

**CITY OF TOLEDO
MUNICIPAL INCOME TAX REGULATIONS**

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REGULATION 1 - Definitions (Code Section 1905.02)

For the purpose of these regulations the following terms shall have the definitions hereafter given:

- (a) The term "Association" means a partnership, limited partnership, or any other form of unincorporated business or enterprise, owned by two or more persons.
- (b) The term "Business" means an enterprise, activity, profession, trade or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, co-partnership, association, corporation or any other entity; but the ordinary administration of a decedent's estate by the executor or administrator, and the mere custody, supervision and management of trust property under a passive trust, whether inter vivos or testamentary, unaccompanied by the actual operation of a "business".
- (c) The term "Corporation" means a corporation, joint stock association, or joint stock company organized under the laws of the United States, the State of Ohio, or any other State, territory, or foreign country or dependency.

(d) The term "Employer" means an individual, co-partnership, association, corporation (including a corporation not for profit), governmental administration, agency, arm authority, board, body, branch, bureau, department, division, subdivision, section or unit, or any other entity, who or that employs one or more persons on a salary wage, commission, or other compensation basis, whether or not such employer is engaged in business as hereinbefore defined.

(e) The term "Net Profits" means the net gain from the operation of a business, profession, or enterprise after provision for all costs and expenses incurred in the conduct thereof, either paid or accrued in accordance with the accounting system used, and without deduction of taxes imposed by this ordinance or federal taxes based on income.

(f) The term "Non-Resident Individual" means an individual domiciled outside the City of Toledo.

(g) The term "Non-Resident Unincorporated Business Entity" means an unincorporated business entity not having an office or place of business within the City of Toledo.

(h) The term "Person" means every natural person, co-partnership, fiduciary or association. Whenever the term "Person" is used in any clause prescribing and imposing a penalty the term, as applied to association, shall mean the partners or members thereof and as applied to corporations, the officers thereof.

(i) The term "Resident Individual" means an individual domiciled in the City of Toledo.

(j) The term "Resident Unincorporated Business Entity" means an unincorporated business entity having an office or place of business within the City of Toledo.

(k) The term "Taxpayer" means a person, whether an individual, co-partnership, association, corporation, or any other entity, required by the chapter to (i.) file a return of earnings or of net profits, or both, or (ii.) pay a tax thereon.

(l) The term "Other Entity" means any person or unincorporated body not previously named or defined and includes, inter alia, fiduciaries. See, however, subdivision (b) above.

(m) The term "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. A taxpayer does not have a regular place of business outside Toledo solely by consigning goods to an independent factory or other contractor outside the City for sale.

(n) The term "Business Allocation", as used in these Regulations, means the portion of net profits to be allocated to Toledo, as having been made in Toledo, either under the separate accounting method, or under the three-factor formula of property, payroll and sales provided for in Section 1905.03 of the Chapter.

(o) The term "Commissioner" means the Commissioner of Taxation of the Division of Taxation in the Department of Finance of the City of Toledo, or the person executing the duties of the aforesaid Commissioner.

(p) The term "The Chapter" means all ordinances and amendments thereto enacted by the Council of the City of Toledo pertaining to City of Toledo income tax.

(q) When used in these regulations, the singular form shall include the plural, and the masculine shall include the feminine and neuter.

REGULATION 2.1 - Imposition of Tax Resident Employees

In the case of residents of the City of Toledo an annual tax as specified at Code Section 1905.03 (a) is imposed on all salaries, wages, commissions and other compensation earned. For the purpose of determining the tax on the earnings of resident taxpayers, tax under Section 1905.03 (a) 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.

REGULATION 2.2 - Imposition of Tax Nonresident Employees

In the case of individuals who are non-residents of Toledo, there is imposed under Section 1905.03 (a) (2) of the Chapter an annual tax as specified at Code Section 1905.03 (a) on all salaries, wages, commissions and other compensation earned for work done or services performed or rendered within the City of Toledo, whether such compensation or remuneration is received or earned directly or through an agent and whether paid in cash or in property. Other compensation that includes nonqualified deferred compensation or stock options shall be governed by Regulation 2.4.

REGULATION 2.3 - Items Subject to Tax

The following are items which are subject to the tax:

- (a) Salaries, bonuses or incentive payments earned by an individual, whether directly or through an agent and whether in cash or in property, for services rendered.
 - 1) As an officer, director or employee of a corporation (including charitable and other non-profit corporations) joint stock association or joint stock company.
 - 2) As an employee (as distinguished from a partner or member) of a partnership, limited partnership, or any other form of unincorporated enterprise owned by one or more persons.
 - 3) As an employee (as distinguished from the proprietor) of a business, trade or profession conducted by an individual owner.
 - 4) As an officer or employee (whether elected, appointed, or commissioned) of a governmental administration, agency, arm, authority, board, body, branch, bureau, department, division, section or unit of the State of Ohio or any of the political subdivisions thereof.
 - 5) As an officer or employee (whether elected, appointed or commissioned) of a governmental

administration, agency, arm, authority, board, body, branch, bureau, department, division, sub-division, section or unit of the United States Government or of a corporation created and owned, or controlled by the United States Government or any of its agencies or those of any foreign country or dependency.

- 6) As an employee of any other entity or person.
- (b) Wages, bonuses, or incentive payments earned by an individual, whether directly or through an agent and whether in cash or in property, for services rendered.
- 1) Whether based upon hourly, daily, weekly, semi-monthly, annual, unit of production or piece-work rates; and
- 2) Whether paid by an individual co-partnership, association, corporation (including charitable and other non-profit corporations), governmental administration, agency, arm, authority, board, body, branch, bureau, department, division, subdivision, section or unit, or any other entity.
- (c) Commissions earned by a taxpayer, whether directly or through an agent and whether in cash or in property for services rendered, regardless of how computed, by whom or wheresoever paid. If amounts received as a drawing account (and not refundable) exceed the commissions earned, the tax is payable on the amounts received. If commissions are included in the net earnings of a trade, business, profession, enterprise or activity regularly carried on by such individual and therefore subject to tax under Section 1905.03 of the Chapter, they shall not again be separately taxed. In such cases, such net earnings shall be taxed as provided in Regulation 9 of these Regulations.
- (d) Fees, unless such fees are properly included as part of the net profits of a trade, business, profession or enterprise regularly carried on by said individual and such net profits are subject to tax under Regulation 9.
- (e) Other compensation, including tips and compensation paid to domestic servants, casual employees, and all other types of employees.
- (f) Where compensation is paid or received in property, its fair market value, at the time of receipt, shall be subject to tax and/or to withholding (deduction of tax at source). Board, lodging and similar items, received by an employee in lieu of additional cash compensation or as part of his compensation shall be included in earnings as their fair market value to the same extent that all such items are or may be taxable under the Federal Internal Revenue Act. The value finally accepted for the purposes of the Federal Internal Revenue Act will be accepted by the Commissioner and shall be used by the taxpayer.
- (g) In case of domestics and other employees whose duties require them to live at their place of employment or assignment, board or lodging shall not be considered as wages or compensation earned.
- (h) Payments made to employees by an employer as vacation wages are taxable and may not be excluded from taxable income by an employer or a non-resident employee.

- (i) Payments received by an employee under a wage continuation plan during periods of disability or sickness, are taxable and may not be excluded from taxable income by an employer or a non-resident employee.
- (j) Money distributed at Christmas amounting to a fixed percentage of the salaries or wages drawn during the current year is considered additional income subject to tax.
- (k) Proceeds of insurance, annuities, workmen's compensation, social security benefits, Internal Revenue Service qualified retirement plans, and compensation for damages for personal injuries, shall not be considered as earnings subject to tax and/or withholding. However, this regulation does not exclude Supplemental Unemployment Benefits Payments (SUB Payments) from taxation. Payments received as a member of the armed forces while on active duty are not subject to tax.(As Amended January 16, 1996).
- (l) Any monies withheld from employees' wages by a non-profit organization on a voluntary basis for the purchase of "Tax Shelter Annuities" under the provisions of Internal Revenue Code Section 401 shall be considered as income for the determination of wages, subject to the Toledo Income Tax. (February 20, 1973).
- (m) Contributions by employees from their gross wages into employer or third party trusts or pension plans as permitted by any provisions of the Internal Revenue Code which are excludable from gross wages for federal tax purposes are not and never have been excludable from gross wages subject to the City of Toledo tax. (Commissioner's Opinion dated April 4, 1983).

REGULATION 2.4 - Executive Compensation

(a) NONQUALIFIED DEFERRED COMPENSATION

Nonqualified deferred compensation earned or received within the City of Toledo is subject to: (i.) the tax imposed by Section 1905.03, Toledo Municipal Code; and (ii.) withholding by Employers, upon the date of its payment unless prohibited by federal law or unless the employee elects to include the deferred compensation in gross income in the year it is deferred. Employers shall report nonqualified deferred compensation earned or received within the City of Toledo on federal Form W-2, or its equivalent, indicating the amount paid or earned and the amount of Toledo tax withheld. Provided however, on or about September 30, 2000 this regulation may be presented to the City of Toledo Tax Appeals Board of Review for its review.

An employee may elect to include nonqualified deferred compensation in gross income in the year it is deferred if it is taxable as Medicare Wages under federal law. The election shall be made no later than the due date for filing the employee's Toledo income tax return, including any extensions of time to file. Employers are not required to withhold income tax on nonqualified deferred compensation if the tax has been previously paid. The City of Toledo will supply each Employer by the end of each calendar year with the amount of deferred compensation included in income and the amount of tax paid for each of the Employer's employees who elects to include nonqualified deferred compensation in income in the year it is deferred. An employer may deduct the amount of any nonqualified deferred compensation its employees elect to include in

income in the year of deferral, or in the year the Employer receives notice of the employee's election to include the nonqualified deferred compensation in income in the year of deferral. Unless an employee elects to include the amount of nonqualified deferred compensation in gross income in the year it is deferred, nonqualified deferred compensation will include net earnings, if any attributable to any nonqualified deferred compensation plans.

Determination of the portion of nonqualified deferred compensation earned in Toledo by a non-resident employee shall be made pursuant to the annual percentage of time that employee worked in the City of Toledo as reported on the employee's Toledo income tax returns for the years nonqualified deferred compensation is determined.

(b) STOCK OPTIONS

The ordinary income portion of a stock option or employee stock purchase plan is subject to the tax as a salary, wage, commission, or compensation to the extent that it is includible on the taxpayer's federal tax return.

REGULATION 3 - Imposition of Tax on Net Business Profits of Resident Unincorporated Businesses, i.e. Sole Proprietorships & Partnerships (Code Section 1905.03 (a) (3))

- (a) In the case of resident unincorporated businesses, professions, enterprises, undertakings, or other activities conducted, operated, engaged in, prosecuted or carried on, there is an annual tax as specified at Code Section 1905.03 (a) (3) on the net profits, earned or accrued and attributable to Toledo under the formula or separate accounting method provided for in Section 1905.03 (b) of the Chapter derived from work done or services performed or rendered and from business or other activity conducted in the City of Toledo.
- (b) The owner of a resident unincorporated business described in (a) above is required to file an individual tax return annually and pay any tax due thereon.
- (c) The partners of a resident partnership may elect to file a partnership return on behalf of the entire partnership entity and pay the total tax due thereon, or the partners may elect to file an information return for the partnership in which case the individual partners must include their distributive share of partnership earnings on their individual returns. In either case, the return filed must indicate the names and addresses of each partner along with the percentage and dollar amounts of their respective distributive shares. (Effective 1-01-77)

REGULATION 4 - Imposition of Tax on Net Business Profits of Non-Resident Unincorporated Businesses, i.e. Sole Proprietorships and Partnerships not Residents of Toledo, but doing Business in Toledo or doing Business Outside of Toledo and Having at least one Partner who is a Toledo Resident. (Code Section 1905.03 (a) (4))

- (a) In the case of non-resident unincorporated businesses, professions, enterprises, undertakings or other activities conducted, operated, engaged in, prosecuted or carried on, there is imposed an annual tax as specified at Code Section 1905.03 on the net profits earned or accrued and

attributable to Toledo under the formula or separate accounting method provided for in Section 1905.03 (b) of the Chapter derived from work done or services performed or rendered or other activity conducted in the City of Toledo.

- (b) The owner of a non-resident unincorporated business as described in (a) above which is doing business in the City of Toledo is required to file an individual tax return and pay any tax due thereon.
- (c) If a non-resident partnership is doing business in Toledo as described in (a) above and none of the partners are Toledo residents, a tax return must be filed on behalf of the entire partnership indicating the amount of profit or loss attributable to Toledo and any tax due thereon must be paid.
- (d) If a non-resident partnership is doing business in Toledo as described in (a) above and one or more of the partners are Toledo residents, a return must be filed on behalf of the entire partnership indicating the amount of profit or loss attributable to Toledo and any tax due thereon must be paid. The names and addresses of all of the partners must be included thereon along with the percentages of their respective distributive shares. Partners who are residents of Toledo must then file a tax return with the City of Toledo and include thereon their distributive share of the partnership earnings. Credit may be taken on such an individual partner's tax return for tax paid by the partnership to the extent of the partner's distributive share percentage times the tax paid by the partnership.
- (e) If a Toledo resident is a partner of a non-resident partnership not doing any business in Toledo they must file an individual tax return with the City of Toledo reporting thereon their distributive share of partnership earnings and pay any tax due thereon. (Effective 1-01-77)

REGULATION 5 - Imposition of Tax - Net Business Profits - Corporations (Code Section 1905.03 (a) (5))

- (a) In the case of corporations, whether domestic or foreign and whether or not such corporations have an office or place of business in the City of Toledo, there is imposed an annual tax as specified at Code Section 1905.03 on the net profits, earned or accrued and attributable to Toledo under the formula or separate accounting method provided for in Section 1905.03 (B) of the Chapter derived from work done or services performed or rendered and business or other activities conducted in the City of Toledo.
- (b) Corporations which are required by the provisions of Sections 5727.38 to 5727.41 inclusive, of the Ohio Revised Code to pay an excise tax in any tax year as defined in the Chapter may exclude from their declarations and returns for such year which may be required to be filed pursuant to the Chapter, that part of the gross receipts upon which such corporations are required to pay said tax to the State of Ohio; and such part of said gross receipts shall not be considered in computing the net profits of any such corporation, nor shall there be deducted from the return filed hereunder by any such taxpayer the expenses incurred in producing such gross receipts so excluded hereunder.
- (c) For the purpose of computing a corporate return for the payment of Toledo Income Tax, no

consideration will be given to Subchapter S election under Internal Revenue Code Section 1370-1378. The return must be prepared and filed as though no election had been made. (February 20, 1973)

REGULATION 6 - Business Allocation Formula (Code Section 1905.03 (b), see also O.R.C. 718.02)

- (a) In the case of resident unincorporated business entities, non-resident unincorporated business entities, non-resident individuals engaged in business in the City of Toledo, corporations (whether or not they have an office or place of business in the City of Toledo), the net profits attributable to Toledo shall be determined under the formula or separate accounting method in accordance with the provisions of Section 1905.03 (b) of the Chapter.
- (b) Taxpayers engaged in finance, investment or construction activities shall determine income allocable to Toledo by means of separate accounting. In determining the income of such taxpayers allocable to Toledo, an adjustment shall be made for the contribution made to the production of such income by headquarters activities of the taxpayer. Such adjustment shall be made by deducting from such net income allocated to the City of Toledo that portion represented by the ratio of headquarters payroll to total payroll, and by adding to such net income allocated to the City of Toledo that portion of the entire net income of the taxpayer represented by the ratio of headquarters payroll within the City of Toledo to total payroll.
- (c) The portion of the entire net profits of taxpayers, except those engaged in finance investment, or construction activities, to be allocated as having been made within the City of Toledo shall be calculated by multiplying the entire net profits by a business allocation percentage to be determined by a three-factor formula of property, payroll, and sales (or such factors as may be present), each of which shall be given equal weight, as follows:
 - 1) Explanation of "Property Factor". The percentage of the taxpayer's real and tangible personal property within Toledo is determined by dividing the average value used for federal income tax purposes (during the period covered by the report) of such property within Toledo, without deduction of any encumbrances, by the average values similarly computed, of all such property within and without Toledo. The value of the taxpayer's property shall include real property rented or leased by the taxpayer and the value of such property shall be a sum equal to eight times the gross rents paid or accrued per annum by the taxpayer during the period covered by the taxpayer's report for the use of such property.
 - A. Average value of real and tangible personal property will generally be computed on a monthly basis where the taxpayer's usual accounting practice permits of such computations. Where the taxpayer's usual accounting practice does not permit a monthly computation of average value, a semi-annual or annual computation may be used if no distortion of average value will result. If, because of variations in the amount or value of any class of assets, it appears to the Commissioner that averaging on an annual, semi-annual or monthly basis does not properly reflect average value, the Commissioner may require averaging on a more frequent basis. A method of determining average value which is adopted by the taxpayer for any report and accepted by the Commissioner shall not be changed on any subsequent report, except with the consent of the Commissioner.

- B. If depreciation, normal or accelerated, of emergency facilities is used as an expense deduction, the remaining undepreciated value of such facilities must be included in the property factor. (See Regulation 9 (g)).
- 2) Explanation of "Payroll Factor". The percentage of the taxpayer's payroll allocable to Toledo is determined by dividing the wages, salaries and other personal service compensation of the taxpayer's employees (except general executive officers), as defined below within Toledo during the period covered by the report, by the total amount of compensation of all taxpayer's employees (except general executive officers) during such period.
- 1) Wages, salaries and other compensation are computed on the cash or accrual basis in accordance with the method of accounting used in the computation of the entire net income of the taxpayer.
 - 2) Employees within Toledo include all employees regularly connected with or working out of a place of business maintained by the taxpayer in Toledo, irrespective of where the services of such employee were performed. However, if the taxpayer establishes to the satisfaction of the Commissioner that, because of the fact that a substantial part of its payroll was paid to employees attached to a Toledo place of business who performed a substantial part of their services outside Toledo, the computation of the payroll factor according to the general rule stated above would not produce an equitable result, then the Commissioner may, in his discretion, permit the payroll factor to be computed on the basis of the amount of compensation paid for services rendered within and without the City. On the other hand, wherever it appears that, because a substantial part of the taxpayer's payroll was paid to employees attached to places of business outside Toledo who perform a substantial part of their services within Toledo, the computation of the payroll factor according to the general rule would not properly reflect the amount of the Taxpayer's business done within Toledo by its employees, the Commissioner may require the payroll factor to be computed on the basis of the amount of compensation paid for services performed within and without the City. In any such case, where an employee performed services both within and without Toledo, the amount treated as compensation for services performed within Toledo shall be deemed to be (i.) 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 Toledo; (ii.) in the case of an employee whose compensation depends on other results achieved, the proportion of his services within Toledo bears to the value of all his services; and (iii.) in the case of an employee compensated on a time basis, the proportion of the total amount received by him which the working time employed in Toledo bears to the total working time.
 - 3) General Executive Officers. Personal service compensation paid to general executive officers of the taxpayer for acting as such should not be included in the computation of the payroll factor.
 - 4) General Executive Officers include the chairman, president, vice-president, secretary,

assistant secretary, treasurer, assistant treasurer, comptroller, director and any other officer charged with and performing general executive duties of the corporation. An executive officer whose duties or services are primarily restricted to one place of business of the taxpayer, whether to one place of business of the taxpayer, whether within or without Toledo, is not a general executive officer.

- 5) In the case of unincorporated entities, an executive officer shall be deemed to be a partner, co-owner, proprietor or other active participant in the profit of the enterprise.
- 3) Explanation of "Sales Factor". The percentage of the taxpayer's gross receipts is determined by ascertaining the percentage which the gross receipts of the taxpayer from sales within the City of Toledo, plus the gross credits or charges for work done and performed or services rendered (if not included in sales) in the City of Toledo, bears to the Toledo gross receipts from sales wherever made plus the total gross credits or charges for work done and performed or services rendered. "Within the City" sales shall be deemed to include:
- 1) All sales of tangible personal property delivered to purchasers within the city if shipped or delivered from an office, store, warehouse, factory, or place of storage, located within the city;
 - 2) All sales of tangible personal property delivered to purchasers within the city even though transported from a point outside the city if both of the following conditions are present:
 - i. If the taxpayer is regularly engaged through its own employee in the solicitation or promotion of sales within the city;
 - ii. The sale is directly or indirectly the result of the taxpayer's activities within the city in soliciting or promotion sales;
 - 3) All sales of tangible personal property shipped from an office, store, warehouse, factory, or place of storage within the city to purchasers in other cities if:
 - i. The taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales in such other cities; or
 - ii. Even if it is so engaged, if the sales are not directly or indirectly attributable to such activities.
 - 4) In the application of the foregoing provision, a carrier shall be considered the agent of the seller, regardless of the f.o.b. point or other conditions of the sale.
- (d) Adding together the percentage determined in accordance with sub-paragraphs 1), 2) and 3) above, or such of the aforesaid percentages as shall be applicable to the particular taxpayer's business, and dividing the total so obtained by the number of percentages used in deriving said total.

- (e) However, if one of the factors (property, receipts or payrolls) is missing, the other two percentages are added and the sum is divided by two, and if two of the factors are missing the remaining percentage is the business allocation percentage. A factor is not to be deemed missing merely because all property, or the expenditures of the taxpayer for payrolls, or the gross receipts of the taxpayer, are found to be situated, incurred or received either entirely within or entirely without, the City of Toledo.
- (f) Provided, however, that in the event a just and equitable result cannot be obtained under the formula or separate account method provided for, the Board of Review, upon application of the taxpayer or the Commissioner of Taxation shall have the authority to substitute factors or methods calculated to effect a fair and proper allocation. Application shall be in writing, shall state the specific grounds upon which the substitution is requested and the relief sought to be obtained. A copy thereof shall be serviced at the time of filing upon the taxpayer or Commissioner, as the case may be. No specific form will be followed in making such application other than is provided herein at Regulation 27 or in the Rules of the Board of Review.

REGULATION 7 - On What Earnings or Net Profits is Tax First Levied

The tax referred to in Regulation 2 shall first be levied, collected and paid with respect to salaries, wages, bonuses, incentive payments, commissions, fees and/or other compensations earned at the rate specified in Code Section 1905.03.

The tax referred to in Regulation 3 and 4 with respect to net profits of trades, businesses, professions, enterprises, undertakings, and other activities shall first be levied, collected and paid with respect to such net profits earned or accrued at the rate specified in Code Section 1905.03.

REGULATION 8 - Fiscal Year

Where the fiscal year of a trade, business profession, enterprise, undertaking and/or other activity differs from the calendar year, the tax shall be applicable to the net profits of the fiscal year.

A fiscal year will be recognized only if it ends on the last day of some calendar month, and has been accepted by the Internal Revenue Service for the purpose of Federal Income Tax.

REGULATION 9 - Net Business Profits

In amplification of the definitions contained in Regulation 1 (e), but not in limitation thereof, the following additional information and requirements respecting net business profits are furnished.

- (a) Where necessary to properly reflect income, inventories must be used. The basis of pricing used for the purpose of the Federal Income Tax must in each instance be used.
- (b) Where the books and records are kept on an "accrual basis", "long-term contract basis" or "installment basis" and/or the "accrual basis", "long-term contract basis" or "installment basis" is used in the filing of Federal Income Tax Returns, such basis must be used for the purpose of this

tax.

- (c) If the return is made on a "cash basis", Gross Profit shall include receipts from commissions, fees, etc., as well as the gross profit or loss from sales of merchandise, chattels, goods, wares, securities, notes, choses-in-action and services, except as hereinafter provided.
- (d) If the return is made on an "accrual basis", Gross Profit shall include (i.) commissions, fees, etc., plus the gross profit or loss from sales of merchandise, chattels, goods, wares, securities, notes, choses-in-action and services, except as hereinafter provided.
- (e) From Gross Profit there shall be subtracted allowable expenses to arrive at the net profits subject to tax.
- (f) All ordinary and necessary expenses of doing business, including reasonable compensation paid employees, shall be allowed (but no deduction may be claimed for "salary" or withdrawals of a proprietor or of the partners, members of other co-owners of an unincorporated business or enterprise.)
- (g) 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, or obsolescence of property used in the trade or business, but the amount may not exceed that recognized for the purpose of the Federal Income Tax. However, loss on the sale, exchange or other disposition of depreciable property and real estate used in taxpayer's business, shall not be allowed as a deductible expense. Emergency facilities previously amortized (under the provisions of the Internal Revenue Code) and which are still in use, may be depreciated at the normal rate providing no charge for such Amortization has been included in any previous year's returns. Emergency facilities being currently amortized under the provisions of the Internal Revenue Code, if recognized as such for Federal Income Tax purposes may be included as an expense deduction hereunder.
- (h) Bad debts in a reasonable amount may be allowed in the year ascertained worthless and charged off, or at the discretion of the Commissioner (if the reserve method is used), a reasonable addition to the reserve may be claimed, but in no event shall the amount allowed exceed the amount recognized as a deduction for the purpose of the Federal Income Tax.
- (i) Taxes. 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 tax, then the tax on said property is not deductible. In any event, the following taxes are not deductible from income:
 - 1) The tax under the Ordinance;
 - 2) Any Federal taxes based upon income;
 - 3) Gifts, estate or inheritance taxes;
 - 4) Taxes for local benefits or improvements to property which tend to appreciate the value thereof;
 - 5) State of Ohio Tax attributable to income.
- (j) Capital gains and losses, including gains or losses from the sale, exchange, or other disposition of

depreciable business property, and real property used in the taxpayer's trade or business, shall not be taken into consideration in arriving at "net profits earned".

- (k) If the taxpayer is a non-resident, only the amount of net profits applicable to the activities of the business in Toledo shall be subject to tax. See Regulation 4. If the non-resident taxpayer's records do not disclose the actual net profits for the Toledo branch, office, store, or activity separately, then the basis of allocation shall be disclosed in the return. If such basis of allocation is not deemed correct, in view of all the known circumstances, the Commissioner will make a re-allocation based upon gross receipts or any other basis or bases which shall, under the circumstances of the case, more accurately reflect the net profits.
- (l) In general, all business expenses recognized and to the extent allowed as such for the purpose of determining Federal Income Tax will be recognized and allowed for determining Toledo Income Tax under the provisions of the Chapter. However, all expenses connected with the acquisition or carrying of securities, the income from which is not recognized as taxable under the Chapter may not be deducted in determining taxable net profits hereunder.
- (m) Investment Income from intangible investments, such as dividends, interest, copyrights, patents, and the like, are not to be included in the net profit of a business entity for purposes of this Chapter. (1-10-85)
- (n) For the purpose of determining whether or not rental or leased property is subject to the tax, the following test will apply,
 - 1) Where the gross monthly rental of all real properties exceeds an average of \$250 per month, it shall be prima facie evidence that the rental, ownership, management or operation of such property or properties shall be subject to the tax.
 - 2) The average monthly rental shall be determined by dividing the number of months (or portion thereof) that the property or properties are actually rented into the total rents received for the period actually rented.
 - 3) The \$250 per month figure is attributable to the property itself, regardless of the forms of ownership or number of owners.

If a rental or leased property is determined to be subject to the tax based on the text provided in 1), 2), and 3) above, and the property or properties are owned by two or more taxpayers, the profits or losses from such rental or lease activity shall be included with other sources of income of the owners in proportion to their ownership interests.

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

Non-residents of Toledo are subject to such taxation only if the real property is situated within the City of Toledo. Non-residents, in determining whether gross monthly rentals exceed two hundred fifty dollars (\$250.00), shall take into consideration only real estate situated within Toledo. (Effective 1-01-77)

- (o) Income from royalties or copyrights is not to be included.
- (p) Repealed. Effective 1-01-82. (Allowed deduction for H. R. 10 and IRA contributions.)
- (q) Repealed 12-10-86. Provided for similar deductions as permitted by IRS on Form 2106. O.R.C. 718.01 now requires municipalities to honor 2106 deductions.
- (r) Supplemental Unemployment Benefit payments (SUB Payments) are subject to the tax as a salary, wage, commission, or other compensation to the extent that they are includible on the taxpayer's federal income tax return. (Effective 1-01-82).
- (s) Beginning with tax years commencing after December 31, 1981, the net profits and losses sustained by a taxpayer from business activities or investments otherwise subject to the tax, other than from the taxpayer's principal source of income, shall be aggregated for each of the taxpayer's tax years. If the result of such aggregation is a net profit, tax will be imposed and paid on that net profit. If the result of such aggregation is a net loss, the net loss may be carried forward to any of the succeeding five tax years to be used against an aggregate net profit.
- (t) The portion of a net operating loss allowable by and allocable to the City of Toledo for any taxable year prior to the taxable year 1960 may be applied against net profits so allocable for the taxable years 1960 to 1964 inclusive, but not for any taxable year thereafter. The portion of a net operating loss allocable to year 1960 and in any succeeding year may be applied against the portion of such profit of such year and succeeding year(s), allocable to the City of Toledo, until exhausted but in no event for more than five (5) such succeeding taxable years. No portion of a net operating loss shall be carried back against net profit of any prior year. Beginning with the taxable year 1960, any net operating losses permitted under paragraph (e) hereof may be applied against income subject to tax under this ordinance.

REGULATION 10 - Reconciliation with Federal Return

Except in the case of separate accounting, the figures of total income, total deductions and net profit shall be as indicated by the Federal tax returns. However, such items of income and expenses as are not subject to the Toledo tax shall be deducted from, or added to, the Federal taxable income setting forth such items in Schedule 'X'. If, as a result of a change made in taxable income by the Internal Revenue Service or by a judicial decision, an additional amount will result as owing to the City of Toledo, a report of such change shall be filed by the taxpayer within three (3) months after final determination of the federal tax liability. Neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit if an amended return is filed and the additional tax paid within such three (3) months.

REGULATION 11 - Return and Payment of Tax (Code Section 1905.05)

- (a) On or before each April 15th, every taxpayer engaged in any business (as defined in Regulation 1.b.), the net profits of which are subject in whole or in part to the tax imposed by the Chapter (see Regulations 3, 4, and 5), shall make and file with the Commissioner a return on a form

furnished by or obtainable from the Commissioner. Thereafter, each such taxpayer shall, on or before April 15th of each subsequent year, make and file a return with the Commissioner. Like returns shall be filed at the same time and in the same manner by all persons whose wages, salaries, bonuses, incentive payments, commissions, fees and other compensation received during the preceding taxable year are subject to the tax imposed by the Chapter (see Regulation 2). However, where the entire tax due has been deducted from an employee's earnings, and where the employer of such employee has filed a report or return in which such employee's entire and only earnings are reported to the Commissioner, and where such employee has no taxable income other than such earnings, it shall not be necessary for such employee to file a return for any taxable year in which such conditions have prevailed, unless required or requested by the Commissioner to do so. Any persons who received both compensation for services performed for an employer, in whatsoever form, and in addition received income from any business activity or occupation not subject to withholding under the Chapter must file a declaration and an annual return.

- (b) In all annual returns filed hereunder there shall be set forth aggregate amounts of salaries, wages, bonuses, incentive payments, commissions, fees and other compensation and/or net profits earned (all as hereinbefore defined) during the preceding year and subject to said tax, together with such pertinent information as the Commissioner may require.
- (c) If the return is made for a fiscal year or for any period other than a calendar year, the said return shall be filed within three months and fifteen days from the end of said fiscal year or other period.
- (d) The return shall also show the amount of the tax imposed by the Chapter on such earnings, or net profits, or both. See Regulation 15 as to fractional parts of a cent.
- (e) The taxpayer making the return shall at the time of filing thereof, pay to the Commissioner the amount of tax shown to be due and unpaid by the return. Should it appear that taxpayer has overpaid the amount of tax to which the City of Toledo is entitled under the provisions of the Ordinance, such overpayment shall be shown. Such overpayment will be applied against any subsequent liability, or at the election of the taxpayer may be refunded. Additional taxes or refunds of less than one dollar (\$1.00) will not be collected or refunded. For payment of tax in quarterly installments, see Regulation 17.
- (f) Where any portion of the tax otherwise due shall have been deducted at the source and shall have been paid to the Commissioner by the person making the said deduction, a credit equal to the amount so paid 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 the filing of the said return.
- (g) Extension of time for filing returns. Taxpayers granted extensions of time for filing their federal income tax returns have automatic extensions of time for filing their City of Toledo Income Tax Returns, provided the following conditions are met. If the extension granted by IRS is the automatic extension, a copy of the federal extension application must be submitted with the Toledo return. If the federal extension is not automatic, a copy of the approved federal extension must be submitted with the Toledo return. The extended date for filing the Toledo return will be the same as the extended date on the federal form regardless of the original due date of the tax

return. Interest at the rate of 1/2% per month or portion thereof will be charged from the original due date of the return until date of actual payment provided payment in full is received on or before the extended date.

- (h) If a taxpayer fails to file a tax return by the extended date, penalty and interest will be assessed from the original due date of the return.
- (i) For requirements in case Federal tax liability is changed, see Regulation 10.
- (j) A taxpayer may not change the method of accounting, apportionment of net profits or elect to file a consolidated return after the original due date of the filing.

REGULATION 12 - Collection of Tax at Source - Withholding by Employer (Code Section 1905.06 and 1905.07)

- (a) It is the duty of each employer having a place of business within the City of Toledo who or which employs one or more persons on a salary, wage, commission or other compensation basis, to deduct each time any such payment is made to an employee subject to the Chapter, the tax as imposed in Section 1905.03. The tax shall be deducted by the employer from:
 - 1) The gross amount of all salaries, wages, bonuses incentive payments, commissions or other form of compensation paid to employees who are residents of the City of Toledo, regardless of the place where the services are rendered; and
 - 2) All compensation paid to employees who are non-residents of the City of Toledo for services rendered, work performed, or other activities engaged in to earn such compensation, within the City of Toledo.

All employers who or which maintain an office or other place of business in Toledo are required to make the collections and deductions in this Article specified, regardless of the fact that the services on account of which any particular deduction is required as to residents of the City of Toledo, were performed at a place of business of any such employer situated outside the City of Toledo. Employers who do not maintain a permanent office or place of business in the City of Toledo, but who are subject to tax on net profits attributable to Toledo under the formula or separate accounting method provided for in the Chapter are considered to be employers within the City of Toledo subject to the requirements of withholding.

- (b) 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 received.
- (c) Commissions and fees paid to professional men, brokers, and others who are independent contractors and not employees of the payroll, are not subject to withholding or collection of the tax at the source. Such taxpayers must in all instances file returns and pay the tax pursuant to the provisions of the Chapter.
- (d) In the case of employees who are non-residents of Toledo the amount to be deducted is that imposed at Section 1905.03 (a) of the Chapter. Where a non-resident receives compensation for

personal services rendered or performed partly within and partly outside Toledo, the withholding employer shall deduct, withhold and remit the tax on that portion of the compensation which is earned within Toledo in accordance with the following rules of apportionment.

- 1) If the non-resident is a salesperson, agent or other employee whose compensation on the basis of commissions depends directly on the volume of business transacted by him or her, the deducting and withholding shall attach to the portion of the entire compensation which the volume of business transacted by the employee within the City of Toledo bears to the volume of business transacted by him within and outside of the City of Toledo.
 - 2) The deducting and withholding of personal service compensation of all other employees (including officers of corporations) shall attach to the portion of the personal service compensation of such employee which the total number of working days employed within the City of Toledo bears to the total number of working days employed within and outside the City of Toledo.
 - 3) If it is impossible to apportion the earnings as provided above, because of (i.) the peculiar nature of the service of the employee, or (ii.) the unusual basis of compensation, apportionment shall be made in accordance with the facts and the tax deducted and withheld accordingly. With respect to each such employee (or group of employees similar or identical circumstances) the employer shall furnish the Commissioner a detailed statement of facts.
 - 4) The occasional entry into the City of Toledo of a non-resident employee who performs the duties for which he or she is employed entirely outside the City, but enters the city for the purpose of reporting, receiving instructions, accounting, etc., incidental to duties outside the city, shall not be deemed to take such employee out of the class of those rendering their services entirely outside the city.
- (f) An employer shall withhold the tax on the full amount of any advances made to an employee on account of commissions (whether by way of drawing account or otherwise-but see paragraph (g) (below) where such advances are in excess of commissions earned.
- (g) 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 by the employer to the employee for expenses necessarily and actually incurred by the employee in the actual performance of his services. Provided, that such expenses must be of the kind and in the amount recognized and allowed as deductible expenses for Federal Income Tax purposes.

REGULATION 13 - Returns of Tax Withheld and Payment (Code Section 1905.06 and 1905.07)

The employer (in addition to any return required to be filed with respect to his own earnings or net profits) shall, on or before the last day of the month next following each quarterly period, make a return (Form W-1) and pay to the Commissioner the full amount of the tax so deducted or withheld with respect to compensation paid all of his employees subject to the tax under the Chapter. No part of such tax so

withheld and so reported may be paid to the Commissioner in installments. However, any employer who deducts taxes in the amount of One Thousand Dollars (\$1,000.00) or more per month shall remit to the Commissioner of Taxation on or before the 15th day of the second and third months of each calendar quarter the taxes so deducted monthly. Such remittance may be based on an estimate made by the employer of the employer's most recent payroll. The return (Form W-1 or W-1-M-D) required to be filed under this Article shall be made on a form furnished by or obtainable from the Commissioner. On or before the 31st day of January (unless written request for extension is made to and granted by the Commissioner) following any calendar year in which such deductions have been made by any employer, such employer shall file with the Commissioner of Taxation, in the form prescribed by the Commissioner, an information return for each employee from whom City of Toledo Income Tax has been withheld, showing the name, address and social security number of the employee, the total amount of compensation paid during the year and the amount of City of Toledo Income Tax withheld from such employee. For the convenience of employers, the information return may be made in one of two ways at the election of each employer, as follows:

- (a) Those employers using Form W-2 furnished commercially, may submit a copy of such commercial Form W-2 providing such Commercial Form W-2 meets the requirements of the Internal Revenue Service, and the copy furnished the City of Toledo clearly shows gross wages paid and Toledo Income Tax withheld. On the copy for the City of Toledo, the name Internal Revenue Service must not appear and, in no case is this information to be furnished on the Form W-2 supplied by the Internal Revenue Service.
- (b) Where the furnishing of this information as above indicated will create a distinct hardship, the employer, upon written request to the Commissioner, may be permitted to furnish a list of all employees subject to the tax, which list shall show the employee's full name, last known address, Social Security number, gross amount of compensation paid during the year and the amount of City of Toledo Income Tax withheld. Such list may be compiled on any mechanical equipment presently used by the employer, but provision must be made for spacing equal to at least three lines between each name. The employer's name must be indicated on each sheet, each sheet must be numbered, and the total number of sheets comprising the complete report indicated on the first page. The gross compensation to be reported for each employee shall be for the full twelve calendar months of the year or such portion thereof as the employee reported on was employed. In addition to such information returns, and at the time the same are filed, such employer shall file with the Commissioner of Taxation, Toledo Form W-3, to enable the Commissioner to reconcile the sum total of compensation paid and taxes withheld as disclosed by information return W-2 or list, and prior returns and remittances made pursuant to the ordinance. For adjustments of errors in returns of tax withheld by employers see Regulation 22.

REGULATION 14 - Limitation on Credit for Tax Paid at Source

The failure of any employer, residing either within or outside the City of Toledo, to collect the tax prescribed herein shall not relieve the employee from the payment of such tax in compliance with these regulations respecting the making of returns and the payment of taxes.

REGULATION 15 - Status and Liability of Employers (Code Section 1905.06 (c) and 1905.07)

Every employer is deemed to be a Trustee of the City of Toledo in collecting and holding the tax required under the Chapter to be withheld, and funds so collected by such withholding are deemed to be trust funds.

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

REGULATION 16 - Fractional Parts of Cents

In deducting and withholding the tax at the source and in the payment of any tax due under the Chapter, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

REGULATION 17 - Declarations (Code Section 1905.08)

- (a) Any employee whose entire wages, salaries, or other compensation for any taxable year will be subject to the withholding provisions of Section 1905.06 of the Chapter, or whose tax will accordingly be withheld as to his or her entire earnings for such year by his or her employer, and who during such taxable year expects to derive no other compensation or other income which is subject to tax under the Chapter, need not file a declaration unless required or requested by the Commissioner.
- (b) All other taxpayers, as defined in the Chapter and in these Regulations, subject to the taxes imposed by Section 1905.03 of the Chapter and every taxpayer who anticipates any income or net profits not subject to total withholding as provided in the next preceding paragraph shall file with the Commissioner a declaration of his estimated tax as follows:
 - 1) On or before the 15th day of the fourth month following the close of each taxpayer's tax year, a declaration of estimated tax for the current tax year must be filed with the Commissioner. Payment of amounts of tax estimated to be due shall be made in an amount equal to at least 1/4 (one-fourth) of the total tax estimated to be due on April 15th, June 15th, September 15th, and January 15th if the taxpayer is on a calendar year basis. Taxpayers on a fiscal year basis must file their declaration of estimated tax and pay the amount due thereon in a manner commensurate with calendar year taxpayers. However, if any such taxpayer shall, on or before any such payment date, file an amended declaration showing an increase or decrease of the estimated tax, the installments then and thereafter due shall be increased or decreased in such a manner that the whole of the estimated tax shall be fully paid on or before the 1st day of the last month within the taxpayer's tax year.
- (c) The declaration so required shall be filed upon a form furnished by or obtainable from the Commissioner. Taxpayers required to file an estimate for Federal income tax purposes should, in making the declaration required hereunder, use the same figures for their Toledo declaration providing such figures have been adjusted to exclude such items of income and expense which are not subject to taxation under the ordinance. Corporations and others not required to file a declaration for Federal income tax purposes shall nevertheless file the declaration required hereunder, in which case only those items of income and expenses as are

taxable under the Chapter shall be included.

- (d) Any estimate filed hereunder may be amended by filing of an amended estimate at the time prescribed for the payment of any installment of tax paid.
- (e) Any taxpayer who fails to file a quarterly estimate and pay the tax due thereon is subject to penalty and interest for underpayment of annual tax due as set forth at Section 1905.08(D).

REGULATION 18 - Duties of the Commissioner (Code Section 1905.09)

The Commissioner is required:

- (a) To collect and receive the tax imposed under the Chapter;
- (b) To keep an accurate record showing the amount received from each taxpayer and withholding employer and the date of said receipts.
- (c) Subject to the approval of the Mayor and the Board of Review, to adopt and promulgate, and to enforce, rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of the Chapter, including provisions for the re-examination and correction of returns and payments.

REGULATION 19 - Regulations – Rulings

- (a) Under the powers given the Commissioner, these Regulations are issued. Additional regulations and rulings will be issued from time to time as circumstances may demand.
- (b) These Regulations, together with all amendments and supplements thereto and all changes therein, will be on file with the Clerk of Council of the City of Toledo, Ohio, and will be open to public inspection. Copies thereof will, so far as possible, be available to all taxpayers, employers, their representatives upon request.
- (c) Any taxpayer or employer desiring a specific ruling should submit all of the facts involved, in writing, together with a concise statement of the subject matter of the ruling sought, to the Commissioner.

REGULATION 20 - Inquisitorial Powers of Commissioner (Code Section 1905.10)

The Commissioner personally, or his agents or employees, is authorized and empowered to examine the books, papers, records and federal income tax returns of any employer, or supposed employer, or of any taxpayer, or supposed taxpayer, in order to verify the accuracy of any return made; or, if no return was made, to ascertain the tax imposed by the Chapter. Every employer or supposed employer, and every taxpayer or supposed taxpayer, is required to furnish to the Commissioner or his duly authorized agents and employees the means, facilities and opportunity for such examinations, investigations and audits as are authorized in and by the Chapter. The Commissioner is further authorized and empowered to

examine under oath any person concerning any income which was or should have been returned for taxation, and to this end the Commissioner has the right and power to compel the production of books, papers, records and Federal income tax returns and the attendance of all persons before him or her, whether as parties or witnesses, whom he or she believes to have knowledge of such income. Refusal of any such examination by any employer or person subject to the tax, or presumed to be such employer or person so subject, constitutes a misdemeanor punishable by fine or imprisonment, or both. See Section 1905.99, Penalty.

REGULATION 21 - Records to be Kept by Employers and Taxpayers

Employers and others subject to the tax under the Chapter are required to keep such records as will enable the filing of a true and accurate return, whether of taxes withheld at source or of taxes payable upon earnings or net profits, or both, and such records are to be preserved for a period of five years from the date the tax is due and payable or is received, whichever is the later date, to enable the Commissioner or any agent or employee of the Commissioner to verify the correctness of the returns filed.

REGULATION 22 - Collection of Deficiencies Allowance of Credit for Overpayment

If, as a result of investigation conducted by the Commissioner, a return is found to be incorrect, the Commissioner is authorized to assess and collect any underpayment of tax withheld at source or any underpayment of tax owing by any taxpayer with respect to earnings or net profits, or both. However, deficiencies in tax of less than one dollar will not be collected (See Regulation 11 (e)). If no return has been filed and a tax is found to be owing, the tax actually owing may be assessed and collected with or without the formality of obtaining a delinquent return from the employer or taxpayer. Should it be disclosed, either as a result of an investigation by the Commissioner or through the medium of the filing of a claim or petition for refund or credit, that an overpayment has been made, the Commissioner shall return or transfer such overpayment. However, refunds of tax of less than one dollar will not be made Regulation 11 (e). The employer will in every instance be required to pay the full tax which should have been withheld, even though he may fail to withhold from the employee. If too much has been withheld, the excess shall be refunded by the employer to the employee. While the withholding agent (employer) will be expected to maintain complete records of such adjustments with the employees, any such adjustment made during any month will not need to be reflected in the withholding return or disclosed by schedules or statements thereto attached. However, where adjustments are made between employer and employee, disclosure shall be made in a statement supporting the annual schedule or schedules filed pursuant to Regulation 14 of these Regulations. In those cases in which too much has been withheld by an employer from an employee and remitted to the Commissioner and there has been a termination of the employee-employer relationship, the taxpayer (employee) may obtain an adjustment by application to the Commissioner, except that refunds will be made subject to O.R.C. 718.06. See Section 1905.12 of the Chapter.

REGULATION 23 - Penalty for Divulging Confidential Information (Code Section 1905.10)

Tax returns, and all audits connected therewith, are confidential. Any information gained by the Commissioner, his or her agents or employees, or by any other official or agent of the City as a result of any returns, investigations, hearings, or verifications required or authorized by the Ordinance, shall be

held confidential, except for official purposes and except in accordance with proper judicial order, or as otherwise provided by law. Violation of this provision in the Ordinance constitutes a misdemeanor. Every such breach of confidence constitutes a separate offense.

REGULATION 24 - Interest and Penalties (Code Section 1905.11)

All taxes imposed by the Chapter remaining unpaid after they become due shall bear interest and penalty as set forth at Section 1905.11 of the Chapter.

REGULATION 25 - Collection of Unpaid Taxes Limitation of Time within which Additional Assessment may be made Refund of taxes erroneously paid (Code Section 1905.12)

- (a) All taxes imposed by the Chapter remaining unpaid when the same have become due, together with all interest and penalties thereon, become a debt due the City from the Taxpayer, and are recoverable as other debts by suit instituted by the Director of Law. Employers who or which, although obliged under the Chapter to withhold and remit to the Commissioner the taxes required to be withheld at the source (Regulation 13), shall fail to so withhold and/or remit, shall become liable to the City in a civil action to enforce the payment of the debt created by such failure.
- (b) Except in the case of fraud, or omission of a substantial portion of income subject to this tax, an additional assessment will not be made after three (3) years from the time of payment of any tax due hereunder, provided, however, in those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the Federal statute of limitation, the period within which an additional assessment may be made by the Commissioner of Taxation shall be three years from the time of the final determination of the federal tax liability. And except further that
- (c) Taxes erroneously paid shall not be refunded unless a claim for return is made within three (3) years from the time of payment thereof, or within three (3) years after final determination of the federal tax liability.

REGULATION 26 - Criminal Penalty (Code Section 1905.99)

Any person, firm or corporation who fails, neglects or refuses to make any return or declaration required by the Chapter and any taxpayer who fails, neglects or refuses to pay the tax, interest or penalties imposed by the Chapter and any person who refuses to permit the Commissioner or his or her duly authorized agent or employee to examine books, records and papers, or who attempts to do anything whatsoever to avoid the payment of the whole or part of the tax, is guilty of a third degree misdemeanor. The failure of any employer or taxpayer to receive or procure returns, declarations or other forms is not an excuse for failure to make any declaration or return, or to pay the tax. Agents and employees charged with the duty of inspection or auditing of records of employers and taxpayers will carry proper identification, which shall be subject to examination by any person whose records are sought to be examined. The penalties provided in this section are in addition to and not exclusive of the penalties provided by all pertinent criminal statutes of State of Ohio, and to the civil remedies provided in the

Chapter. Prosecutions under the Chapter must be commenced within three (3) years from the time of the offense complained of.

REGULATION 27 - Board of Review (Code Section 1905.13)

A Board of Review, consisting of the Director of Law, who is the Chairperson, the Director of Finance, who is the Secretary, and the City Auditor, is created under the Chapter. The function of this Board is to hear and pass on appeals from any ruling or decision of the Commissioner which is made by him or her pursuant to the authority conferred upon him or her by the Chapter and/or these Regulations. Such appeal may be filed by any taxpayer or employer, and must be filed with the Secretary of the Board within three (3) months from the announcement of the Commissioner's ruling or decision with which such person is dissatisfied. The Board of Review, acting by a majority vote of its three members, may affirm, modify or reverse, in whole or in part any such ruling or decision of the Commissioner. The Board may exclude the public from such hearings. All provisions in the Chapter relative to the confidential character of tax data are applicable to proceedings pending before or submitted to the Board. A majority of the Board members constitutes a quorum for any action by or hearing before the Board, or for any other purpose. A record must be kept of all the Board's transactions.

REGULATION 28 - Procedural Rules of Board of Review

The Board of Review will adopt rules governing its procedure and the procedure which shall prevail in hearings before it. The procedural rules so adopted shall be filed with these Regulations in the Office of the Clerk of Council and shall be available for inspection and examination by any interested person. Copies of the procedural rules shall be furnished on request to any interested person.

REGULATION 29 - Credits (Code Section 1905.15)

- (a) Resident individuals of Toledo who are required to pay and do pay tax to a municipality other than Toledo on salaries, wages, commissions, other compensation for work done or services performed outside Toledo or net profits from businesses, professions or other activities conducted outside Toledo, may claim a credit of the amount of tax paid by them or on their behalf to such other municipality to the extent of the tax imposed by this Chapter on such income not to exceed the Toledo tax on such income. A return must be filed for the purpose of claiming such credit or allowance, together with such evidence of the payment of a similar tax to the municipality in which such resident has a source of income tax the Commissioner of Taxation may require.
- (b) It is the opinion of the members of the Board of Review that it was the intention of the Council of the City of Toledo to give to residents of the City of Toledo, having a source of taxable income in an income tax state, other than the State of Ohio, credits against Toledo tax of the amount of the tax paid to such state on the same income, as well as credit against Toledo tax of tax paid to another municipality on the same income, not to exceed the Toledo tax on the same income. (July 26, 1971)

REGULATION 30 - Applicability Section 16

The Chapter is inapplicable to any person or corporation upon whom or which it is beyond the legal power of Council to impose the tax; it is likewise inapplicable as to any property, income or profits (or part thereof) as to which it is beyond the legal power of Council to levy the tax.

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Taxable Income & Wages	1905.03 (A)	2.3
Taxable Income (Expense) – Net Profits	1905.03 (A)	9
Vacation Pay		2.3 (h)
Withholding by Employer	1905.06	12
Withholding - Failure by Employer		14
Withholding - Personal Liability	1905.07	15
Workmen’s Compensation		2 (k)