by the Ordinance.
 - F. The Tax Administrator is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payment, 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. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under the Ordinance.
 - G. Failure to make any deferred payment when due, shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of sections 171.12 and 171.99 of the Ordinance shall apply.

REGULATION IX INVESTIGATIVE POWERS OF TAX ADMINISTRATOR

- A. The Tax Administrator, or any of his authorized agents, is hereby authorized to examine the books, papers, records and federal income tax returns of any employer, taxpayer, or any person subject to, or whom the Tax Administrator believes is subject to, the provisions of the Ordinance for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax or withholdings due under the Ordinance. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish, within ten (10) days following a written request by the Tax Administrator, or his duly authorized agent or employee, the means, facilities and opportunities for making such examinations and investigations authorized by the Ordinance.
 - 1. The order for examination shall state whether the examination is to be at the office of the taxpayer or at the office of the Tax Administrator.
- B. The Tax Administrator is hereby authorized to order any person, presumed to have knowledge of the facts, to appear at the office of the Tax Administrator and to examine such person, under oath, concerning any income which was or should have been reported for taxation, or withheld, or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and federal income tax returns, and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.

- C. The refusal to produce books, papers, records or federal income tax returns, or the refusal to submit to such examination by any employer or person subject, or presumed to be subject, to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax, or the failure of any person to comply with the provisions of this section or with an order or subpoena of the Tax Administrator authorized hereby, shall be deemed a violation of the Ordinance punishable as provided in section 171.12.
- D. All employers and taxpayers are required to keep such records as will enable the filing of true and accurate returns whether of taxes withheld at the source or of taxes payable upon earnings or net profits, or both. Such records shall be preserved to enable the Tax Administrator or any agent of the Tax Administrator to verify the correctness of the returns filed for a period of not less than six (6) years from the date the final return is filed and paid or the withholding taxes are paid.
- E. Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by the Ordinance and/or these Regulations shall be confidential and no person shall disclose such information except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of the municipal corporation as authorized by the Ordinance. The Tax Administrator may furnish copies of returns filed under the Ordinance to the Internal Revenue Service and to other taxing authorities.
- F. Any person divulging such information shall be guilty of a 1st degree misdemeanor. Every such breach of confidence constitutes a separate offense.
- G. In addition to the above penalty, any employee of the Municipality who violates the provisions of this section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

REGULATION X INTEREST AND PENALTIES

- A. All taxes imposed and monies withheld or required to be withheld by employers under the provisions of the Ordinance which remain unpaid after they become due shall bear interest at the rate of one and one-half percent (1-1/2%) per month or fraction thereof, until paid.
- B. In addition to interest as provided in Paragraph A hereof, penalties are hereby imposed as follows based on the tax remaining unpaid after it becomes due:
 1. For failure to pay taxes due, other than taxes withheld, five percent (5%) per month or fraction thereof or ten percent (10%), whichever is greater (minimum \$25.00).
 2. For failure to remit taxes withheld or required to be withheld from employees; five percent (5%) per month or fraction thereof or fifteen percent (15%) whichever is greater (minimum \$25.00).
 3. Where the taxpayer has failed to file a return by the due date or by the date resulting from extension, twenty-five dollars (\$25.00) even if no tax is found to be due.
 4. Where the taxpayer has failed to file a declaration on which he has estimated and paid a tax equal to or greater than eighty percent (80%) of the actual tax for the year; ten

percent (10%) of the difference between eighty percent (80%) of the actual tax for the year and the amount paid through withholding and declaration.

- a. Penalty and interest shall not be imposed if the taxpayer has paid, in accordance with the Ordinance, an amount greater than or equal to one hundred percent (100%) of the taxpayer's liability for the preceding tax year provided the tax due for the preceding year reflected a liability for a twelve-month period.

5. No penalty or interest shall be charged against a taxpayer for the late payment or nonpayment of estimated tax liability if the taxpayer is an individual who resides in the municipal corporation but was not domiciled there on the first day of January of the current calendar year.

- C. Exceptions. A penalty shall not be assessed on an additional tax assessment made by the Tax Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Tax Administrator; and provided further that, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, providing an amended return is filed and the additional tax is paid within three (3) months after the final determination of the federal tax liability.
- D. The City Auditor or his duly authorized agent may waive or remit any such interest or penalties as he, in his discretion, would deem proper.

REGULATION XI COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS

- A. In addition to any criminal penalties which may be imposed pursuant to Section 171.99 of the Ordinance, all taxes imposed by the Ordinance and not paid when due, shall be collectible, together with any interest and penalties thereon, by civil suit as other debts of like amount are recoverable. Employers who are required by the Ordinance to withhold and remit the taxes required to be withheld at the source, and who fail to withhold and/or remit, become liable to the Municipality in a civil action to enforce the payment of the deficiency created by such failure.
- B. No additional assessment shall be made by the Tax Administrator after three (3) years from the time the tax was due or the return was filed, whichever is later; provided however, there shall be no period of limitation on an additional assessment in a case of filing a false or fraudulent return with intent to evade the tax, or in the case of failure to file a return.
- C. In those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitations the period within which an additional assessment may be made by the Tax Administrator shall be extended one (1) year from the time of the final determination of the federal tax liability.
- D. 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 within three (3) months after final determination of the federal tax liability, whichever is later.
- E. No refund shall be made to any taxpayer until he has complied with all provision of the Ordinance and has furnished all information required by the Tax Administrator.

- F. Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment, with the following exception: No interest shall be allowed on any overpayment that is refunded within ninety (90) days after the final filing date of the annual return or ninety (90) days after the complete return is filed, whichever is later. For purposes of computing the payment of interest on overpayments, no amount of tax for any taxable year shall be treated as having been paid before the date on which the tax return for that year was due without regard to any extension of time for filing that return. The interest shall be paid at the rate of interest prescribed by Ohio R.C. 5703.47.
1. Overpayments will be either refunded or credited to the taxpayer's current year's liability at his option. Where no election has been made by the taxpayer, overpayments of any year's taxes shall be applied as follows:
 - a. To taxes owed for any previous years in the order in which such taxes became due.
 - b. To his current tax liability.
- G. Amounts of less than one dollar (\$1.00) shall not be collected or refunded.

REGULATION XII VIOLATIONS AND PENALTIES

- A. Any person who shall:
1. Fail, neglect or refuse to make any return or declaration required by the Ordinance; or
 2. Knowingly make an incomplete, false or fraudulent return; or
 3. Willfully fail, neglect or refuse to pay the tax, penalties or interest imposed by the Ordinance; or
 4. Fail, neglect or refuse to withhold the tax from his employees and remit such withholding tax to the Tax Administrator; or
 5. Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his or his employer's books, records, papers, or federal income tax returns relating to the income or net profits of a taxpayer; or
 6. Fail to appear before the Tax Administrator and to produce his or his employer's books, records, papers or federal 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 such person's or such person's employer's income or net profits; or
 8. Willfully give to an employer by an employee false information as to his true name, correct social security number and residence address, or the failure of such employee to promptly notify an employer of any change in residence address and date thereof; or

9. Failure on the part of any employer to maintain proper records of employees' residence addresses, total wages paid and Municipal tax withheld, or to knowingly give the Tax Administrator false information; or
10. Fail to comply with the provisions of the Ordinance or any order or subpoena of the Tax Administrator authorized hereby; or
11. Willfully fail or willfully refuse to make any payment on the estimated tax for any year or part of any tax year as required by section 171.07 of the Ordinance; or
12. Fail to cause the tax withheld from the qualifying wages of the employees pursuant to the Ordinance to be paid to the Municipality in accordance with the provisions of section 171.06 of the Ordinance; or
13. Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by the Ordinance;

for which violation no penalty is otherwise provided, shall be guilty of a misdemeanor of the first degree.

B. Statute of Limitations.

1. Civil actions to recover Municipal income taxes and penalties and interest on Municipal income taxes shall be brought within three (3) years after the tax was due or the return was filed, whichever is later.
 2. Prosecutions for an offense made punishable under the Ordinance shall be commenced within three (3) years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five percent (25%) or more of income required to be reported, prosecutions may be commenced within six (6) years after the commission of the offense. (ORC 718.12)
- C. The failure of any employer, taxpayer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, return or declaration, from filing such form, or from paying the tax.
- D. The term "person" as used in this section shall, in addition to the meaning prescribed in section 171.02, include in the case of an association or corporation not having any partner, member or officer within the Municipality, any employee or agent of such association or corporation who can be found within the corporate limits of the Municipality.

REGULATION XIII BOARD OF REVIEW

- A. A Board of Review, consisting of the City Law Director, as chairman, and two other individuals to be appointed by the chief finance officer of the City is hereby created and shall be maintained to hear appeals. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board shall be conducted privately and the provisions of section 171.09 with reference to the confidential character of information required to be

disclosed by the Chapter shall apply to such matters as may be heard before the Board on appeal.

- B. All rules and regulations and amendments or changes thereto which are adopted by the Tax Administrator under the authority conferred by this Chapter, must be approved by the Board of Review before the same become effective. After such approval, such rules, regulations, amendments and changes shall be filed with the (Clerk of Council) and shall be open to public inspection. The Board shall hear and pass on appeals from any ruling or decision of the Tax Administrator, and, at the request of the taxpayer or Tax Administrator, is empowered to substitute alternate methods of apportionment.
- C. Whenever the Tax Administrator issues a decision regarding an income tax obligation that is subject to appeal as provided in this section, or in an ordinance or regulation of the Municipality, the Tax Administrator shall notify the taxpayer in writing at the same time of the taxpayer's right to appeal the decision and of the manner in which the taxpayer may appeal the decision.
- D. Any person who is aggrieved by a decision by the Tax Administrator and who has filed with the Municipality the required returns or other documents pertaining to the municipal income tax obligation at issue in the decision may appeal the decision to the Board of Review by filing a request with the Board. The request shall be in writing, shall state with particularity why the decision should be deemed incorrect or unlawful, and shall be filed within thirty (30) days after the Tax Administrator has issued the decision.
- E. The imposition of penalty and interest as prescribed in the codified ordinance of the Municipality is not a sole basis for an appeal.
- F. The Board of Review shall schedule a hearing within forty-five (45) days after receiving the request, unless the taxpayer waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the Board and may be represented by an attorney at law, certified public accountant or other representative.
- G. The Board may affirm, reverse, or modify the Tax Administrator's decision or any part of that decision. The Board shall issue a decision on the appeal within ninety (90) days after the Board's final hearing on the appeal, and send notice of its final decision by ordinary mail to all of the parties to the appeal within fifteen (15) days after issuing the decision. The taxpayer or the tax administrator may appeal the board's decision as provided in section 5717.011 of the Ohio Revised Code.
- H. Each Board of Review created pursuant to this section shall adopt rules governing its procedures and shall keep a record of its transactions. Such records are not public records available for inspection under section 149.43 of the Ohio Revised Code. Hearings requested by a taxpayer before a Board of Review created pursuant to this section are not meetings of a public body subject to section 121.22 of the Ohio Revised Code.

REGULATION XIV INFORMATION BY LANDLORDS

- A. Within thirty (30) days after a new tenant occupies rental property of any kind within the Municipality, all owners of rental property who rent to tenants of apartments, rooms and other rental accommodations shall file with the Tax Administrator a report showing the name,

address and telephone number, if available, of each such tenant who occupies an apartment, room or other rental property within the Municipality.

- B. Within thirty (30) days after a tenant vacates an apartment, room or other rental property located within the Municipality, the owner of such vacated rental property shall file with the Tax Administrator a report showing the date of vacation from the rental property and a forwarding address.

REGULATION XV CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY

- A. Every individual taxpayer who resides in the Municipality who receives net profits, salaries, wages, commissions or other personal service compensation for work done or services performed or rendered outside of the Municipality, if it appears that he has paid a municipal income tax on the same income taxable under the Ordinance to another municipality, shall be allowed a credit against the tax imposed by the Ordinance of the amount so paid by him or on his behalf to such other municipality. The credit shall not exceed the tax assessed by the Ordinance on such income earned in such other municipality or municipalities where such tax is paid.
 - 1. When the taxable income of a resident of the Municipality is subject to a municipal tax in another municipality on the same income taxable under the Ordinance, the resident shall be allowed a non-refundable credit of the amount of income tax paid on the income taxable to the other municipality, equal to one-hundred percent (100%) of the amount obtained by multiplying the lower of the tax rate of the other municipality or of this municipality by the taxable income earned in or attributable to the municipality of employment or business activity. For the purposes of this Regulation, taxable income shall also include the distributive share of net profits of a resident partner or owner of a non-resident business entity.
 - a. No credit will be given for taxes withheld and remitted to another taxing municipality unless the taxpayer claims such on his final return or other form prescribed by the Tax Administrator, and presents such evidence of the payment of a similar tax to another municipality, as the Tax Administrator may require.
 - b. A statement satisfactory to the Tax Administrator from the taxing authority of the municipality to which the taxes are paid that a Fremont resident or his employer is paying the tax shall be considered as fulfilling the requirements of this Regulation.
- B. A claim for refund or credit under this regulation shall be made in such manner as the Tax Administrator may by regulation provide.

REGULATION XVI
REQUIREMENTS FOR JOINT ECONOMIC DEVELOPMENT DISTRICTS

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

REGULATION XVII
SAVING CLAUSE

These Regulations shall not apply to any person, firm or corporation, or to any property as to whom or which, it is beyond the power of Council to impose the tax herein provided for. Any sentence, clause, section or part of these Regulations, or any tax against or exception granted any individual or any of the several groups of persons, or forms of income specified herein is found to be unconstitutional or illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of these Regulations and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of these Regulations. It is hereby declared to be the intention of Council of the Municipality that these Regulations would have been adopted had such unconstitutional, illegal or invalid sentence or part thereof, not been included therein.

REGULATION XVIII
COLLECTION OF TAX AFTER TERMINATION OF ORDINANCE

The tax imposition provisions of the Ordinance are effective until the Ordinance is repealed, subject however, to the provision of Sections 171.11 and 171.12 of the Ordinance with respect to the limitation of time within which an additional assessment may be made.

- A. Taxes due and unpaid on account of compensation paid or received, on account of profits earned in the last effective year of the Ordinance or any part thereof which remains unpaid, and all final returns and withholding reports are payable in full on or before the dates specified in Sections 171.05 and 171.06, unless extended by the Tax Administrator.
- B. For purposes of collection of delinquent or unpaid taxes, actions or proceedings for such collection and/or the collection of interest and penalties thereon, or enforcing any provisions of the Ordinance (including prosecutions under the criminal sections of the Ordinance and including appeals before the Board of Review), the Ordinance remains in full force and effect until such time as all taxes accruing during the term of the Ordinance shall have been fully paid, and all actions, suits, prosecutions, appeals and other judicial or administrative proceedings relative to collection or payment of such taxes, have been finally terminated.

REGULATION XCIX PENALTY

- A. Whoever violates any provision of Section 171.09 relative to the divulgence of confidential information shall be guilty of a misdemeanor of the First Degree. In addition to the above penalty an employee of the City who violates the provisions of Section 171.09 relative to the divulgence of confidential information shall be immediately dismissed from the service of the City.

- B. Whoever violates any provision of Section 171.12 or any other provision of this chapter for which a penalty is not otherwise expressly provided shall be guilty of a misdemeanor of the first degree.