

The Municipality of Germantown, Ohio
INCOME TAX RULES AND REGULATIONS

Adopted under the Authority of Chapter 181
Section 181.08, of the Germantown Code of Ordinances

ARTICLE I

Section 181.01 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.

"Association" means a partnership, limited partnership, limited liability company, Chapter S Corporation as defined in the Federal tax code, 26 U.S.C. 1361, or any other form of unincorporated enterprise, owned by two or more persons.

"Board of Tax Appeals" means the Board created by and constituted as provided in Section 181.13.

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

"Corporation" means a corporation 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.

"Domicile" means the permanent legal residence of a taxpayer. A taxpayer may have more than one residence but not more than one domicile.

"Employee" means one who works for wages, salary, commission or other type of compensation in the service of an employer.

"Employer" means an individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, having a place of business or doing business within the Municipality and who or that employs one or more persons on a salary, wage, commission or other compensation basis.

"Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31.

"Generic Form" means an electronic or paper form designed for reporting estimated municipal income taxes and/or annual municipal income tax liability, that contain all the information required on Germantown's regular tax return and estimated payment forms, and are in a similar format that will allow processing of the generic forms without altering Germantown's procedures for processing forms.

"Gross receipts" means the revenue derived from sales, work done, or services rendered before any deductions, exceptions, or credits are claimed.

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

(a) All salaries, wages, commissions, other compensation and other income from whatever source received by residents of Germantown.

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

(c) The portion attributable to the Municipality of Germantown 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 Germantown.

"Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085,26 U.S.C. 1, as amended.

"Net profits" means the net gain from the operation of a business, profession, enterprise or other activity, after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system (i.e., either cash or accrual) used by the taxpayer for Federal income tax purposes without deduction of taxes imposed by this chapter and the rules and regulations, Federal, State or other taxes based on income; and in the case of an association without deduction of compensation to partners and other owners; and otherwise adjusted to the requirements of this chapter and the rules & regulations promulgated by the Superintendent of Taxation.

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

"Nonresident" means any individual domiciled outside the Municipality of Germantown.

"Nonresident unincorporated business entity" means an unincorporated business entity not having a place of business within the City.

"Other payer" means any person that pays an individual any item included in the taxable income of the individual, other than the individual's employer or that employer's agent.

"Person" means every natural person, partnership, fiduciary, association or corporation. Whenever used in any section prescribing and imposing a penalty, the term "person" includes an officer or employee of a corporation, or a member, partner, or employee of an association.

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

"Resident" means an individual domiciled in the Municipality of Germantown, Ohio.

"Resident unincorporated business entity" means an unincorporated business entity having a place of business within the Municipality.

"Return Preparer" means any person other than a taxpayer that is authorized by a taxpayer to complete or file an income tax return, report, or other document for or on behalf of the taxpayer.

"Schedule C" means the Internal Revenue Service Schedule C filed by a taxpayer pursuant to the Internal Revenue Code as amended.

"Superintendent of Taxation" (also referred to as Superintendent) means the Superintendent of Taxation of the City, or the person executing the duties of the aforesaid Superintendent of Taxation.

"Taxable income" means income minus the deductions and credits allowed by this Chapter and these rules & regulations.

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

"Taxpayer" means a person, whether an individual, partnership, association, or any corporation or other entity, required hereunder to file a return or pay a tax.

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 Employee:

a. In the case of residents of the Municipality an annual tax of one and one-quarter percent (1.25%) is imposed on all salaries, wages, commissions, other compensation, and other income (including earnings deposited by the employee into qualified and non-qualified deferred compensation plans and/or medical coverage plans) earned or received during the effective period of the chapter, whether such income is received or earned directly or through an agent and whether paid in cash or in property. For the purpose of determining the tax on the earnings of resident taxpayers taxed under Section 181.03 of the chapter, the source of the earnings and the place or places in or at which the services were rendered, are immaterial. All such earnings wherever earned or paid are taxable, 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 Germantown Income Tax Department.

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

(1) Gross income, including but not limited to 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 an officer, director or employee of a corporation (including charitable and other non-profit organizations), or association or any other entity or person; an officer or employee (whether elected, appointed, or commissioned) of the United States Government or any of its agencies or of the State of Ohio or any of its political sub-divisions or agencies thereof; or any foreign country or dependency except as provided in Section 181.03(e) of the chapter.

(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.

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

(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 Article III A3 and/or A4 of the Rules & Regulations.

(4) Other compensation and income, as reported on W-2's or 1099's, including but not limited to tips, bonuses, profit sharing, "non-competition" covenants, portions of stock options that are not considered capital gains by the Municipality of Germantown, or gifts of any type in connection with services rendered, compensation paid to casual employees and other types of employees, compensation received by domestic servants.

(5) Payments made to an employee by an employer as sick leave, vacation pay, or holiday pay.

(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 Germantown income tax.

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

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

c. When compensation is paid or received in property, its fair market value at the time of receipt shall be subject to the tax and to withholding. Board, lodging and similar items received by an employee in lieu of additional cash compensation shall be included in earnings at their fair market value, except in the case of domestics and other employees whose duties require them to live at their place of employment or assignment, board and lodging shall not be considered as wages or compensation earned.

d. When a resident receives compensation for services for sales of real estate or insurance, that total compensation is taxable at Germantown's tax rate and is payable to the Municipality of Germantown if the site of the property sold or the residence of the purchaser of insurance is within Germantown. If not within Germantown the compensation is likewise taxable, less any credits given in Article XIV.

2. Non-Resident Employee:

a. In the case of individuals who are not residents of the Municipality, there is imposed under Section 181.03 of the chapter, a tax of one and one-quarter percent (1.25%) on all salaries, income, wages, commissions, and other compensation (including earnings deposited by the employee into qualified and non-qualified deferred compensation plans and/or medical coverage plans) earned or received during the effective period of the chapter for work done or services performed or rendered within the Municipality, whether such income 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 Germantown Income Tax Department.

b. The items subject to tax for non-residents are the same as those listed and defined in Article III A1 above. For the methods of computing the extent of such work or services performed within the Municipality, in cases involving compensation for personal services partly within and partly without the Municipality, see Article V A5 of these regulations.

c. When a non-resident receives compensation for services for sales of real estate or insurance from an employer whose situs is the Municipality of Germantown, that total compensation is taxable at Germantown's tax rate and is payable to the Municipality of Germantown if the site of the property sold or the residence of the purchaser of insurance is within Germantown.

d. Occasional entrant.

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

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

(b) The individual is a professional athlete, the promoter of a professional entertainment or sports event, or an employee of such promoter, all as may be reasonably defined by the Municipality

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

(3) Beginning with the thirteenth day, the employer of said individual shall begin withholding Germantown income tax from remuneration paid by the employer to the individual, and shall remit the withheld income tax to Germantown in accordance with Section 181.06 of the income tax ordinance. Since the individual can no longer be considered to have been an occasional entrant, the employer is further required to remit taxes on income earned in Germantown by the individual for the first twelve (12) days. If the individual is self-employed or an independent contractor, it shall be the responsibility of the individual to remit the appropriate income tax to the Municipality of Germantown.

(4) Any tax withheld for Germantown under Article III A2d(1) is subject to being refunded only to the municipality in which the employer’s principal place of business is located, and only after the municipality has established that the municipality has a liability to them. However, any tax that has been withheld for Germantown under the \$150 de minimus provisions of Article V A3 is not subject to refund even if the employee for which tax was withheld is an occasional entrant.

3. Resident Unincorporated Businesses:

a. In the case of resident unincorporated businesses, associations, or other entities, there is imposed an annual tax of one and one-quarter percent (1.25%) on the net profits earned, accrued or received during the effective period of the chapter attributable to the Municipality under the formula or separate accounting method provided in Section 181.03 of the chapter, derived from work done or services performed or rendered and business or other activities conducted in the Municipality.

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 A3e and f below.

c. The tax imposed by Section 181.03 of the chapter is imposed on all resident unincorporated entities or associations having net profits attributable to the Municipality 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. Resident unincorporated entities or associations owned by two or more persons, all of whom are residents of the Municipality, shall disregard the method of allocation provided for in the chapter and pay the tax on their entire net profits thereof. In such case, the tax paid by the entity shall constitute all tax due from the owners or members of the entity for their distributive share of such net profits; however, a return shall be required from any such owner or member having taxable income other than the distributive share of the net profits from the entity.

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

f. In the case of a resident individual partner or part owner of a resident unincorporated entity or association, there is imposed an annual tax of one and one-quarter percent (1.25%) on such individual's distributive share of net profits earned, accrued or received during the effective period of the chapter not attributable to the Municipality, under the method of allocation provided for in Section 181.03 of the chapter, and not taxed against the entity.

4. Non-resident Unincorporated Businesses or Associations:

a. In the case of resident unincorporated businesses, associations, or other entities, there is imposed an annual tax of one and one-quarter percent (1.25%) on the net profits earned, accrued or received during the effective period of the chapter attributable to the Municipality, under the formula or separate accounting method provided for in Section 181.03 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, A4d and e below.

c. Non-resident unincorporated entities or associations, owned by two or more persons all of whom are residents of the Municipality, 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.

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

e. In the case of a resident individual partner or part owner of non-resident unincorporated entity or association, there is imposed an annual tax of one and one-quarter percent (1.25%) on such individual's distributive share of net profits earned, accrued or received during the effective period of the chapter not attributable to the Municipality under the method of allocation provided for in Section 181.03 of the chapter and not taxed against the entity.

5. Imposition of Tax on Net Profits of Corporations:

a. In the case of corporations, whether domestic or foreign and whether or not such corporations have an office or place of business in the Municipality, there is imposed an annual tax of one and one-quarter percent (1.25%) on the net profits earned, received or accrued during the effective period of the chapter attributable to the Municipality under the formula or separate accounting method provided for in Section 181.03 of the chapter.

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

B. Clarification of taxation of net profits:

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

1. Net Profits:

a. Net Profits as used in the chapter and these rules & 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 (i.e., either cash or accrual) used in reporting net income to the Federal Internal Revenue Service, providing such method does not conflict with any provisions of the chapter or these rules & 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 shall be allowed but no deduction may be claimed for salary or withdrawal of a proprietor or of the partners, members, or other owners of an unincorporated business, enterprise, or association.

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

(2) Where depreciable property is voluntarily destroyed only the cost of such demolition and the undepreciated balance thereof will be allowed as an expense in the year of such demolition, to the extent allowable for Federal income tax purposes.

(3) Bad debts in a reasonable amount may be allowed in the year ascertained worthless and charged off, or at the discretion of the Superintendent (if the reserve method is used), a reasonable addition to the reserve may be claimed; but in no event shall the amount exceed the amount allowable for Federal income tax purposes.

(4) Only taxes directly connected with the business may be claimed as a deduction. If for any reason the income from property is not subject to the tax then 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.

(5) 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 (capital or other) from sale, exchange or other disposition of property used in the trade or business shall not be taken into consideration in arriving at net profits earned. However, any amount or value received, realized or recognized on a sale or other disposition of tangible personal property or real property used in business, in excess of original book value, shall be treated as taxable income under the chapter to the extent of depreciation previously taken as a deduction. The method of calculating the depreciation deduction shall not be considered when recovering the depreciation as a result of the sale, exchange or other disposition of property. The balance in excess of the amount of depreciation recovered shall be treated as a capital gain.

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

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

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

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

b. In general, non-taxable income (and expense incurred in connection therewith) are not to be considered in determining net profits. Income from intangibles, by way of dividends, interest and the like, shall not be included if such income is subject to taxation under the intangible personal property laws of the State of Ohio or is specifically exempt from taxation under said laws.

c. Income derived from the operation of oil and/or gas wells shall be taxable, and expenses incurred in connection therewith shall be considered in determining net profits.

d. The Superintendent, 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 an amount agreed to by the taxpayer and the Superintendent. 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.

(1) It shall be prima facie evidence that the rental, ownership, management or operation of properties is a business activity of the taxpayer, and the net income of such rental properties shall be subject to tax:

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

(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 (the owner of which 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), 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 are allowed by the Internal Revenue Service for Federal income tax purposes.

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

(7) Non-residents of the Municipality are subject to such taxation only if the real property is situated within the Municipality.

(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 Municipality.

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 taxpayer's activities produced the publication or other product, the sale of which produces the royalties.

g. Net operating losses may be carried forward for three (3) years. No portion of a net operating loss shall be carried back against net profits of a prior year. Losses shall not be allowed (in whole or in part) to be allocated to Germantown as loss carry forward if the loss occurred during a time period in which gross receipts (in whole or in part) were not allocated and reported to Germantown.

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

C. Allocation of Business Profits:

If the books and records of a taxpayer conducting a business or profession both within and without the Municipality disclose with reasonable accuracy what portion of its net profits is attributable to business conducted within the Municipality, 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 Municipality from business, professional or other activities conducted in the Municipality 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 his net profits is attributable to that part of his activities conducted within the Municipality.

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 Superintendent to determine whether the net profits attributable to the Municipality are apportioned with reasonable accuracy.

c. In determining the income allocable to the Municipality 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 Municipality.

2. Business Allocation Percentage Method:

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

(1) The percentage of taxpayer's real and tangible personal property within the Municipality is determined by dividing the average net book value of such property within the Municipality (without deduction of any encumbrances) by the average net book value of all such property within and without the Municipality. 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: Calculate the percentage allocable to the Municipality of the total gross receipts of the taxpayer derived from sales made, work done and services rendered, wherever derived, during the period covered by the return.

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

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

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

(c) All sales of tangible personal property delivered to purchasers within the Municipality even though transported from a point outside the Municipality of the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the Municipality 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 Municipality to purchasers outside the Municipality

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 Municipality by mail, phone, or other electronic means from an office or place of business within the Municipality shall be considered a solicitation of sales within the Municipality.

c. STEP 3: Calculate the percentage allocable to the Municipality of the total wages, salaries, commissions, other compensation and other income of employees, within and without the Municipality, 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 Municipality the amount treated as compensation for services performed within the Municipality 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 Municipality;

(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 Municipality 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 Municipality is of his total working time.

d. STEP 4: Add the percentage determined in accordance with Steps 1, 2 and 3, or such of the aforesaid percentages as may be applicable to the particular taxpayer's business, and divide the total so obtained by the number of percentages used in computing said total. The result so obtained is the business allocation percentage. In

determining the average percentage, a factor shall not be excluded from the computation merely because said factor is found to be allocable entirely outside the Municipality. A factor is excluded only when it does not exist anywhere.

e. STEP 5: The business allocation percentage determined in Step 4 above shall be applied to the entire taxable net profits of the taxpayer wherever derived to determine the net profits allocable to the Municipality.

3. Substitute Method:

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

4. A request to change methods of allocation must be made, in writing, to the Superintendent 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 pursuant to section 1501 of the Internal Revenue Code. 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 that 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 Superintendent 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 tax provided for herein shall not be levied on:

1. Pay or allowances of active members of the Armed Forces of the United States and of members of their reserve components, including the Ohio National Guard.
2. The income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities.
3. Poor relief, unemployment insurance benefits, old age pensions or similar payments including disability benefits received from local, State or Federal governments or charitable, religious or educational organizations.
4. Proceeds of insurance paid by reason of the death of the insured; pensions, disability benefits, annuities or gratuities not in the nature of compensation for services rendered from whatever source derived.
5. Receipts from seasonal or casual entertainment, amusements, sports events and health and welfare activities when any such are conducted by bona fide charitable, religious or educational organizations and associations.
6. Personal earnings of all persons under eighteen years of age. The taxable portion of the year in which an individual turns 18 shall be determined by the birthdate of the individual.
7. Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations, items of income already taxed by the State of Ohio from which Germantown is specifically prohibited from taxing, and income of a decedent's estate during the period of administration (except such income from the operation of a business).
8. Expenses deductible on Federal form 2106, subject to audit and approval by the Superintendent.
9. Compensation paid under section 3501.28 or 3501.36 of the Revised Code to a person serving as a precinct election official, to the extent that such compensation does not exceed one thousand dollars annually.
10. Parsonage allowance, to the extent of the rental allowance or rental value of a house provided as a part of an ordained minister's compensation. The minister must be duly ordained, commissioned, or licensed by a religious body constituting a church or church denomination.

11. Alimony paid.

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

13. Income, salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the Constitution of the State of Ohio or any act of the Ohio General Assembly limiting the power of the Municipality to impose net income taxes.

ARTICLE IV

RETURN AND PAYMENT OF TAX

A. Date and Requirement and Filing.

1. a. On or before April 30th of each year, every person 18 years of age or older subject to the provisions of Section 181.03 of the chapter shall, except as hereinafter provided make and file with the Superintendent a return on a form prescribed by and obtainable, upon request, from the Superintendent, or on other forms deemed acceptable by the Superintendent, whether or not a tax be due.

b. The Municipality of Germantown accepts generic forms for Germantown's annual tax return. However, to be acceptable the generic form must contain all the information on Germantown's regular tax return forms, must comply with all the rules and ordinances of Germantown regarding income tax forms, and must be in a format that will allow processing of the generic forms without altering Germantown's procedures for processing forms. Determination as to whether a generic form meets the criteria shall be the responsibility of the Superintendent.

c. The fact that a taxpayer is not required to file a Federal tax return does not relieve the taxpayer from filing a Germantown 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, other compensation or other income for which a return must be filed, and also having net profits from a business covering the same or a different period, is required to file only one return if self-employed.

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

6. Except as provided for herein, the tax is on the partnership or association as an entity, whether resident or non-resident, and a return is required disclosing the net profits allocable to the Municipality and the tax paid thereon. However, any resident partner or resident member of an unincorporated entity or association is required to make a return and pay the tax in accordance with Article III A3f of these regulations.

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

B. Information Required and Reconciliation with Federal Returns:

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

b. Where figures of total income, total deductions, and net profits are included, as shown by a Federal return, any items of income which are not subject to the Municipality of Germantown tax and allowable expenses shall be eliminated in determining net income subject to the Municipality of Germantown tax.

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 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 must be attached. The Superintendent may require additional information at any time he deems necessary to verify the accuracy of any return.

4. Information returns, schedules and statements and/or other documents required to support tax returns, which are incomplete without such information, shall be filed within the time limits set forth for the filing of the tax returns and the failure to file such information returns, schedules and statements and/or other documents shall be deemed to be a violation of this chapter. Provided, however, that the taxpayer shall

have ten days after notification by the Superintendent, or his authorized representative, to file the items required by this subsection.

C. Acceptance of Federal Extensions.

1. Any taxpayer that has requested an extension for filing a Federal income tax return may request an extension for the filing of a Germantown income tax return. The taxpayer shall make the request by filing a copy of the taxpayer's request for Federal filing extension with the Superintendent of Taxation.
2. Any taxpayer not required to file a Federal income tax return may request an extension for filing a Germantown tax return in writing.
3. The request for an extension shall be filed not later than the last day for filing the Germantown tax return as prescribed by ordinance or rule of this municipal corporation.
4. A valid extension request extends the due date for filing a return six (6) months from the original due date of such return.
5. The Superintendent may deny a taxpayer's request for extension if the taxpayer:
 - a. Fails to timely file the request;
 - b. Fails to file a copy of the Federal extension (if applicable);
 - c. Owes the Municipality of Germantown any delinquent income tax or any penalty, interest, assessment or other charge for the late payment or nonpayment of income tax;
 - d. Has failed to file any required income tax return, report or other related document for a prior tax period.
6. The granting of an extension for filing a Germantown income tax return does not extend the last date for payment of the tax; therefore, penalty and interest may apply to any unpaid tax during the period of extension at the rate set out by Section 181.10. No penalty shall be assessed in those cases in which the return is filed and the final tax paid within the extension period provided all other filing and payment requirements of the tax code have been met. Any extension by the Superintendent shall be granted with the understanding that declaration filing and payment requirements have been fulfilled; however, if, upon further examination it then becomes evident that declaration filing and payment requirements have not been fulfilled, penalty and interest may be assessed in full and in the same manner as though no extension had been granted.

D. Payment With Return.

1. The taxpayer making a return shall, at the time of the filing thereof, pay to the Superintendent 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 181.06 of the chapter, or where any portion of said tax shall have been paid by the taxpayer pursuant to the provisions of Section 181.07 of the chapter, or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with Section 181.15 hereof, shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing said return.

2. A taxpayer who has overpaid the amount of tax to which the Municipality is entitled under the provisions of the chapter may have such overpayment applied against any subsequent liability, or at his election indicated on the return, such overpayment (or part thereof) shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded.

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 Section 181.11 of the chapter. Such amended return shall be on a form obtainable, upon request, from the Superintendent. 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 Municipality of Germantown tax liability, such taxpayer shall make and file an amended Municipality of Germantown 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 X B1 of these regulations.

F. Any business, profession, association or corporation reporting a net loss is subject to the filing requirements of this ordinance.

ARTICLE V

COLLECTION AT SOURCE

A. Duty of Withholding.

1. Except as otherwise provided herein, it is the duty of each employer within or doing business within the Municipality to deduct, each time any compensation is paid, the Germantown income tax of one and one-quarter percent (1.25%) from the gross amount of all salaries, income, wages, bonuses, incentive payments, fees,

commissions or other forms of compensation paid to employees for service rendered, work performed or other activities engaged in within the Municipality.

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

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

b. When the collective tax liability exceeds \$150, the non-resident employer is required to begin withholding the appropriate income tax for Germantown on behalf of all employees performing work in Germantown. The income tax withheld shall be remitted to Germantown in accordance with Article V B.

c. Once the collective liability has exceeded \$150, the employer must withhold income tax for Germantown (i.e., for work performed in Germantown) for the remainder of that calendar year and for subsequent years, even if the liability in subsequent years does not exceed \$150. However, if the tax liability for each of the three (3) consecutive years (subsequent to that year in which the employer became liable for withholding Germantown income tax) does not exceed \$150, the employer will be considered as not having performed work in Germantown in regard to further tax liability, and will again be subject to Article V A3a.

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

4. Commissions and fees paid to independent contractors are not subject to withholding or collection of the tax at the source. Such taxpayers must in all instances file a declaration and return and pay the tax pursuant to the provisions of the chapter and Articles IV and VI of these Rules & Regulations.

5. Where a non-resident receives compensation for personal services rendered or performed partly within 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.

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 Commissioner that a greater or lesser number of hours per week is worked.

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

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

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

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

1. The deductions from salaries, wages other compensation and other income required to be made by employers are to begin with the compensation earned on and after the effective date of the chapter. In addition to any return required to be filed with respect to his own earnings or net profits, any employer who withholds for Germantown an average \$500 or more per month shall, on or before the fifteenth day of each month, make a return and pay to the Superintendent the tax withheld during the preceding month. Provided, however, the Superintendent shall have the authority to approve the filing of returns and payment of the tax withheld on a quarterly basis.

a. Any employer who wishes to file and remit on a quarterly basis may request the authority for quarterly filing from the Superintendent. Such request must be in writing, stating the name and Municipality of Germantown Withholding Account Number of the employer, the address to which tax documents should be mailed, the estimated amount of tax to be withheld each quarter, and the name and title of the person responsible for complying with the withholding requirements of the chapter.

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

c. If the request is granted the notice will specify the effective date of the authorization. In such case the employer shall, on or before the fifteenth day of each month following the calendar quarters ending March 31, June 30, September 30, and December 31, make a return and pay to the Superintendent the tax withheld during the preceding calendar quarter. Once this approval is granted, the employer may continue on such basis unless notified in writing by the Superintendent that approval to file quarterly is withdrawn.

d. The Superintendent may withdraw the authorization from quarterly filing and payments whenever he has reason to believe that the conditions for granting such authorization have changed, were judged incorrectly, were not met or when it is to the best interest of the Municipality to do so. Notice of the withdrawal shall be made in writing and may be served in person or mailed to the address where the returns are mailed. In such case, the employer must begin to file monthly.

2. 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 Superintendent. In those cases in which excess has been withheld by the employer from an employee and remitted to the Superintendent and there has been a termination of the employee-employer relationship, the taxpayer (employee) may obtain a refund by application to the Superintendent, 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 181.11 of the chapter and Article X 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 deducted in subsequent pay periods.

3. Every employer is deemed to be a trustee for the Municipality in collecting and withholding the tax required under the chapter to be withheld and the funds so collected by such withholding are deemed to be trust funds.

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

5. 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 Superintendent in the form prescribed by the Superintendent, an information return for each employee from whom Germantown municipal income tax has been withheld, clearly showing the name, address and social security number of the employee, the total Medicare wage and Germantown wage paid during the year and the amount of Municipality of Germantown income tax withheld from such employee. The information provided must include all employees subject to the tax and must be accompanied by a completed Municipality reconciliation form, indicating the number of employees and total wages and withheld amounts. 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.

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

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

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

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

8. It is the responsibility of any entity or individual to provide copies to the Municipality of Federal Form 1099, or such other form used to report commissions, fees, and other compensation paid to non-employees.

C. In deducting and withholding the tax at the source and in payment of any tax due under the chapter, a fractional part of a cent shall be disregarded unless it amounts to one-half (1/2) cent or more in which case it shall be increased to one (1) cent. No person shall be entitled to a refund merely because such rounding off of the tax results in an apparent overpayment based on his total earnings.

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

E. Every contractor performing work for the Municipality shall be bound by the requirements of this chapter. If the contractor employs subcontractors for work performed in Germantown, the names, addresses, and Federal Identification Numbers of those subcontractors shall be provided to Germantown by the contractor prior to commencement of the work. The subcontractors are likewise responsible for complying with this chapter. See particularly Section 181.06(e).

ARTICLE VI

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. No penalties or interest shall be assessed, for not filing a declaration, on any resident taxpayer who was not domiciled in the Municipality on the first day of January of the year in which they first became subject to estimated payments, nor shall penalties or interest be assessed on estimated payments if the taxpayer has remitted an amount equal to one hundred percent of the previous year's tax liability, provided that the previous year reflected a twelve-month period.

B. Form For Filing:

1. Such declaration shall be filed upon a form or forms furnished by, or obtainable upon request from, the Superintendent, or on other forms deemed acceptable by the Superintendent. However, to be acceptable the other form, or generic form, must contain all the information on Germantown's regular estimated payment form, must comply with all the rules and ordinances of Germantown regarding income tax forms, and must be in a format that will allow processing of the generic forms without altering

Germantown's procedures for processing forms. Determination as to whether a generic form meets the criteria shall be the responsibility of the Superintendent.

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 Superintendent. An amendment may be filed on or before each quarterly filing date, and must be filed on or before January 31 of the year following or a date fixed by regulation of the Superintendent if there is a change of more than 30% to the original estimate. Interest and penalty amounts may be assessed against estimated payments that result in being less than 100% of the prior tax year or 90% of income taxable to Germantown for the current year.

C. Dates of Filing and Payment:

1. A declaration shall be filed on or before April 30 of each year during the life of this chapter, except as specifically exempted in paragraph A.2 above.

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.

3. In the case of individuals, the estimated tax shall be paid in full with the declaration or in four equal installments (totaling at least 90% of the tax liability) on or before the last day of the fourth, seventh, tenth and thirteenth month after the beginning of the taxable year, and in the case of associations, businesses, and corporations the estimated tax shall be paid in full with the declaration or in four equal installments (totaling at least 90% of the tax liability) on or before April 15, June 15, September 15, and December 15 of the following year. In the case of a fiscal year taxpayer the second, third, and fourth quarterly payments shall be due on the fifteenth day of the sixth, ninth, and twelfth months of the taxable year, respectively.

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

5. 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.

D. 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 VII

DUTIES AND POWERS OF THE SUPERINTENDENT

A. Collection of Tax and Retention of Records:

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

B. Enforcement Provisions:

1. The Superintendent is charged with the administration and enforcement of the provisions of the chapter and is, subject to the approval of the Council by motion, 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 Superintendent 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. The Superintendent shall have the authority, when requested by the taxpayer and for good cause shown, to extend the time of making and filing any return whenever he deems it necessary so to do, but not to exceed a period of six months, or one month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the Federal income tax return.

3. The Superintendent 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 Superintendent that, due to certain hardship conditions, he is unable to pay the full amount of the tax due, and has submitted a written application for installment payments to the Superintendent. Installment payments for all amounts owed by the taxpayer under the chapter shall not exceed a period in excess of six (6) months.

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

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

C. Assessment of Tax by Superintendent:

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 Superintendent may assess the amount of tax appearing to be due, together with interest and penalties thereon, if any, in the following manner:

1.a. If the Superintendent 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/or has failed to pay the full amount of tax due, the Superintendent 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. Proof of mailing furnished by the U. S. Post Office shall be presumptive proof of receipt thereof by the addressee.

(2) A taxpayer may, within fifteen days after the date the proposed assessment was served or mailed, file a written protest with the Superintendent. Within fifteen days after receipt of the protest the Superintendent shall give the protestant an opportunity to be heard; provided further that the Superintendent may extend the date of hearing for good cause shown. After the hearing the Superintendent shall withdraw the assessment or he shall adjust or reaffirm the assessment and it shall then become final. If no protest is filed as herein provided, such proposed assessment shall become final thirty (30) days after being served.

b. After a proposed assessment becomes final, notice of such final assessment shall be issued and shall be served in the same manner as a proposed assessment. The taxpayer may then appeal to the Board of Tax Appeals as provided for in Section 181.08(c)(1)B of the chapter. The hearing on the appeal shall be in accordance with Section 181.13 of the chapter.

c. 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 Municipality as required by the chapter, the Superintendent need not issue an assessment but may proceed under the provisions of Sections 181.11 and 181.12 of the chapter.

d. Any taxpayer or employer who does not file a notice of appeal to the Board of Tax Appeals from a final assessment issued against him shall pay the amount thereof within thirty days after service of such final assessment.

2. Provisions Affecting Employers:

a. If the Superintendent 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 Municipality the full amount of said taxes, the Superintendent 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 Section 181.08(c)(1)A and B of the chapter shall apply.

b. If the Superintendent determines that an employer subject to the provisions of the chapter has failed to withhold tax the Superintendent shall issue a proposed assessment showing the tax due, together with any penalties and interest that may have accrued thereon, and the provisions of Section 181.08(c)(1)A and B 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 Municipality as required by the chapter, the Superintendent may proceed under the provisions of Sections 181.11 and 181.12 of the chapter and need not issue an assessment as provided in Section 181.08(c)(2)A and B of the chapter.

ARTICLE VIII

INVESTIGATIVE POWERS OF THE SUPERINTENDENT; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION

A. Investigation by Superintendent:

1. The Superintendent, or his duly authorized agent, 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 Municipality; 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 Superintendent, 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 Superintendent, 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 Superintendent may compel the production of books, papers, records and copies of

Federal income tax returns and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of the facts concerning any supposed income or supposed transactions of the taxpayer pertinent to such inquiry.

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

C. Penalty for Non-Compliance.

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

D. Confidential Nature of Examinations.

Any information gained as a result of any returns, investigations, verifications or hearings before the Superintendent 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 punishable by a maximum fine of five hundred dollars (\$500.00) or imprisonment for not more than six months, or both. In addition to the above penalty, any employee of the Municipality of Germantown who violates the provisions of Section 181.09 of the chapter relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

E. Retention of Records.

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

ARTICLE IX

INTEREST AND PENALTIES

A. Interest:

Except as provided in paragraph C of this Article, all taxes imposed and all monies withheld or required to be withheld by employers under the provisions of this chapter and remaining unpaid ten days after they become due shall bear interest at the rate at which interest is paid on refunds according to Ohio R.C. 5703.47, and updated annually.

B. Penalties:

In addition to interest as provided in paragraph A hereof, penalties based on the tax remaining unpaid ten days after they become due are hereby as follows:

1. For failure to pay taxes due, other than taxes withheld; one and one half percent (1 ½%) per month.
2. For failure to remit taxes withheld from employees: three percent (3%) per month, or ten percent (10%), whichever is greater.
3. Where the taxpayer has failed to file a declaration on which he has estimated and paid a tax equal to or greater than the tax paid for the previous year, or has failed to file a declaration on which he was estimated and paid tax equal to or greater than ninety percent (90%) of the actual tax for the year, or has failed to file a final return and pay the total tax on or before the end of the month following the end of his taxable year; ten percent (10%) of the difference between ninety percent (90%) of the actual tax for the year and the amount paid through withholding or declaration.
4. Penalty shall not exceed fifty percent (50%) of the unpaid tax, except in the case of fraud where penalty shall not exceed 100%.
5. Twenty-five dollars (\$25.00) shall be assessed as an administrative charge for those taxpayers failing to timely file the annual return or failing to pay the taxes due.

C. Exceptions:

1. A penalty shall not be assessed on an additional tax assessment made by the Superintendent when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Superintendent and provided further, that, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a Federal audit, providing an amended return is filed and the

additional tax is paid within three months after final determination of the Federal tax liability.

2. Interest but no penalty will be assessed where an extension has been granted by the Superintendent and the final tax paid within the period as extended.

3. Any person required to withhold the tax who knowingly fails to withhold such tax, or pay over such tax or knowingly attempts in any manner to evade or defeat such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty equal to the total amount of the tax evaded, or not withheld, or not paid over. No other penalty under this section shall be applied to any offense to which this penalty is applied.

4. Upon recommendation of the Superintendent, the Board of Tax Appeals may abate penalty or interest, or both.

5. In no case shall penalty and interest charges be levied when the total of such penalty and interest amounts to less than one dollar (\$1.00).

ARTICLE X

COLLECTION OF UNPAID TAXES AND REFUND OF OVERPAYMENTS

A. Unpaid Taxes, Penalties, and Interest:

1. In addition to any criminal penalties which may be imposed, all taxes imposed by the chapter and not paid when due become, together with interest and penalties thereon, a debt due the Municipality from the taxpayer and are recoverable as are other debts by civil suit. Employers who are required under Section 181.06 of the chapter, to withhold and remit the taxes, and who fail to withhold and/or remit such taxes, become liable to the Municipality of Germantown in a suit to enforce the payment of the debt created by such failure.

2. No additional assessment shall be made by the Superintendent 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 Superintendent of Internal Revenue and the taxpayer have executed a waiver of the Federal statute of limitations, the period within which an assessment may be made by the Superintendent 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 Superintendent.

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

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

a. To unpaid penalty and interest assessments.

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

c. To his current estimated tax liability.

5. Refunds for days worked out of Germantown 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 work days. Wage continuation plans of any type (including, but not limited to, vacation days, holidays, personal days, and sick days) are deemed to be days spent in Germantown for purposes of the refund calculation. Additions, deletions, or other changes to the method for calculating refunds shall be at the discretion of the Superintendent.

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

ARTICLE XI

VIOLATIONS--PENALTIES

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. Knowingly fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter; or
4. Knowingly fail, neglect or refuse to withhold the tax from his employees or remit such withholdings to the Superintendent; or
5. Refuse to permit the Superintendent or any duly authorized agent or employee to examine his books, records, papers and Federal income tax returns relating to the income or net profits of a taxpayer; or
6. Fail to appear before the Superintendent and to produce his or his employers' books, records, papers or Federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Superintendent; or
7. Refuse to disclose to the Superintendent 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 Superintendent; or
9. 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. Limitation on offense committed:

1. Any person subject to the provisions of Section 181.01 through 181.17 inclusive, who has failed to file or has filed an incorrect return or has failed to pay the full amount of tax due, shall not be deemed to have committed an offense punishable under the provisions of this section until the assessment issued against him under the provisions of Section 181.08 has become due and payable.
2. Any person who has filed a return under the provisions of Sections 181.01 through 181.17 inclusive, indicating the amount of tax due, and has failed to pay such tax, together with any penalties or interest that may have accrued thereon, shall not be deemed to have committed an offense for having knowingly failed to pay the tax,

penalties or interest due as provided in subsection (a)(3) hereof, until the date of the filing of such return.

C. Prosecutions.

Prosecutions under the chapter must be commenced within the period specified in O.R.C. Section 718.12.

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 him (1) from making any information return, declaration, or return, (2) from filing such form, or (3) from paying the tax.

ARTICLE XII

BOARD OF TAX APPEALS

A. Board of Tax Appeals.

A Board of Tax Appeals, consisting of a chairman and two other individuals, each to be appointed by Council, and to serve staggered terms of three years, is hereby created.

B. Appeals by Taxpayers.

1. Any person dissatisfied with any ruling or decision of the Superintendent, which is made under the authority conferred by this chapter, may appeal therefrom to the Board within thirty (30) days from the announcement of such ruling or decision by the Superintendent, provided the taxpayer making the appeal has filed with the Municipality the required return or other documents concerning the obligation at issue. The appeal shall be in writing and shall state why the decision should be deemed incorrect or unlawful. The Board shall, on hearing, have jurisdiction to affirm, reverse, or modify any ruling or decision or any part thereof. Such hearing shall be scheduled within forty-five (45) days from the date of appeal, unless the taxpayer waives a hearing. The Board's ruling must be made within ninety (90) days from the date of the closing of the record, shall be in writing and filed with the Superintendent, and within fifteen (15) days of its decision shall send notice of its decision by ordinary mail to the taxpayer making the appeal.

2. A taxpayer dissatisfied with a decision or filing by the Board of Tax Appeals 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.

3. The taxpayer may appear before the Board at the hearing, and/or be represented by an attorney at law, certified public accountant, or other representative.

4. The imposition of penalty and interest assessments as prescribed in chapter 181 of the Codified Ordinances of Germantown is not a sole basis for appeal.

C. Organizational Procedures.

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

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

3. All hearings upon appeal by the Board shall be conducted privately, unless a public hearing is requested by the taxpayer, and the provisions of Section 181.09 of 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 Tax Appeals.

ARTICLE XIII

ALLOCATION OF FUNDS

Funds collected under the provisions of this chapter shall be placed in the General Fund of the Municipality to be used for the purpose of paying all costs of collecting the taxes levied by this chapter and the cost of administering and enforcing the provisions hereof; for the payment of other current operating expenses of the Municipality; and for payment of the costs of making such permanent improvements as Council may determine from time to time.

ARTICLE XIV

CREDIT ALLOWED FOR TAX PAID IN ANOTHER MUNICIPALITY

A . Credits to Residents.

Every individual taxpayer who resides in Germantown who receives net profits, income, salaries, wages, commissions or other personal service compensation for work done or services performed or rendered outside Germantown, if it be made to appear that he has paid a Municipal income tax on the same income taxable under this chapter to another municipality, shall be allowed a credit against the tax imposed by this chapter.

B. Computation of Credit

Such credit shall be equal to sixty percent (60%) of the amount obtained by multiplying the lower of the tax rate of such other municipality or of the Municipality of Germantown by the income of the individual, which is taxable by such other municipality. The credit shall not exceed the tax assessed by this chapter on such income earned in such other municipality or municipalities where such tax is paid.

C. Method of Applying for Credit.

1. A claim for refund or credit under this section shall be made in such manner as the Superintendent may by regulation provide.
2. No credit will be given unless the taxpayer claims such credit on his final return or other form prescribed by the Superintendent and presents such evidence of the payment of a similar tax to another municipality as the Superintendent may require.

ARTICLE XV

SAVINGS CLAUSE

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

ARTICLE XVI

COLLECTION OF TAX AFTER TERMINATION OF CHAPTER

A. This chapter shall continue effective insofar as the levy of taxes is concerned until amended or repealed, and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of such taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of such taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Sections 181.11 and 181.12.

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

ARTICLE XVII

PENALTY

Whoever violates any provision of Section 181.12 shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months or both for each offense.