

**CITY OF STOW
INCOME TAX DIVISION
RULES & REGULATIONS**

(REV. 12-21-2000)

RULES AND REGULATIONS

Adopted under the Authority of TITLE NINE-Taxation
Chapter 195.85(b) of the Codified Ordinances of the City of Stow

ARTICLE I

Section 195.02 of the chapter outlines the uses to which funds raised are to be put and the items on which the tax is to be applied.

ARTICLE II

DEFINITIONS

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

"Administrator" means the Tax Administrator.

"Association" means a partnership, limited partnership, or any other form of unincorporated enterprise, owned by two or more persons. Limited Liability Corporations (LLC's) and Subchapter S corporations (as defined in the Federal Tax Code, 26 U.S.C. 1361) shall be treated as Associations, for the purpose of this Chapter.

"Board of Review" means the board created by and constituted as provided in Section 195.85 of the chapter.

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

"Chapter" means Chapter 195 of the Codified Ordinances of the City of Stow.

"City" means the City of Stow, Ohio.

"Corporation" means a corporation or joint stock association organized under the laws of the United States, the State of Ohio or any other state, territory, or foreign country or dependency, but not including Chapter S Corporations (see "Association").

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

"Employer" means an individual, partnership, association, corporation (including a corporation not for profit), governmental agency, board, body, bureau, department, sub-division, or unit or any other entity, who or that employs one or more persons on a salary, wage, commission or other compensation basis whether or not such employer is engaged in business, or that provides any source of taxable income as outlined in Section 195. It does not include a person who employs only domestic help for such person's private residence.

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

"Fundamental change" means any substantial alteration in organizational form by an entity including liquidation, dissolution, bankruptcy and reorganizations such as merger, consolidation, acquisition, transfer or change in identity, form or organization.

"Gross Income" shall include all monies derived from any source whatsoever, including:

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

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

(c) The portion attributable to the city of the net profits of all unincorporated businesses, associations, professions, corporations, or other entities, from sales made, work done, services performed or rendered, and business or other activities conducted in the city of Stow. Such portion shall be determined as provided in 195.21 and in accordance with the regulations adopted by the Board of Review pursuant to this chapter.

"Gross Receipts" means the total revenue of a taxpayer from any source whatsoever.

"Manager" means any of the employer's officers, partners, employees or persons having control or supervision of the employer's business, and/or employees or persons charged with the responsibility of filing the return, paying taxes, and otherwise complying with this chapter.

"Net Profits" means the net gain from the operation of a business, profession, enterprise, or other activity excluding capital gains and losses, after provision for all necessary and ordinary expenses paid or accrued in accordance with the accounting system used by the taxpayer for Federal income tax purposes, adjusted to the requirements of this chapter and the Rules & Regulations, but excluding Federal and other taxes based on income and the tax imposed by the chapter.

Net profits shall include any amount or value received, realized, or recognized in a sale or other disposition of tangible personal or real property used in business, in excess of book value.

"Non-Resident" means a person who is not a resident as herein defined.

"Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the City of Stow.

"The Ordinance" means Ordinance the City of Stow Income Tax Ordinance and any amendments and supplements thereto effective on and after October 1, 1967. Note: Hereinafter this will be referred to as the "effective period of the Ordinance."

"Person" means every natural person, partnership, fiduciary, association, corporation, or other entity. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to any unincorporated entity or 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), factory, warehouse or other space which is regularly occupied and used by the taxpayer in carrying on any business activity whether in person or through one or more of his employees regularly in attendance.

"Resident" means a person domiciled in the City of Stow, Ohio. Any person who maintains a residence within the City of Stow, Ohio for a total of 183 days or more within any 12 month period, or who is registered to vote in Stow, or whose children attend school in Stow, or use a Stow address for their automobile operators license or automobile registration shall be deemed a resident even if that person has an additional residence or residences.

"Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the City of Stow.

"Taxable Income" means gross income minus the deductions and credits allowed by this chapter.

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

"Taxpayer" means a person, whether an individual, partnership, association, corporation or other entity, required by this chapter to pay a tax. Any and all residents of the City of Stow are deemed to be included in this definition.

In all definitions and these regulations, the singular shall include the plural, and the masculine shall include the feminine and the neuter.

ARTICLE III

IMPOSITION OF TAX

A. Bases.

1. Resident Individual:

a. In the case of residents of the City an annual tax of two percent (2%) is imposed on all income, salaries, wages, commissions, and other compensation earned (including earnings deposited by the employee into deferred compensation or medical coverage plans) during the effective period of the chapter.

For the purpose of determining the tax on the income of resident taxpayers taxed under Section 195.20 of the chapter, the source of the income and the place or places in or at which the services were rendered, are immaterial. However, in determining the amount of tax due, the following rules are to be applied:

- (1) Operating losses from business or professional activities, the profits of which would be taxable under the Section 195.20 of the chapter, may not be used to offset salaries, wages, or other forms of employee compensation.
- (2) Profits and losses derived from all business activities conducted within the City of Stow may be used to offset each other.
- (3) Profits and losses derived from all business activities conducted outside of the City of Stow may be used to offset each other.
- (4) Profits and losses derived from business activities conducted outside of the City of Stow may not be used to offset profits and losses derived from business activities conducted within the City of Stow.

Unused losses are allowable as an operating loss carry forward under Section 195.22 of the chapter and Article III B4g of these regulations.

All such incomes wherever earned or paid are taxable, except that 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 Income Tax Division.

b. The following are items, which are subject to the tax imposed by Section 195.20:

(1) Salaries, wages, bonuses and incentive payments earned by an individual, whether directly or through an agent, and whether in cash or in property for services rendered during the tax period as:

(a) An officer, director or employee of a corporation (including charitable and other non-profit organizations), or association;

(b) An employee (as distinguished from a partner or member) of a partnership, limited partnership, or any form of unincorporated business enterprise owned by two or more persons;

(c) An employee (as distinguished from a proprietor) of a business, trade, or profession conducted by an individual owner;

(d) An officer or employer (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 subdivisions or agencies thereof; or any foreign country or dependency except as provided in Section 195.24 of the chapter;

(e) An employee of any other entity or person, whether based upon hourly, daily, weekly, semi-monthly, monthly, annual, unit of production or piece work rates or other basis; and whether paid by an individual, partnership, association, corporation (including charitable and non-profit corporations), governmental administration, subdivision, section or unit, or any other entity.

(2) Commissions earned by a taxpayer, whether directly or through an agent, and whether in cash or in property for services rendered during the effective period of the chapter, 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 gross income for the purpose of determining his net profits taxable under Federal law, and the employee is not required to include such receipts as income on his Federal income tax return.

(3) 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 the tax under Section 195.20 of the chapter.

(4) Other income and compensation, as reported on W-2's or 1099's, including but not limited to tips, bonuses, lump sum distribution from qualified pension and profit sharing trusts not made pursuant to employees retirement, profit sharing, "non-competition" covenants, portions of stock options that are not considered capital gains by the city of Stow, lottery winnings, sports winnings, or gifts of any type in connection with services rendered, and including compensation paid to domestic servants, casual employees and other types of employees.

(5) 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.

(6) 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 pension payments, are exempt from Stow income tax. **Payouts representing deferred amounts will be taxed (at Stow's current rate) proportionate to the amounts earned in Stow.**

(7) Moving expenses, to the extent that their employers reimburse them, are not taxable if deducted on Federal return.

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

c. 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.

(1) 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.

2. Non-Resident Individual:

a. In the case of individuals who are not residents of the City, there is imposed under Section 195.20 of the chapter, a tax of two percent (2%) on all income, salaries, wages, commissions, and other compensation earned (including earnings deposited by the employee into deferred compensation or

medical coverage plans) during the effective period of the chapter for work done or services performed or rendered within the City, 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 from which payment is made is immaterial. Tax shall not be levied on expenses reported in accordance with federal guidelines for Federal Form 2106, subject to audit and approval by the Income Tax Division.

b. The items subject to tax under Section 195.20 of the chapter are the same as those listed and defined in Article III 1 above. For the methods of computing the extent of such work or services performed within the City, in cases involving compensation for personal services partly within and partly without the City, see Article VI, A6 of these regulations.

c. On and after January 1, 2001, a the City of Stow shall not tax the compensation of an individual if all of the following apply:

- (1) The individual is not a resident of the City of Stow.
- (2) The compensation is paid for personal services performed by the individual in the City of Stow on twelve or fewer days in the calendar year. For purposes of the 12-day calculation, any portion of a day worked in Stow shall be counted as one day worked in Stow.
- (3) In the case of an individual who is an employee, the principal place of business of the individual's employer is located outside of the City of Stow and the individual pays tax on compensation described in ARTICLE III, A2c(2) above of this section to the municipal corporation, if any, in which the employer's principal place of business is located, and no portion of that tax is refunded to the individual.
- (4) The individual is not a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such a promoter.

Beginning with the thirteenth day, the employer of said individual shall begin withholding Stow income tax from remuneration paid by the employer to the individual, and shall remit the withheld income tax to the City of Stow in accordance with Section 195.26. 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 Stow by the individual for the first twelve days.

If the individual is self-employed, it shall be the responsibility of the individual to remit the appropriate income tax to the City of Stow.

Income tax withheld by a non-resident employer and paid to Stow as a result of the employer being subject to the \$150 deminimus provision cannot be refunded to an individual under the 12-day occasional entry provision.

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

4. Resident Unincorporated Businesses:

a. In the case of resident unincorporated businesses, professions, enterprises, undertakings or other activities conducted, operated, engaged in, prosecuted or carried on, there is imposed an annual tax of two percent (2%) on the net profits earned, accrued or received during the effective period of the chapter attributable to the City under the formula or separate accounting method provided in Section 195.21 of the chapter, derived from work done or services performed or rendered and business or other activities conducted in the City.

b. The tax imposed on resident associations or unincorporated entities owned by two or more persons is upon the entities rather than the individual members or owners thereof, but the tax imposed on an unincorporated resident entity owned by one person is upon the individual owner. For tax on that part of a resident owner's distributive share of net profits not taxed against the entity, see Article III, A4d below.

c. The tax imposed by Section 195.20 of the chapter is imposed on all resident unincorporated entities or associations having net profits attributable to the City under the method of allocation provided for in the chapter, regardless of where the owner or owners of such resident unincorporated business entities or associations reside.

d. 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 the chapter not attributable to the City, under the method of allocation provided for in Section 195.21 of the chapter, and not taxed against the entity.

5. Non-resident Unincorporated Businesses or Associations:

a. In the case of non-resident unincorporated businesses, associations, enterprises, undertakings, or other activities conducted, operated, engaged in, prosecuted or carried on, there is imposed an annual tax of two percent (2%) on the net profits earned, accrued or received during the effective period of the chapter attributable to the City, under the formula or separate accounting method provided for in Section 195.21 of the chapter.

b. The tax, imposed on non-resident unincorporated entities or associations owned by two or more persons, is upon the entities rather than the individual members or owners thereof. For tax on that part of a resident owner's distributive share of net profits not taxed against the entity, see Article III, A5d and e below.

c. Non-resident unincorporated entities or associations, owned by two or more persons all of whom are residents of the City, may elect to disregard the method of allocation provided for in the chapter and pay the tax on the entire net profits. In such case, the tax paid by the entity shall constitute all tax due from the owners or members of the entity for their distributive share of the net profits; however, a return shall be required from such owner or member.

d. A resident individual who is sole owner of a non-resident unincorporated business entity or association may 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 the chapter not attributable to the City under the method of allocation provided for in Section 195.21 of the chapter and not taxed against the entity.

6. 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, there is imposed an annual tax of two percent (2%) on the net profits earned, received or accrued during the effective period of the chapter attributable to the City under the formula or separate accounting method provided for in Section 195.21 of the chapter.

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

B. Amplification:

In amplification of the definition contained in Article II of these regulations but not in limitation thereof, the following additional information respecting net business profits is furnished.

1. Net Profits:

a. Net Profits as used in the chapter and these regulations means net profits derived from any business, profession or other activity or undertaking carried on for profit or normally carried on for profit.

b. Net Profits as disclosed on any return filed pursuant to the provisions of the chapter shall be computed by the same accounting method used in reporting net income to the Federal Internal Revenue Service, providing such method does not conflict with any provisions of the chapter or these regulations.

2. 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.

3. Expenses:

a. All ordinary and necessary expenses of doing business, including reasonable compensation paid employees, shall be allowed but no deduction may be claimed for salary or withdrawal of a proprietor or of the partners, members, or other owners of an unincorporated business, 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) Current amortization of emergency facilities under the provisions of the Internal Revenue Code, if recognized as such for Federal income tax purposes, may be included as an expense deduction hereunder.

(3) 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.

(4) 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.

(5) Only taxes directly connected with the business may be claimed as a deduction. If for any reason the income from property is not subject to the tax then taxes on, and other expenses of, said property are not deductible. In any event, the following taxes are not deductible from income; (1) the tax under the chapter; (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.

(6) The "Federal investment credit" is not deductible. However, if the investment credit requires the basis of the property to be lowered, depreciation may be computed on the original basis.

4. Other Income or Losses:

a. Capital gains and losses 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 book value, shall be treated as taxable income under the chapter to the extent of depreciation allowable after January 1, 1963. The balance 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 that 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. The Tax Administrator, upon submission by the taxpayer of satisfactory evidence showing the amount of expenses attributable to non-taxable income, shall permit the taxpayer to include in his return expenses attributable to non-taxable income in a amount agreed to by the taxpayer and the Tax Administrator. In lieu of such evidence, five percent (5%) of non-taxable income shall be considered to be attributable expenses.

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

(1) Where the gross monthly rental of any real properties, regardless of number and value, aggregates in excess of \$250.00 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:

(a) 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 \$250.00 per month.

(b) 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 \$250.00 per month.

(c) Provided further that the person who operates a rooming house of five or more rooms rented shall be considered in business whether or not the gross income exceeds \$250.00 per month.

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

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

(4) 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.

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

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

(7) Non-residents of the City are subject to such taxation only if the real property is situated within the City. Non-residents, in determining whether gross monthly rentals exceed, \$250.00 shall take into consideration only real estate situated within the City.

(8) 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.

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

(10) All persons engaged in the rental of real estate shall, in filing their annual returns, or as requested by the Administrator, complete and file with the Administrator a form SR4, obtainable at the Income Tax Office, specifying their tenants' names, apartment number, and such other information as requested if known.

f. 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 taxpayers' activities produced the publication or other product, the sale of which produces the royalties.

g. Net operating losses.

(1) Net operating losses, allocable to Stow, may be carried forward until exhausted. But, in no event for more than five (5) taxable years. No portion of a net operating loss shall be carried back against net profits of a prior year.

(2) In the event net profits are allocated both within and without Stow, the portion of the net operating loss sustained shall be allocable to Stow in the same manner as provided herein for allocation net profits to Stow. The portion of a net operating loss is sustained, on the basis of the allocation factors applicable to that year. The same method of accounting and allocation must be used in the year to which the operating loss is applied.

(3) A short fiscal year (a fiscal year of less than twelve (12) months) in cases where there has been a change in accounting period, where a new taxpayer selects a short fiscal year, or where a new taxpayer operates in Stow for less than his full accounting period, shall be considered as a full taxable fiscal year.

(4) In any return in which a net operating loss deduction is claimed, a schedule must be attached showing:

(a) Year in which net operating loss was sustained.

(b) Method of accounting and allocation used to determine portion of net operating loss allocable to Stow.

(c) Amount of net operating loss used as a deduction in prior years.

(d) Amount of net operating loss claimed as a deduction in current year.

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

C. Allocation of Business Profits:

If the books and records of a taxpayer conducting a business or profession both within and without the City disclose with reasonable accuracy what portion of its net profits is attributable to business conducted within the City, the separate accounting method may be used. In the absence of such records, the business allocation percentage method will be used.

1. Separate Accounting Method:

a. The net profits allocable to the City from business, professional or other activities conducted in the City by corporations or unincorporated entities (whether resident or non-resident) may be determined

from the records of the taxpayer if the taxpayer has bona fide records which disclose with reasonable accuracy what portion of the net profits is attributable to that part of the activities conducted within the City.

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

c. In determining the income allocable to the City 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.

2. Business Allocation Percentage Method:

a. STEP 1: Ascertain the percentage which the average net book value of real and tangible personal property, including lease-hold improvements, owned or used in the business and situated within Stow is of the average net book value of all real and tangible personal property, including leasehold improvements, owned or used in the business wherever situated, during the period covered by the return.

(1) The percentage of taxpayer's real and tangible personal property within the City is determined by dividing the average net book value of such property within the City (without deduction of any encumbrances) by the average net book value of all such property within and without the City. 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 net book value 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: Ascertain the percentage which the total wages, salaries, commissions and other compensation paid to employees for services performed within the City is of the total wages, salaries, commissions and other compensation of all the business or profession's employees, for services performed within and without the City, during the period covered by the return.

(1) Salaries and reasonable compensation paid owners or credited to the account of owners or partners during the period covered by the return are considered wages for the purpose of this computation.

(2) Wages, salaries, and other compensation shall be computed on the cash or accrual basis in accordance 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 the amount treated, as compensation for services performed within the City 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;

(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 bears to the value of all his services; and

(c) In the case of an employee compensated on a time basis, the proportion of the total amount received by him which his working time within the City is of his total working time.

c. STEP 3: Ascertain the percentage, which the gross receipts of the business or profession derived from sales made, work done and services rendered in the City is of the total gross receipts, wherever derived, during the period covered by the return.

(1) The following sales shall be considered Stow sales:

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

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

(c) All sales of tangible personal property delivered to purchasers within the City even though transported from a point outside the City if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City 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 to purchasers outside the City 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. Solicitation of customers outside the City by mail or phone from an office or place of business within the City shall not be considered a solicitation of sales outside the City.

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 ascertaining said total. The result so obtained is the business allocation percentage. In determining the average percentage, a factor shall not be excluded from the computation merely because said factor is found to be allocable entirely outside the City. 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 (or losses) of the business or profession wherever derived to determine the net profits (or losses) allocable to the City.

3. Substitute Method:

a. In the event a just and equitable result cannot be obtained under the formula the 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 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 Administrator.

4. A request to change methods of allocation must be made, in writing, to the Administrator before the close of the taxable year.

D. Consolidated Returns:

1. Consolidated returns may be filed by a group of corporations who are affiliated through stock ownership provided such group files consolidated returns for Federal income tax purposes. For a subsidiary corporation to be included in a consolidated return 80% of its stock must be owned by the other members of the affiliated group. A consolidated return must include all companies, which are so affiliated.
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 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.
 - 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. 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.

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

E. Exceptions:

The following shall not be considered taxable:

1. The military pay or allowance of members of the armed forces of the United States and of members of their reserve components, including the Ohio national guard..

2. The gross income of any charitable, educational, fraternal or other type of non-profit association or organization enumerated in Section 718.01 of the Revised Code of Ohio, which is exempt from payment of real estate taxes, is exempt from payment of the tax imposed by the chapter.

a. Any association or organization falling in the category listed in the preceding paragraph not exempt from the payment of real estate taxes is required to file declarations and final returns and remit the tax levied under the chapter on all business activities of a type ordinarily conducted for profit by taxpayers operating for profit.

b. Where such non-profit association or organization conducts income-producing business both within and without the City, it shall calculate its profits allocable to the City under the method or methods provided in Article III C.

3. Unemployment insurance benefits, welfare benefits, and pensions paid as a result of retirement.

4. Proceeds of insurance paid by reason of death of the insured; retirement disability benefits, annuities, or gratuities not in the nature of compensation for services rendered from whatever source derived;

5. Alimony received.

6. Receipts from seasonal or casual entertainment, amusements, fund raising, sports events and health and welfare activities when conducted by bona fide charitable, religious and educational organizations and associations.

7. The income of individuals under 18 years of age. Income earned on and after the individuals eighteenth birthday is taxable.

8. Gains from involuntary conversion, cancellation of indebtedness, interest on federal obligations, items of income already taxed by the State from which the City of Stow 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).

9. Salaries, income, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the United States Constitution or by act of Congress limiting the power of the states or their political subdivisions to impose net income taxes on income derived from interstate commerce.

10. Salaries, wages, commissions and other compensation, other income and net profits, including interest and dividends as provided in 718 O. R. C., the taxation of which is prohibited by the Constitution of the State or by any act of the Ohio General Assembly limiting the power of the City of Stow to impose net income tax.

ARTICLE IV

RETURN AND PAYMENT OF THE TAX

A. Forms, Date and Filing Requirements.

1. On or before April 30th of each year, every person subject to the provisions of Section 195.20 of the chapter shall, except as hereinafter provided make and file with the Administrator a return on a form prescribed by and obtainable, upon request, from the Administrator (or on other forms deemed acceptable by the Administrator), whether or not a tax be due. The fact that a taxpayer is not required to file a Federal tax return does not relieve him from filing a Stow tax return.

2. If the return is made for a fiscal year or any period less than a year, said return shall be made within four (4) months from the end of the fiscal year or other period.

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

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

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 on the association or partnership as an entity, whether resident or non-resident, and a return is required disclosing the net profits allocable to the City 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 A4d of these regulations.

7. A husband and wife may file a joint return.

8. The City of Stow accepts generic forms for estimated tax payments and for Stow's annual tax return. However, to be acceptable the generic form must contain all the information required on forms supplied by the City of Stow, and must be in a similar format that will allow processing of the generic forms without changing Stow's existing procedures for processing forms.

Determination as to whether a generic form meets the above criteria shall be the responsibility of the Tax Administrator.

B. Information Required and Reconciliation with Federal Returns:

1. Every person subject to the provisions of Section 195.20 of the chapter shall, except as hereinafter provided, file a return setting forth, for the period covered by the return:

- a. (1) The amount of salaries, wages, commissions and other compensation earned. The name of the municipality in which the income was earned and the amount of municipal income tax withheld and/or paid to that municipality.
- (2) The gross income from a business, profession or other activity less ordinary, reasonable and necessary expenses incurred in the acquisition of such gross income earned during the preceding year and subject to the tax derived from activities conducted with the City of Stow.
- (3). The gross income from a business, profession or other activity less ordinary, reasonable and necessary expenses incurred in the acquisition of such gross income earned during the preceding year and subject to the tax derived from activities conducted outside of the City of Stow.
- (4) All other taxable income.
- b. The amount of tax imposed by this chapter on the above.

- c. Where figures of total income, total deductions, and net profits are included, as shown by a Federal return, a copy of that Federal return or schedule should be attached and any items of income which are not subject to the City of Stow tax and non-allowable expenses shall be eliminated in determining net income subject to the City of Stow tax.
- d. Other pertinent statements, information returns or other information as the Administrator may require.

2. In returns filed hereunder there shall be set forth the amount of tax imposed by the chapter on all taxable income. Any credits due, as described in Article XV, of these regulations, may then be deducted and the balance of tax, or overpayments if any, set forth.

3. Where space on the return is inadequate to clearly indicate how taxable income was determined, additional schedules should be attached. The Administrator may require additional information at any time he deems necessary to verify the accuracy of any return.

C. Extensions:

1. Upon written request of the taxpayer made on or before the date for filing the return, and for good cause shown, the Administrator may extend the time for filing such return for a period of not to exceed six (6) months, or to one (1) month beyond any extension requested of or granted by the Federal Internal Revenue Service.

a. The Administrator may require a tentative return accompanied by payment of the tentative tax on or before the regular filing date when granting an extension.

b. When the return is filed within the extended filing period and a balance of tax due is indicated after all payments and credits provided in Sections 195.25, 195.30, and 195.90 of the chapter have been applied, the balance of tax due, together with interest on that balance, shall be paid. The interest shall be computed from the date the return was originally due, even though an extension has been granted.

c. No penalty shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended, provided all other filing and payment requirements of the chapter have been met.

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

D. Payment With Return.

1. The taxpayer making a return shall, at the time of the filing thereof, pay to the Administrator the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of Section 195.26 of the chapter, or where any portion of said tax shall have been paid by the taxpayer pursuant to the provisions of Section 195.25 of the chapter, or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with Section 195.90 hereof, shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing said return.

2. Should the return or the records of the Administrator indicate an overpayment of the tax to which the City of Stow is entitled under the provisions of this chapter, the overpayment shall first be applied against any existing liability and the balance, if any, at the election of the taxpayer communicated to the Administrator, shall be refunded or transferred against any subsequent liability. However, no additional taxes or overpayments of less than one dollar (\$1.00) shall be refunded or collected.

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 195.76 and 195.90 of the chapter. Such amended return shall be on a form

obtainable, upon request, from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

2. Within three (3) months from the final determination of any Federal tax liability affecting the taxpayer's City tax liability, such taxpayer shall make and file an amended City of Stow 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. See Article XI B1 of these regulations.

ARTICLE V

THERE IS NO ARTICLE V IN THESE REGULATIONS

ARTICLE VI

COLLECTION OF TAX AT THE SOURCE

A. Duty of Withholding.

1. Except as otherwise provided herein, it is the duty of each employer within or doing business within the City, who employs one or more persons whether as an employee, officer, director or otherwise, to deduct each time any compensation is paid the tax of two percent (2%) from all compensation paid for service rendered, work performed or other activities engaged in within the City.

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

3. 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 the chapter and Article XV and VII of these regulations.

4. Where a non-resident receives compensation for personal services rendered or performed partly without the City, the employer shall deduct, withhold and remit the tax on that portion of the compensation, which is earned within the City 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 bears to the total volume of business transacted by him, except as clarified in Article III A3.

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 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 on a seven-day per week basis. The percentage of time worked in the City will be computed on the basis of a forty-hour week unless the employer notifies the Administrator that a greater or lesser number of hours per week is worked.

d. The occasional entry into the City of a non-resident employee who performs the duties for which he is employed primarily outside the City shall not be deemed to take such employee out of the class of those rendering their services entirely outside the City (See Article IIIA2c).

e. 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.

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

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

7. If not currently required to withhold Stow income tax, then a non-resident employer, agent of such employer, or other payer not situated in Stow shall not further be required to withhold Stow income tax from remuneration paid to employees of the employer until the collective tax liability of the employees initially exceeds \$150.

Independent contractors of a non-resident employer shall be deemed employees for work performed in Stow on behalf of the employer, and are subject to the collective tax liability provisions as if they were employees, and are not excluded from taxation by Section 718.03 ORC.

When the collective tax liability exceeds \$150, the employer is required to begin withholding the appropriate income tax for Stow on behalf of all the employees performing work in Stow. The withheld income tax shall be remitted to Stow in accordance with Section 195.26 of the chapter. After exceeding the \$150 de minimus amount, the employer shall continue to have no responsibility for remitting any portion of the initial \$150 liability that was not withheld.

Once the collective tax liability has exceeded \$150, the employer must withhold income tax for Stow (i.e., for work performed in Stow) for the remainder of that calendar year and for subsequent years, even if the liability in subsequent years does not exceed \$150. However, if the tax liability for each of the three consecutive years (subsequent to that year in which the employer became liable for withholding the income tax) does not exceed \$150, the employer will be considered as not having performed work in Stow in regard to further tax liability, and will again be subject to Article VI A 7.

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

1. The deductions from salaries, wages and other compensation required to be made by employers are to begin with the compensation earned on and after the effective date of the chapter. The employer (in addition to any return required to be filed with respect to his own earnings or net profits) shall, on or before the last day of the month following each calendar quarter make a return and remit to the City of Stow the tax hereby required to be withheld.

2. Monthly payments of taxes withheld shall be made by each employer, if the taxes deducted in the prior calendar year were more than \$2,400 or if the deductions otherwise normally exceed two hundred dollars (\$200.00) per month. The payment shall be made to the City of Stow within fifteen days after the close of each calendar month

3. If more than the amount of tax required to be deducted by the chapter is withheld from any employee's pay, such excess may be refunded by the employer or the Administrator. In those cases in which too much has been withheld by the employer from an employee and remitted to the Administrator and there has been a termination of the employee-employer relationship, the taxpayer (employee) may obtain a refund by application to the Administrator, except that refunds will not be made unless claimed within three (3) years after the year for which the tax was withheld as provided in Section 195.76 of the chapter and Article XI of these regulations. If less than the amount of tax required to be deducted is deducted and withheld by the employer in any pay period or pay periods, the deficiency shall be withheld in subsequent pay periods.

4. Such employer in collecting the tax shall be deemed to hold the same until payment is made by such employer to the City as a trustee for the benefit of the City, and any such tax collected by such employer from his employees shall, until the same is paid to the City, be deemed a trust fund in the hands of such employer.

a. Every manager is deemed to be a trustee of the City in collecting and holding the tax required under this chapter to be withheld, and the funds so collected by such withholding are deemed to be trust funds. Every manager is liable directly to the City for payment of such trust funds, whether actually collected by such employer or not.

b. All managers shall be personally liable, jointly and severally, with the employer, to the extent of the tax, interest and penalty for failure to file the employer's return or to pay the employer's tax, interest and penalty as required under this chapter.

c. No change in structure or organization by an employer, including a fundamental change, discharges its manager from liability for the employer's or manager's failure to remit funds held in trust, to file a tax return or to pay taxes.

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

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

7. For the convenience of employers, the information return referred to in paragraph 6 above may be made in one of two ways at the election of each employer, as follows:

a. Those employers using Form W-2 furnished commercially may submit a copy of such commercial Form W-2 providing the copy furnished to the City clearly shows the information required in paragraph 6 above.

b. Where the furnishing of this information as indicated above will create a distinct hardship, the employer, upon written request to the Administrator, may be permitted to furnish a list of all employees subject to the tax, which list shall show the information required in paragraph 6 above. Such list may be compiled on any mechanical equipment used by the employer, provided the listing is legible. The employer's name must be indicated on each sheet, each sheet must be numbered, and the total number of sheets comprising the complete report indicated on the first page.

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

8. In addition to the Withholding Statements, and at the time they are filed, each employer shall file with the Administrator Reconciliation of Returns, comparing the Returns of Income Tax Withheld to the total amount of taxes withheld as disclosed by the Withholding Statements.

9. On or before the 31st day of January, following any calendar year in which any person who, in the course of their trade or business, including activities deemed non-profit, makes payments to any person for work done or services performed, other than a corporation and such payments are not subject to withholding tax (i.e., not reported on an individual IRS form w-2) and are not reported on withholding statements shall file with the Administrator a copy of all Form 1099's issued and for such additional amounts not required to be reported on form 1099 a information list showing for each person, the full name, last known address, social security number and the gross amount paid.

C. Fractional Parts of Cent.

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. Domestic Servants.

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

E. Contractors performing work in the City.

An individual, partnership, association, corporation or other entity engaged in the business of construction work and who will perform construction work in the City of Stow shall obtain a tax account number, issued by the Income Tax Department, prior to beginning construction work. The Income Tax Department shall also issue a certificate of registration, which the contractor shall file with the Building Department and the Engineering Department. Failure to possess a valid certificate shall be cause for suspension of work by the Building Department, the plans and permits center, the Engineering Department and/or Income Tax Department 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 Income Tax Department for failure by the contractor to remain current in the filing of required tax documents, for failure to remain current in the required payment of taxes, and for failure to comply with any section of Chapter 195. Any discrepancy as to amounts of tax due and owing under this paragraph may be assessed at the discretion of the Tax Administrator.

F. Contractors performing work for the City.

Every contractor performing work for the city shall be bound by the requirements of Section 195.26 of the Ordinance, and shall assure that all of its subcontractors performing work for the city adhere to the same provisions.

ARTICLE VII

DECLARATIONS

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. The declaration must be filed only if the estimate of tax that will not be withheld exceeds one hundred dollars (\$100.00). Where required such declaration shall be filed within four (4) months after the beginning of the taxable year.

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, after taking into consideration known factors, which might alter, anticipated income. This provision is further subject to the provisions in Article VII C2.

B. Date of Filing:

1. A person or other entity conducting a business not previously subject to the tax or whose employer does not withhold the tax, shall file a declaration within four (4) months after the date he becomes subject to the tax.

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

C. Form For Filing:

1. Such declaration shall be filed upon a form or forms furnished by, or obtainable upon request from, the Administrator. Credit shall be taken for City of Stow tax to be withheld from any portion of such income. In accordance with the provisions of Section 195.90 of the chapter, credit may be taken for tax to be paid or to be withheld and remitted to another taxing municipality.

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 Administrator. An amendment must be filed on or before each quarterly filing date if there is a change of more than 30% to the original estimate. Interest and penalty amounts may be assessed when estimated tax payments made are less than 80% of tax payments actually due to Stow on the final return. No penalty or interest will be assessed if the total amount of estimated tax payments made to Stow equals the total tax due to Stow in the preceding year. The assessments shall be on the difference between 80% of the tax liability and the amount of estimated tax actually paid.

D. Dates of Payments:

1. The estimated tax may be paid in full with the declaration or in equal installments on or before the last day of the fourth, seventh, tenth and thirteenth month after the beginning of the taxable year.

2. The declaration must be accompanied by at least one installment of the estimated tax shown due thereon.

3. In the event an amended declaration has been filed the unpaid balance shown due thereon shall be paid in equal installments over the remaining payment dates.

E. Final Returns Required:

1. 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 refund of any overpayment of one dollar (\$1.00) or more.

ARTICLE VIII

DUTIES AND POWERS OF THE TAX ADMINISTRATOR

A. Collection of Tax and Retention of Records:

1. It shall be the duty of the Administrator to receive the tax imposed by the chapter in the manner prescribed therein from the taxpayers; to keep an accurate record thereof and to report daily all monies so received.
2. It shall be the duty of the Administrator to enforce payment of all taxes owing the City of Stow, to keep accurate records for a minimum of five (5) years showing the amount due from each taxpayer required to file a declaration and/or make any return, including taxes withheld, and to show the dates and amounts of payments thereof.

B. Enforcement Provisions:

1. The Administrator is charged with the administration and enforcement of the provisions of the chapter and is, subject to the approval of the Board of Review, empowered to adopt, promulgate, and enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the chapter. The Administrator has the authority to correct or adjust any return submitted, when a correction or adjustment is necessary to accomplish the intent of the chapter.
2. Any taxpayer or employer desiring a special ruling on any matter pertaining to the chapter or these rules and regulations, should submit to the Administrator in writing all the facts involved and the ruling sought.
3. These regulations, together with all amendments and supplements hereto and all changes herein, will be on file at the office of the Administrator and will be open to public inspection.
4. The Administrator is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments when the taxpayer has proved to the Administrator that, due to certain hardship conditions, they are unable to pay the full amount of the tax due. Authorization shall not be granted until the taxpayer files proper returns for all amounts owed by him under this chapter.
5. 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 195.75, 195.77 and 195.80 of the chapter shall apply.
6. Payments received shall first be applied to delinquent taxes, and then to penalties and interest.

C. Estimation of Tax by Administrator:

In any case where a taxpayer or employer has failed to file a return or has filed a return which does not show the proper amount of tax due, the 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 Administrator determines that any taxpayer subject to the provisions of the chapter has a tax liability for which he has failed to pay the full amount of tax due, the Administrator shall issue a proposed assessment showing the amount of tax due, together with any penalty and interest that may have accrued thereon.
 - a. If the Administrator determines that any taxpayer subject to the provisions of the chapter has a tax liability for which he has filed no return, or has filed an incorrect return and has failed to pay the full

amount of tax due, the Administrator shall issue a proposed assessment showing the amount of tax due, together with any penalty and interest that may have accrued thereon.

(1) Such a proposed assessment shall be served upon the taxpayer in person or by mailing to his last known address.

(2) A taxpayer may, within thirty (30) days after the date the proposed assessment was served or mailed, file a written protest with the Administrator. The burden shall rest on the taxpayer, by timely production of his books and records or otherwise, to substantiate his return and absent such proof, the determination of the Administrator shall be final, subject to the provisions of Section 195.85 of the chapter. If no protest is filed as herein provided, such proposed assessment shall become final thirty (30) days after being served.

b. When any taxpayer subject to the provisions of the chapter has filed a return indicating the amount of tax due and has failed to pay said tax to the City as required by the chapter, the Administrator need not issue an assessment but may proceed under the provisions of Sections 195.75 and 195.80 of the chapter.

2. Provisions Affecting Employers:

a. If the Administrator determines that an employer subject to the provisions of the chapter has failed to file a return for tax withheld and has failed to pay to the City the full amount of said taxes, the Administrator shall issue a proposed assessment showing the amount of tax due, together with any penalties and interest that may have accrued thereon, and the provisions of paragraph D of Section 195.60 of the chapter shall then apply.

b. If the Administrator determines that an employer subject to the provisions of the chapter has failed to withhold tax the Administrator shall issue a proposed assessment showing the tax due, together with any penalties and interest that may have accrued thereon, and the provisions of paragraph D of Section 195.60 of the chapter shall then apply.

c. When an employer subject to the provisions of the chapter has filed a return indicating the amount of tax withheld and has failed to pay said tax to the City as required by the chapter, the Administrator may proceed under the provisions of Sections 195.75 and 195.76 of the chapter and need not issue an assessment as provided in Section 195.60, paragraph D of the chapter.

ARTICLE IX

EXAMINATION OF BOOKS AND RECORDS, INFORMATION SO OBTAINED CONFIDENTIAL: PENALTY

A. Investigation by Administrator:

1. The Administrator, or his duly authorized employee, is empowered to examine the books, papers, records and copies of Federal income tax returns of any employer, taxpayer or person subject to the chapter, for the purpose of verifying the accuracy of any return made to the City; or if no return was made, to ascertain the tax due under the chapter.

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

B. Subpoena of Records and Persons:

1. The 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 Administrator may compel the production of books, papers and records and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of the facts concerning any supposed income or supposed transactions of the taxpayer.

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

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

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

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

C. Penalty for Non-Compliance.

Refusal of any employer, supposed employer, taxpayer, or supposed taxpayer, or the refusal of any such person to appear before the Administrator or his duly authorized agent, to submit to such examination and to produce the records requested constitutes a misdemeanor punishable by fine or imprisonment, or both, as prescribed by Section 195.99 of the chapter.

D. Confidential Nature of Examinations.

Any information gained as a result of any returns, investigations, verifications or hearings before the Administrator required by the chapter or authorized by these rules and regulations shall be confidential and no disclosure thereof shall be made except for official tax purposes or as ordered by a court of

competent jurisdiction or upon receipt of a waiver signed by the individual who has submitted the return. Any person divulging such information shall be guilty of a misdemeanor. In addition to the above penalty, any employee of the City of Stow who violates the provisions of Section 195.65(d) of the chapter relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

E. Retention of Records.

Everyone required to file a return shall 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 retained to compute tax liability.

ARTICLE X

INTEREST AND PENALTIES

A. Interest:

Except as provided in paragraph C of this Article, all taxes imposed and monies withheld by employers under the provisions of the chapter and remaining unpaid after they have become due shall bear interest, in addition to the amount of the unpaid tax or withholdings, at the rate of one and one-half (1.5) percent per month or fraction thereof.

B. Penalties:

All taxes due from taxpayers and all moneys withheld or required to be withheld by employers under the provisions of this chapter and remaining unpaid after they have become due and payable shall be subject to a penalty as follows:

1. For failure to pay taxes due, other than taxes withheld, 1.5% per month or fraction thereof.
2. For failure to remit taxes withheld or required to be withheld, from employee(s), 10% per month or fraction thereof, not to exceed one hundred percent (100%), of the tax amount not paid.
3. For failure to file a required return, on or before the date due or the date due as extended, the penalty assessed shall be Twenty-five (\$25.00) Dollars.

C. Exceptions:

1. No penalty shall be assessed on additional taxes found on audit to be due when a return was timely filed in good faith and the tax paid thereon within fifteen (15) days from the date the taxpayer was notified of such findings.
2. In the absence of fraud neither penalty nor interest shall be assessed on any additional taxes resulting from a Federal audit for Federal income tax purposes provided an amended return is filed and the additional tax paid within three (3) months after final determination of the Federal tax liability.

D. Appellate Review.

1. The Administrator may abate penalty or interest, or both for good cause shown.
2. In cases of tax return discrepancies of five dollars (\$5.00) or less, the Tax Administrator shall have the authority to officially waive collection of such amount(s) when the anticipated cost of collection shall exceed five dollars (\$5.00).
3. Any person dissatisfied with any action, ruling or decision of the Income Tax Administrator, or any member of his/her department, whether made under the auspices of authority conferred by this chapter or otherwise may appeal in writing to the Board of Review within thirty (30) days from the announcement of such action, ruling or decision of the Tax Administrator or any member of his or her department. The Board, having the authority to review such matters, may affirm, reverse or modify any such action, ruling or decision.

ARTICLE XI

COLLECTION OF UNPAID TAXES AND REFUND OF OVERPAYMENT

A. Unpaid Sums--A Legal Debt:

1. All taxes imposed by the chapter and not paid when due become, together with interest and penalties thereon, a debt due the City from the taxpayer and are recoverable as are other debts by suit. Employers who are required under Section 195.26 of the chapter, 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 City in a suit to enforce the payment of the debt created by such failure.

2. No additional assessment shall be made by the 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 a substantial portion of income, or filing a false or fraudulent return to evade payment of the tax, or failure to file a return. Failure to report 25% or more of gross income shall be considered a substantial omission.

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 the Administrator may make an assessment 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 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.

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

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

4. Should the return or the records of the Administrator indicate an overpayment, the overpayment shall first be applied against any existing liability and the balance, if any, at the election of the taxpayer communicated to the Administrator, shall be refunded or transferred against any subsequent liability.

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.
- c. To his current estimated tax liability.

5. Refunds for days worked out of Stow are available only to non-residents, and refunds shall be computed by dividing total wages by total days worked in order to determine an average daily wage. The work year shall be considered two hundred sixty (260) days. Saturdays and Sundays shall not normally be considered workdays. Additions, deletions, or other changes to the method for calculating refunds shall be at the discretion of the Administrator.

C. Limitations:

1. Amounts of less than one dollar (\$1.00) shall not be refunded or collected.

ARTICLE XII

PROHIBITIONS; PROSECUTION

A. No person shall:

1. Fail, neglect or refuse to make any return or declaration required by this chapter; or
2. Make any incomplete, false or fraudulent return; or
3. Fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter; or
4. Fail, neglect or refuse to withhold the tax from their employees or remit such withholdings to the Administrator; or
5. Refuse to permit the Administrator or any duly authorized agent or employee to examine their books, records, papers and federal income tax returns relating to the income or net profits of a taxpayer; or
6. Fail to appear before the Administrator and to produce their books, records, papers or federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator; or
7. Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer; or
8. Fail to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized hereby; or
9. Give to an employer false information as to his true name, correct social security number and residence address, or fail to promptly notify an employer of any change in residence address and date thereof; or
10. Fail to use ordinary diligence in maintaining proper records of employees; residence addresses, total wages paid and the City of Stow tax withheld, or knowingly give the Administrator false information; or
11. Evade or attempt to evade in any manner the payment of the whole or any part of the tax, penalties or interest imposed by this chapter.

B. Anyone who violates any part of Chapter 195 shall be guilty of a first-degree misdemeanor.

C. Prosecutions.

All prosecutions under this section or any other provision of this chapter shall be commenced within three years from the time of the offense complained of except in the case of failure to file a return or in the case of filing a false or fraudulent return, or the omission of at least twenty-five percent (25%) of the income required to be reported, in which event the limitation of time within which prosecution must be commenced shall be six years from the date the return was due or the date the false or fraudulent return was filed, or the commission of the offense, whichever is later.

D. Failure to Receive Forms--Not a Defense.

The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse them (1) from making any information return, declaration, or return, (2) from filing such form, or (3) from paying the tax.

ARTICLE XIII

BOARD OF REVIEW

A. Board of Review.

1. A Board of Review consisting of a chairman and four other individuals, one being an Attorney and one being a Certified Public Accountant or Enrolled Agent, each to be appointed by the Mayor, with the consent of Council, is created. The members shall serve staggered five-year terms. 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 members are eligible for reappointment to the Board of Review. No compensation shall be paid to the members until otherwise provided by Council. All members of the Board of Review shall be resident citizens of the City of Stow. Any hearing by the Board shall be conducted privately and the provisions of Section 195.65 with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as may be heard before the Board on appeal.

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

B. Appeals by Taxpayers.

1. The Board of Review shall, on hearing, have jurisdiction to affirm, modify or reverse any assessment, ruling or decision, or any part thereof made by the Administrator from which an appeal has been filed as provided in Section 195.85 of the chapter and ORC 718.11. Such appeal must be made within thirty days from the announcement of the ruling or decision to which exception is taken by a taxpayer.

The Board of Review must schedule a hearing within forty-five days from the date of the appeal. Its decision must be rendered within thirty days from the date of the closing of the record, and shall be in writing and filed with the Income Tax Administrator.

2. A taxpayer dissatisfied with a decision or filing by the Board of Review may appeal to a court of competent jurisdiction within thirty days from the date of filing of the ruling or decision to which exception is taken.

C. Organizational Procedures.

1. The Board of Review shall elect, from its members, a chairperson.

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

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

4. 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 195.65 of the chapter 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 of Review on appeal.

ARTICLE XIV

USE OF FUNDS

(See Section 195.02 of the Chapter)

ARTICLE XV

CREDIT ALLOWED FOR TAX PAID IN ANOTHER MUNICIPALITY

A. Limitation.

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

B. Credits to Residents.

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

C. Method of Applying for Credit.

1. No credit will be given unless the taxpayer claims such credit on his final return or other form prescribed by the Administrator and presents such evidence of the payment of a similar tax to another municipality as the Administrator may require.

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

ARTICLE XVI

SAVINGS CLAUSE

A. 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 the City Council to impose the tax provided for in the chapter.

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

ARTICLE XVII

AMENDMENTS AND SUPPLEMENTS

From time-to-time amendments and supplements to these regulations may be issued by the Administrator, subject to the approval of the Board of Review.

The City of Stow Income Tax Board of Review has approved and adopts this revision of these Rules and Regulations:

Kara Kelly, Member

Lynn Schrier, Member

C. Michael Walsh, Member

David Brown, Member

Bruce McBrian, Member