

RESOLUTION NO. 240-2003

EFFECTIVE JANUARY 1, 2004 FOR THE 2004 TAX YEAR AND THEREAFTER REPEALING RESOLUTION NO. 253-2000 OF THE CITY OF BUCYRUS, OHIO AS WELL AS ANY AMENDMENTS HERETOFORE ENACTED AT VARIOUS TIMES TO ADOPT AND/OR AMEND "RULES AND REGULATIONS" UNDER THE AUTHORITY OF SECTION 5, CITY OF BUCYRUS, STATE OF OHIO, INCOME TAX ORDINANCE NO. 103-2000 AND ENACTING IN ITS PLACE RESOLUTION NO. 240-2003 EFFECTING A CONSOLIDATION OF SUBJECT MATTER CONTAINED IN RESOLUTION NO. 253-2000 AND ITS AMENDMENTS; FURTHER, BRINGING THE RESOLUTION INTO COMPLIANCE WITH CHANGES MADE BY THE STATE LEGISLATURE WHICH HAVE BEEN INCORPORATED IN THE "RULES AND REGULATIONS" UNDER THE AUTHORITY OF SECTION 5, CITY OF BUCYRUS, STATE OF OHIO INCOME TAX ORDINANCE NO. 57-2003; FURTHER, REPEALING ANY OTHER INCONSISTENT OR CONFLICTING LEGISLATION; AND DECLARING AN EMERGENCY.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BUCYRUS, STATE OF OHIO, two-thirds all members elected thereto concurring:-

SECTION 1. That Resolution No. 253-2000 of the City of Bucyrus, Ohio as well as any amendments heretofore enacted at various times shall remain in effect for the 2003 tax year as well as all previous tax years subject to said Resolution. That Resolution No. 253-2000 of the City of Bucyrus, Ohio, as well as any amendments heretofore enacted at various times to adopt and/or amend "Rules and Regulations" under the authority of Section 5, City of Bucyrus, State of Ohio, Income Tax Ordinance No. 103-2000 is hereby repealed starting the 2004 tax year, the same which read as follows:-

"ARTICLE I-1
DEFINITIONS

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

(A) The definitions of the terms "Association", "Business", "Corporation", "Domicile", "Employee", "Employer", "Net-Profits", "Non-Resident", "Non-Resident Unincorporated Business Entity", "Other Entity", "Person", "Place of Business", "Resident", "Resident Unincorporated Business Entity", and "Taxpayer" shall be the same as set forth in Section 1 of the City of Bucyrus, Ohio, Ordinance No. 103-2000.

(B) The term "The Ordinance" means Ordinance No. 103-2000 enacted by the Council of the City of Bucyrus on December 30, 2000, and any amendments or supplements thereto.

The singular shall include the plural and the masculine shall include the feminine and the neuter.

ARTICLE I-2

Commencement And Duration Of The Tax

The tax imposed by the Ordinance is effective as to income and profits earned or accruing on and after January 1, 2001 and payroll deductions must be made against all salaries, wages, commissions, bonuses, profits and other compensation earned or accruing on or after that date.

The Ordinance remains in effect until further legislative change but in no way affects tax rates stated in any prior ordinance, resolution or tax legislation ongoing or of limited duration in effect prior to January 1, 2001.

ARTICLE II-1

Imposition Of Tax - Resident Employees

In the case of residents of the City of Bucyrus, an annual tax of one (1) percent is imposed on all salaries, wages, commissions and other compensation earned or accrued on or after January 1, 2001. There is also imposed on these same earnings any additional amount of tax of limited duration imposed by any prior Ordinance or Resolution for whatever time period is stated in that Ordinance or Resolution. For the purpose of determining the tax on the earnings of resident taxpayers, the source of the earnings and the place or places in or at which the services were rendered are immaterial. The tax, or taxes, shall be imposed on gross earnings without regard to salary or wage reduction for employer or employee retirement plans of any nature. All such earnings, wherever earned or paid are taxable; however, if a taxpayer's income includes income against which the taxpayer has taken a deduction for Federal income tax purposes for employee business expense, as reported on Form 2106, a deduction in the same amount as shown on Form 2106 will be allowed for Bucyrus income tax purposes. If the income against which this deduction is taken was taxed by another municipality, credit for the tax paid to that city will be reduced in accordance with the said deduction.

The following are items which are subject to the tax:

(A) Salaries, wages, bonuses, or incentive payments received by an individual, whether directly or through an agent and whether in cash or in property, for services rendered on and after January 1, 2001.

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, subdivision, 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, subdivision, 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;

6. As an employee of any other entity or person.

(B) Wages, bonuses, or incentive payments received by an individual, whether directly or through an agent and whether in cash or in property, for services rendered on and after January 1, 2001.

1. Whether based upon hourly, daily, weekly, semi-monthly, monthly, annual, unit of production, or piece-work rates; and

2. Whether paid by an individual, limited partnership, partnership, association, corporation (including charitable and other non-profit corporations), governmental administration, agency, arm, authority, board, body, branch, department, division, subdivision, section or unit, or any other entity.

(C) Commissions received by a taxpayer whether directly or through an agent and whether in cash or in property, for services rendered on and after January 1, 2001 regardless of how computed, by whom or wheresoever paid.

If amounts received as a drawing account exceed the commissions earned, the tax is paid on the gross amount received.

Amounts received from an employer by way of employee business expense and not by way of compensation and used as such by the individual receiving them, are not deemed to be compensation, whether or not the employer deducts these amounts as an expense in determining his net profits.

If such commissions are included in the net earning of a trade, business, profession, enterprise or activity carried on by such individual and therefore subject to tax under Subsection C, of Section 2 of the Ordinance, they shall not again be separately taxed. In such case, such net earnings shall be taxed as provided in Article II-9 of the Resolution.

(D) The receipt of fees and other compensation for personal services rendered shall be deemed to be subject to tax under the Ordinance.

(E) Domestic servants are subject to tax under the Ordinance, but are not subject to withholding provisions. That is to say, the Domestic will report earnings and pay the tax directly to the Bucyrus Income Tax Department.

(F) Other compensation includes but is not limited to wages paid by an employer for the purpose of health, rest, recuperation or other rewards, regardless of label as sick payments, vacation pay, holiday pay, personal days, severance pay, annual leave, longevity, bonuses, wage continuation plans, gifts of any type if taxed for Federal Income Tax, incentive payments including retirement incentive plans, commissions, fees, unemployment benefits, third party sick pay, employee contributions to retirement plans whether or not picked up by the employer, amounts deferred for Federal Income Tax purposes by an employee or for an employee, such deferral being taxable at the time earned whether paid to employee or to a third party, employer paid premium for group term life insurance, any benefits received under any Cafeteria plans or Flexible Spending Arrangements including but not limited to disability coverage, dependent care assistance and medical expense reimbursement, any employee fringe benefits, income from a guaranteed annual wage contract, strike benefits and moving expense allowance in excess of actual qualified moving expense. Stock options or other compensation received in the form of property are taxable when included on Form W-2 or Form 1099 for federal purposes. Contributions of (or premiums paid by) the employer in the case of non-qualified pension plans are taxable when made and reported on IRS Form W-2 or Form 1099. Tips received from customers are also included.

ARTICLE II-2

Imposition Of Tax - Non-Residents

In the case of individuals who are non-residents of Bucyrus, there is imposed an annual tax of one (1) percent, plus any additional tax of limited duration imposed by the Ordinance

or Resolution, already in effect at this time, on all salaries, wages, commissions and other compensation, earned or accruing on or after January 1, 2001 for work done or services performed or rendered within the City of Bucyrus, whether such remuneration or compensation is received or earned directly or through an agent and whether paid in cash, property, or services. This section should not be construed as levying a tax on income that is exempted under Article XV (11) contained herein.

The items subject to tax under this Section are the same as those listed and defined in Article II-1. For methods of computing the extent of such work or services performed within the City of Bucyrus, and cases involving compensation partly within and partly outside of the City of Bucyrus, see Article IV-1.

ARTICLE II-3
Imposition Of Tax
Net Business Profits - Residents

1. In the case of trades, businesses, professions, other activities or undertakings conducted, operated, engaged in, prosecuted, or carried on by residents of the City of Bucyrus, there is imposed an annual tax of one (1) percent plus any additional tax of limited duration imposed on income, whether by the Ordinance or Resolution, already in effect on profits earned or accruing on or after January 1, 2001.
2. For the purpose of construing subsection (c) and (d) of Section 2 of the Ordinance, the term, "residents" in the phrase "conducted by residents of the City of Bucyrus", will ordinarily be construed to have reference to the business entity itself, as distinguished from the partners, proprietors or other participants in its profits.
3. Generally, a partnership, association or other unincorporated enterprise owned by two or more persons will be taxed as an entity. However, in the case of a non-resident partnership, association or unincorporated enterprise which cannot be reached or taxed directly by the City of Bucyrus, or if only part of its earnings may be directly taxed, then in either such case, resident partners, co-owners, proprietors or other participants in the profits thereof must include in their declaration and tax return or returns their distributive shares of such profits, or portion thereof not taxed to the business enterprise as an entity, and must pay the tax thereon. If such earnings were taxable by another municipality in this state, credit for taxes paid to said municipality will be granted. The amount of the credit shall equal the lesser of the following amounts, subject to Section (4) of Ordinance No. 103-2000:
 - a. The amount, if any, of tax paid by the partnership, association or other unincorporated enterprise to another municipality in this state, apportioned ratably according to the ownership interest of the taxpayer in proportion to the ownership interest of all owners of the entity.
 - b. The amount of tax that would be imposed on the partnership, association or other unincorporated enterprise by the City if the said entity conducted business in Bucyrus, apportioned ratably according to the interest of the taxpayer in proportion to the ownership interest of all owners of the entity.
4. The tax imposed under Section 2 (c) of the Ordinance is levied upon the entire net profits of the resident trade, business, profession, other activity, enterprise, or undertaking, wherever earned, paid or accrued and regardless of the fact that any part of such business or professional activity may have been conducted at or through a place or places of business located outside the City of Bucyrus. Credit will be given for city income taxes paid to other municipalities as prescribed under Section 4 of Ordinance No. 103-2000.

Rentals, as reported on Federal Schedule E, may aggregate profits for a net rental income but no net loss may be taken against other income nor may it be carried either forward or backward.

All other businesses may aggregate profits and losses of separate businesses for a net Bucyrus Income Tax profit depending on if such profits and losses are aggregated on Schedule SE (Form 1040) for Federal Income Tax purposes. Not to include any portion of a loss reportable to another municipality levying a tax or the profits or losses of resident partnerships, associations or other unincorporated businesses taxed as entities as provided in (3) of this Article.

In no case may business losses or rental losses be taken against wages or any other compensation earned as an employee.

ARTICLE II-4
Imposition Of Tax
Net Business Profits- Non-Residents

1. In the case of a non-resident individual, partnership, association, fiduciary, or other entity (other than a corporation) engaged in the conduct, operation, or prosecution of any trade, business, enterprise, undertaking or other activity, there is imposed an annual tax of one (1) percent plus any additional tax imposed by Ordinance or Resolution of limited duration, on the net profits of such trade, business, profession, enterprise, undertaking or other activity if, and to the extent, conducted in or derived from activity in the City of Bucyrus.

2. A non-resident entity within the meaning of subsection (E) of Section 2 of the Ordinance which has a branch or branches, office or offices, and/or store or stores, warehouse, or other place or places in which the entity's business is transacted, located in the City of Bucyrus, shall be considered to be conducting, operating, prosecuting, or carrying on a trade, business, profession, enterprise, undertaking or other activity to the full extent of the sum total of all transactions originating or consummated in, by or through such Bucyrus branch, office, store, warehouse or other place of business, including (a) billings made on such transactions, or (b) services rendered, or (c) shipments made, or (d) goods, chattels, merchandise, etc., sold or (e) commissions, fees or other remuneration or payments earned.

3. In the case of the partnership, association, or other unincorporated business owned by one or more persons the tax, generally, shall be upon said partnership, association, or business enterprise as an entity and not ordinarily upon the partners or members thereof. However, the provisions of Article II-3 are applicable to render taxable against such resident partners or members their distributive share of any profits of such non-resident entity not taxable under the Ordinance.

4. In determining the proportion or amount of the taxable net profits of a non-resident business entity having a place or places of business within and outside the City of Bucyrus, the net profits taxable to the City of Bucyrus shall be from said business records if they give a true profit for Bucyrus. If they do not the Business Allowance Percentage Formula explained in Article II-6 shall be used.

ARTICLE II-5
Imposition Of Tax
Net Business Profits - Corporation

1. In the case of a corporation doing business in Bucyrus, whether domestic or foreign, whether in production, sales, service, or any facet of corporate business, and whether domiciled in Bucyrus or elsewhere, there is imposed an annual tax of one (1) percent, plus any additional tax of limited duration imposed by any prior Ordinance or Resolution for whatever time period is stated in that Ordinance or Resolution, on net profits earned or accruing on or after January 1, 2001 of such corporation as a result of work done or service performed or rendered, and business activities conducted in the City of Bucyrus.

2. The Provisions of Paragraph 2 of Article II-4 of these regulations are applicable to such corporations.

3. A corporation doing business both within and outside the City of Bucyrus shall determine the Bucyrus profits from its records if its records give a true picture of the profits from its Bucyrus activities. These records shall be from its usual accounting system so long as said accounting system shall be one acceptable to the Federal Internal Revenue Service as evidenced by acceptance and approval of income tax returns filed therewith. In the absence of adequate records to give a true Bucyrus profit, the Business Allocation Percentage Formula explained in Article II-6 may be used.

ARTICLE II-6

Business Allocation Percentage Formula

In the absence of actual accounting records, net profit from a business or profession conducted both within and without the City of Bucyrus shall be considered as having a taxable situs in Bucyrus for purposes of Bucyrus Income Tax in the same proportion as the average ratio of:

(1) The average net book value of the real and tangible personal property owned or used by the taxpayer in the business or profession in Bucyrus during the taxable period to the average net book value of all of the real and tangible personal property owned and used by the taxpayer in the business or profession during the same period, wherever situated.

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

(2) Wages, salaries and other compensation paid during the taxable period to persons employed in the business or profession for services performed in Bucyrus to wages, salaries and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed, excluding compensation described in Article XV (11).

(3) Gross receipts of the business or profession from sales made and services performed during the taxable period in Bucyrus to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

As used in the preceding paragraph "sales made in Bucyrus" mean:

(a) All sales of tangible personal property delivered within Bucyrus regardless of where title passes if shipped or delivered from a stock of goods within Bucyrus;

(b) All sales of tangible personal property delivered within Bucyrus regardless of where title passes even though transported from a point outside Bucyrus if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within Bucyrus and the sales result from such solicitation or promotion;

(c) All sales of tangible personal property shipped from a place in Bucyrus to purchasers outside such municipal corporation regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

If one of the factors (property, sales, or payrolls) is missing, the other two (2) percentages are added and the sum is divided by two (2), and if two (2) of the factors are missing, the remaining percentage is the business allocation percentage.

EXAMPLE 1:

Corporation having places of business in Bucyrus, Detroit and Cleveland.

Bucyrus real and tangible personal property \$10,000. All real and personal property (Bucyrus, Detroit and Cleveland) \$100,000. Percentage: 10%.

Bucyrus sales \$15,000. All sales \$75,000. Percentage: 20%.
Bucyrus payroll \$6,000. All payroll \$20,000. Percentage: 30%.

Business Allocation Percentage:
 $10\% \text{ plus } 20\% \text{ plus } 30\% \text{ divided by } 3 = 20\%$.

EXAMPLE 2:

Same corporation owning no real or tangible personal property anywhere. Bucyrus sales \$15,000. All sales \$75,000. Percentage: 20%.

Bucyrus payroll \$6,000. All payroll \$20,000. Percentage 30%

Business Allocation Percentage:
 $20\% \text{ plus } 30\% \text{ divided by } 2 = 25\%$.

EXAMPLE 3.

Same corporation owning real and tangible personal property in Bucyrus valued at \$10,000 and owning no real or tangible personal property outside Bucyrus. Other factors same as in Examples 1 and 2.

Business Allocation Percentage:
 $100\% \text{ plus } 20\% \text{ plus } 30\% \text{ divided by } 3 = 50\%$.

After determining such business allocation percentage, the tax shall be determined by applying that percentage to the entire net profits of the taxpayer, wherever derived (thus arriving at the taxable net profit), and computing one (1) percent plus any additional tax of limited duration imposed by Ordinance or Resolution of the resultant taxable net profit.

Generally, the Business Allocation Percentage Formula will result in a fair apportionment of the taxpayer's net profits within and without the City of Bucyrus. However, due to the peculiar circumstances of certain businesses, the formula may result in an overstatement of earnings and tax in some cases or result in a tax evasion in others, thus does not do justice to the taxpayer or the City of Bucyrus. Accordingly, in such cases, the City Income Tax Administrator may substitute factors calculated to bring about a fair and proper allocation in any case where the taxpayer has used the Business Allocation Percentage Formula.

ARTICLE II-7

On What Earnings Or Net Profit Tax First Levied

The tax or taxes referred to in Article II-1 and II-2 shall first be levied, collected, and paid with respect to the salaries, wages, bonuses, incentive payments, commissions, fees and/or other compensation earned or accruing on and after January 1, 2001. The tax or taxes remains in effect until legislative change but in no way affects any prior Ordinance, Resolution, or tax legislation of limited duration in effect prior to January 1, 2001.

The tax or taxes referred to in Article II-3, II-4, II-5 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 (in accordance with regular accounting system as approved by Director of Internal Revenue) from and after

January 1, 2001. The tax remains in effect until legislative change but in no way affects any prior Ordinance, Resolution, or tax legislation of limited duration.

ARTICLE II-8

Fiscal Years

Where the fiscal year of 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. Any rate change in subsequent fiscal years would be taxed on appropriate records or if it is not possible, prorated. A fiscal year will only be recognized if it has been approved by the Internal Revenue Service, and a short year will be considered a full tax year.

ARTICLE II-9

Net Business Profits

In amplification of the definition of the term "Net Profits" as set forth in Section 1 subsection G of the Ordinance, 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" or "cash" basis, and said basis is used in the filing of Federal Income Tax Returns, the same basis must be used for the purpose of this tax.
- (c) Gross Receipts shall include total income from any source.
- (d) From Gross Receipts there shall be subtracted allowable expense to arrive at the net profits subject to tax.
- (e) All ordinary and necessary expense of doing business, including reasonable compensation paid to employees, shall be allowed, but the amount of any expense may not exceed that recognized for the purpose of the Federal Income Tax. No deduction may be claimed for "salary" or withdrawals of a proprietor or of the partners, members or other co-owners of an unincorporated business or enterprise.
- (f) 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, and 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.
- (g) Bad debts in a reasonable amount may be allowed in the year ascertained worthless and charged off, but in no event shall the amount allowed exceed the amount recognized as a deduction for the purpose of the Federal Income Tax.
- (h) Only taxes directly connected with the taxpayer's business may be claimed as a deduction. If for any reason the income from property is not subject to tax, then any expenses connected with said property are not deductible, including any taxes. In any event, the following taxes are not deductible from income:
 - 1. The tax under the Ordinance or any municipal income tax anywhere;
 - 2. Any Federal taxes based upon income;
 - 3. Gifts, estate or other inheritance taxes;
 - 4. Taxes and/or special assessments for local benefits or improvements to property which tend to appreciate the value thereof; and

5. Any other tax based upon income including any state income taxes, excepting any franchise taxes based upon net worth.

(i) Capital gains and losses from the sale, exchange or other disposition of property shall not be taken into consideration in arriving at net profits earned. However, any amount or value realized on a sale, exchange or other disposition of tangible personal property or real property used in business in excess of book value shall be treated as taxable income under the Ordinance to the extent of depreciation allowed or allowable.

(j) In general, unearned income is not to be included in computing the tax levied hereunder. Income earned from investments such as investment interest, dividends, royalties, copyrights and the like should not be included, if such income is not derived in the normal course of business. The expenses connected with such non-taxable income may not be deducted in determining the amount of net profits hereunder. In the absence of the actual amount of said expenses, five (5) percent of the non-taxable income will be used.

(k) All rentals of every description are to be included regardless of the amount of gross rents or the form of compensation.

(1) Real property, as term is used in this Resolution, shall include commercial property, residential property, farm property, and any and all other types of real estate.

(2) In determining the taxable net income from rentals, the deductible expense shall be of the same nature, extent and amount as are allowed by the Internal Revenue Department for Federal Income Tax Purposes, unless otherwise excluded herein.

(3) Residents of the City of Bucyrus are subject to taxation upon net income from rentals (to the extent above specified) on all properties located in the City of Bucyrus, and/or on all properties located outside the City of Bucyrus with credit, as prescribed under Section 4 of Ordinance No. 103-2000, being given for income tax or taxes paid to other municipalities on rental profits from properties in those municipalities. Non-residents of Bucyrus are subject to such taxation only if the real property is situated within the City of Bucyrus.

ARTICLE II-9.1

Status Of Loss Carryover & Carryback In Income Tax Computation

If a Net Operating Loss has been sustained in any taxable year, such loss may not be carried forward or backward to any other taxable year.

ARTICLE II-10

Reconciliation With Federal Return

In a form satisfactory to the City Income Tax Administrator there shall be submitted with each return filed by a taxpayer subject to the Federal Income Tax, a reconciliation between the amount shown in the return filed with the City Income Tax Administrator and the income reported to the Federal Internal Revenue Service.

If as a result of a change made in income by the Federal Internal Revenue Service, or by a judicial decision, an additional amount will result as owing to the City of Bucyrus, a report of such change shall be filed by the taxpayer within thirty (30) days after the receipt of the final notice of such change from the Federal Authorities or after final decisions of a Court adjudicating any such Federal Income Tax liability.

If such decision or decisions result in a lessening of tax, a refund may be applied for within a three (3) year period from the later of the filing date or date of notice of reduction by authorities.

ARTICLE III
Return & Payment Of Tax

1. On or before April 30, 2002 or filing date for fiscal year 2001, every citizen of the City of Bucyrus eighteen (18) years and older, every incorporated business, partnership, association or any other business entity with any business function whatsoever, or a status within the City of Bucyrus shall make and file with the City Income Tax Administrator a final return on a form furnished by or obtainable from the City Income Tax Administrator. A generic form of the final return may be submitted in lieu of the form prescribed by the City Income Tax Administrator, provided that form contains all of the information required by the City Income Tax Administrator and the preparer of said form complies with all of the applicable provisions provided in the Ordinance and herein. Article III applies even if all income is subject to withholding, and whether or not a tax be due thereon.

Any citizen eighteen (18) years of age and older who is permanently disabled or retired and has no income subject to the Bucyrus City Income Tax may with approval of the City Income Tax Administrator file a form prescribed by the City Income Tax Administrator stating that he has no income subject to the Bucyrus Income Tax and state a return will be filed with any change in his income situation that will necessitate the filing of such a return.

Any person who receives income from any business source or compensation for services performed for an employer in whatever form, that is not subject to withholding must also file a declaration of estimated tax and a final return.

The returns and/or declaration must be filed by April 30 or a fiscal year filing deadline of each subsequent year.

A husband and wife may file joint return and/or declaration in any year.

All businesses and rentals considered as such, until dissolved must file annual returns and declarations regardless of whether showing a profit or loss for the said period and if dissolved must notify the Bucyrus Income Tax Department by the next filing deadline of their tax year. The Bucyrus Income Tax Department must be notified of any change of entity by the same deadline.

A consolidated return may be filed by any affiliated group of corporations if that affiliated group filed for the same tax reporting period a consolidated return for Federal Income tax purposes pursuant to Section 1501 of the Internal Revenue Code.

2. In all returns filed herewith there shall be set forth the aggregate amount of salaries, wages, bonuses, incentive payments, commissions, fees, and other compensation received and/or net profits earned (all as herein before defined) and whether received or earned in cash, property, services, or any other form of value, by and during the preceding year and subject to said tax, together with such pertinent information as the City Income Tax Administrator may require.

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

4. The return shall also show the amount of the tax imposed on such earnings, or net profits, or both.

5. The taxpayer making the return shall at the time of filing thereof, pay the City Income Tax Administrator the amount of tax shown to be due on the return. However, if an extension has been granted, 90% of the tax due or 100% of the prior year's liability must be paid by the

original due date, April 30th, or subsequent fiscal due date. If 90% of the tax due or 100% of the prior year's liability is not paid by the original due date, penalty and interest as prescribed in Section 7 of the Ordinance will be added to the amount owed.

If a proper refund is called for on a return, it shall be paid within 90 days of the filing date of the return, or its due date, whichever is later, or interest at the "going" rate will be paid on said refund. At the option of the taxpayer, any refund may be timely credited to his/her/its account without interest.

6. Where any portion of the tax otherwise due shall have been paid by the taxpayer pursuant to the provisions of Article IV-1 and VI-1 of this Resolution or where an income tax has been paid to another municipality credit, as prescribed under Section 4 of Ordinance 103-2000, shall be deducted from any amount shown to be due and only the balance, if any, shall be due and payable at the time of filing said return.

7. Any taxpayer that has requested an extension for filing a Federal Income Tax Return may request an extension for filing a Bucyrus Income Tax Return for the same tax period. The request should be made by filing a copy of the request for Federal extension with the City Income Tax Administrator on or by the original due date of said return. The date for filing a Bucyrus Income Tax Return may be extended for a period not to exceed six (6) months beyond the original due date. The request for extension may be denied if the taxpayer fails to file a copy of the Federal request, owes any delinquent tax, penalty, interest or other assessment, or failed to file any required return, report or other related document for a prior tax period.

8. As to the matter of final amounts due or overpaid, any amount under \$2.01 need not be remitted if owed, nor will these amounts be refunded or credited if overpaid.

For payments in installments see Article V-2.

ARTICLE IV-1 Collection At Source

1. It is the duty of each resident employer who employs one or more persons on a salary, wage, commission, or other compensation basis, to deduct from compensation paid to any employee subject to the Ordinance, the tax of one (1) percent plus any additional tax of limited duration imposed by ordinance or resolution of such salary, wage, bonus, incentive payment, commission or other compensation due by said employer to said employee. The tax shall be deducted by the employer from:

(a) All compensation paid to employees who are non-residents of the City of Bucyrus for services rendered, work performed, or other activities engaged in to earn such compensation, within the City of Bucyrus; and

(b) From 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 Bucyrus, regardless of the place where the services are rendered, unless said services are rendered in another municipality levying a tax and the employer is required to withhold tax from said wages for that municipality. In which case, the employer shall withhold and remit tax to the City of Bucyrus for only the difference, if any, between the tax imposed by such other taxing municipality and the tax imposed by Ordinance No. 103-2000 on said wages.

2. All employers who do not maintain a permanent office or other place of business within the City of Bucyrus, but have employees working in the City are considered non-resident employers and are required to deduct tax from all compensation paid to said employees in the amount of one (1) percent plus any additional tax of limited duration imposed by ordinance or resolution of such compensation earned in Bucyrus under the

following provisions:

(a) As of January 1, 2001, non-resident employers are not required to deduct tax from the taxable income of an individual unless the total amount to be withheld from all subject employees exceeds \$150.00 for a calendar year. Once the \$150.00 threshold has been met, the employer is required to withhold and remit tax as prescribed herein for the remaining portion of that calendar year.

(b) If the total tax to be withheld exceeds \$150.00 for a calendar year, the employer is required to withhold and remit taxes for each ensuing year even if the amount withheld is \$150.00 or less for each of those years.

(c) If the amount withheld is \$150.00 or less for three consecutive ensuing years, the employer is no longer required to withhold tax from subject employees unless the total tax withheld exceeds \$150.00 for a calendar year. At which time the employer is required to withhold under the provisions provided herein.

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 received.

4. Commissions and fees paid to professional men, brokers, and others who are independent contractors and not employees of the payor, are not subject to withholding or collection of the tax at the source. Such taxpayers must in all instances file returns and pay tax pursuant to the provisions of Section 2 of the Ordinance. (See Article II-3 and II-4).

5. Where a non-resident employee receives compensation for personal services rendered or performed partly within and partly without the City of Bucyrus, the withholding employer shall withhold and remit from that portion of the compensation which was earned within the City of Bucyrus, in accordance with the following rules of apportionment, income tax of one (1) percent plus any additional tax of limited duration imposed by ordinance or resolution of said compensation:

(a) If the non-resident is a salesman, agent, or other employee whose compensation on the basis of commission depends directly on the volume of business transacted by him, the deducting and withholding shall attach to the portion of the entire compensation which the value of business transacted by the employee with the City of Bucyrus bears to the volume of business transacted by him within and outside the City of Bucyrus.

(b) 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 Bucyrus bears to the total number of working days employed within and outside the City of Bucyrus.

(c) If it is impossible to apportion the earnings as provided above because of (1) the peculiar nature of the service of the employee, or (2) the unusual basis of compensation, apportionment shall be made in accordance with the facts and the tax deducted and withheld accordingly.

(d) The occasional entry into the City of Bucyrus of a non-resident employee who performs the duties for which he is employed entirely outside the City of Bucyrus, but enters the City for the purpose of reporting, receiving instructions, accounting, etc., incidental to his duties outside the City shall not be deemed to take such employee out of the class of those rendered their services entirely outside the City of Bucyrus.

6. 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 7 below) where such advances are in excess of commissions earned.

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 by the employer to the employee for expense necessarily and actually incurred by the employee in the actual performance of his services, provided, that such expense must be of the kind and in the amount recognized as deductible for Federal Income Tax purposes.

ARTICLE IV-2

Returns Of Tax Withheld And Payment

The deduction from salaries, wages and other compensation required to be made by employers are to begin with compensation earned on and after January 1, 2001. The first return and payment required to be made on account of such deduction shall be made, filed and paid to the City Income Tax Administrator on or before April 30, 2001.

Each employer within the City of Bucyrus who employs one or more persons on a salary, wage, commission, or other compensation basis shall deduct at the time of the payment of such salary, wage, commission, or other compensation, the tax of one (1) percent plus any other tax of limited duration imposed by ordinance or resolution of salaries, wages, commissions, or other compensation due by the said employer to the said employee and shall make a return and pay to the City Income Tax Administrator the amount of taxes so deducted as follows:

For the three (3) months ending March 31st, on or before April 30th;

For the three (3) months ending June 30th, on or before July 31st;

For the three (3) months ending September 30th, on or before October 31st;

For the three (3) months ending December 31st, on or before the following January 31st;

The reporting periods referred to in the preceding paragraphs are elastic to this extent: The employer will use the same quarterly accounting period for reporting taxes withheld under the City of Bucyrus Income Tax Ordinance as he uses in reporting quarterly taxes withheld to the Federal Government.

Said return shall be on a form prescribed by and obtainable from the City Income Tax Administrator and shall be subject to the rules and regulations prescribed therefore by the City Income Tax Administrator.

Commencing January 1, 2001, when the total amount of Bucyrus City Income Tax deducted from salaries, wages and other compensation required to be withheld by employers does not exceed \$100.00 per month, or in those cases when the account is a so-called "Courtesy" account where the employer is not required by law to withhold from its employees, the return and payment of tax withheld may be filed quarterly as prescribed above. If the total tax withheld exceeds \$100.00 per month, the employer must file the return and payment monthly as prescribed in Article IV-2A.

If a non-resident employer is not required to withhold tax under Article IV-1 subparagraph (2), the employer is still required to file on a quarterly basis a return reporting the amount of wages, salaries and other compensation earned within the City of Bucyrus by employees of said employer. Once the non-resident employer is required to withhold tax as prescribed in the aforementioned section, the tax must be filed and paid according to the provisions provided herein.

For adjustment of errors in returns of tax withheld by employees see Article VI-2 of these regulations.

ARTICLE IV-2A
Returns Of Tax Withheld And Payments

Commencing January 1, 2001, when the total amount of Bucyrus City Income Tax deducted from salaries, wages and other compensation required to be withheld by employers exceeds \$100.00 per month, a return and payment are required to be filed on account of such deduction to the City Income Tax Administrator on or before the last day of each following month in 2001, and thereafter.

ARTICLE IV-3
Limitation On Credit For Tax Paid At Source

The failure of any employer, residing either within or outside the City of Bucyrus, to collect the tax and to make any return 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.

ARTICLE IV-4
Status And Liability Of Employers

Every employer is deemed to be a trustee of the City of Bucyrus in collecting and holding the tax required under the Ordinance to be withheld, and the funds so collected by such withholding are deemed to be trust funds until the same is paid to the City of Bucyrus.

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

ARTICLE V-1
Declarations

1. An employee whose entire wages, salaries, or other compensation for any taxable year will be subjected to the withholding provisions under Article IV-1 of these Regulations, whose tax will accordingly be withheld as to his entire earnings for such year by his employer, and who during such taxable year expects to derive no other compensation or other income which is subject to tax under the Ordinance, need not file a declaration as provided in this Article.

2. All other taxpayers (as defined in the Ordinance and in these Regulations) subject to the taxes imposed in Section 2 of the Ordinance, 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 City Income Tax Administrator a declaration of his estimated tax as follows:

(a) On or before April 30, 2001 every such calendar year taxpayer shall file a declaration of his estimated tax for the taxable period beginning January 1, 2001 and ending December 31, 2001.

(b) A similar declaration shall be filed by each such taxpayer on or before the 30th day of April each subsequent year during the life of the Ordinance, as long as the conditions in Article V-1 exist and each declaration shall contain a statement of the taxpayer's estimated tax for the full taxable year in which such declaration is filed.

3. Taxpayers who, or which are permitted, pursuant to provisions of Article II-8, to file a return and pay their tax on a fiscal year basis shall file their first declaration within four (4) months after the beginning of the first fiscal year beginning on or after January 1, 2001 and the subsequent declaration of each year thereafter on or before the last day of the fourth month after the beginning of each such fiscal year. Those taxpayers shall make quarterly payments as prescribed under Article V-2.

4. The estimated tax for a calendar year taxpayer may be paid in full with the filing of the declaration or in equal installments as prescribed under Article V-2.

5. The declaration so required shall be filed upon a form furnished by or obtainable from the City Income Tax Administrator. In lieu of said form, a generic form may be used provided it contains all of the information required by the City Income Tax Administrator and the preparer of said form complies with all of the applicable provisions provided herein. Any taxpayer who has filed an estimate for Federal Income Tax purposes may, in making the declaration, required hereunder, simply state therein that the figures therein contained are the same figures used by the taxpayer in making the declaration of his estimate for the Federal Income Tax. However, in addition to such statement, any such taxpayer may, in such declaration, modify and adjust such declared income so as to exclude therefrom income which is not subject to tax under the Ordinance.

6. Any estimate filed hereunder may be amended by the filing of an amended estimate at the time prescribed for the payment of any installment of tax paid in accordance with Article V-2 of these regulations.

ARTICLE V-2

Payment Of Tax Installments

1. At the time of filing each declaration (required by Article V-1) each taxpayer who is an individual shall pay to the Income Tax Administrator twenty-two and one-half percent (22.5%) of his estimated tax liability for the current year. Thereafter, on or before the 31st day of July, October and January, such taxpayer shall pay at least a similar amount. 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 diminished (as the case may be) in such a manner that ninety percent (90%) of the estimated tax liability shall be paid on or before January 31st through the payment of quarterly installments of equal amounts during the quarterly periods remaining from and after the filing of said amended declaration.

2. At the time of declaration (required by Article V-1), each taxpayer who is not an individual shall pay to the Income Tax Administrator twenty-two and one-half percent (22.5%) of the taxpayer's estimated tax liability for the current year. Thereafter, on or before the 15th day of June, September and December, such taxpayer shall pay at least a similar amount. For taxpayers on a fiscal year, payments shall be made on or before the 15th day of the sixth, ninth and twelfth month of the taxpayer's taxable year. 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 liability, the installment then and thereafter due shall be increased or diminished (as the case may be) in such a manner that ninety percent (90%) of the estimated tax liability shall be paid on or before December 15th or the 15th day of the twelfth month through the payment of quarterly installments of equal amounts during the quarterly periods remaining from and after the filing of any such amended declaration.

3. Penalty and/or interest will not be assessed for the late payment or non-payment of estimated tax liability in either of the following circumstances:-

- a. The taxpayer is a resident individual who resides in Bucyrus but was not domiciled in the City on the first day of January of the current calendar year.
- b. The taxpayer has remitted, pursuant to (1) or (2) of this section, an amount at

least equal to one hundred percent (100%) of the taxpayer's tax liability for the preceding year, provided that the return for the preceding year reflected a twelve-month period and the taxpayer filed a return for the preceding year.

4. For final returns and final adjustments of tax due, see Article III.

ARTICLE VI-1

Records To Be Kept By Employers And Taxpayers

Employers and others subject to the tax under the Ordinance are required to keep such records as will enable the filing of true and accurate returns whether of taxes withheld at source or of taxes paid or payable upon earnings or net profits, or both and such records are to be preserved to enable the City Income Tax Administrator, or any agent or employee of the City Income Tax Administrator, to verify the correctness of the returns filed. Such records shall be preserved three (3) years from the due date or date of filing whichever is later. Omission of twenty-five (25) percent of gross income, fraud, or failure to file extends this to six (6) years.

ARTICLE VI-2

Collection Of Deficiencies Allowance Of Credit For Overpayment

If, as a result of investigation conducted by the City Income Tax Administrator, a return is found to be incorrect, the City Income Tax Administrator is authorized to assess and collect any underpayment of tax withheld at the source or any underpayment of tax owing by any taxpayer with respect to earnings or net profits or both: If no return has been filed and a tax is found to be owed the tax actually owed 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 City Income Tax Administrator, or through the medium of the filing of a claim or petition for refund or credit, that an overpayment has been made, the following guidelines shall apply;

- (1) The claim must be made within three years from the date on which such payment was made or the return was due, whichever is later.
- (2) No refund shall be made to any taxpayer until he has complied with all provisions of Ordinance No. 103-2000 and has furnished all information required by the City Income Tax Administrator.
- (3) Overpayments will either be refunded or credited to the taxpayer's current year's liability at his or her option. Where no election has been made by the taxpayer, overpayments of any year's taxes shall be applied as follows:
 - (a) To taxes owed for any year in the order in which such taxes become due.
 - (b) In the case of a business, any refund or credit may be applied to an outstanding balance in the corresponding withholding account.
 - (c) To his or her account in the form of a credit in the current tax year.
- (4) Credits of less than \$2.01 will not be allowed and refunds of less than \$2.01 will not be paid.

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 it from the employee. If too much has been withheld, the excess shall be refunded by the employer to the employee. The withholding agent (employer) will be expected to maintain complete records of such adjustments with the employees and explain the details of such adjustments in the withholding return either by schedule or statement. A refund of over-withheld tax may be paid directly to the employee provided the employer submits a statement to the City Income Tax Administrator detailing the circumstances involving said overpayment and relinquishing

the right to have said funds directly refunded to them.

In those cases in which too much has been withheld by an employer from an employee and remitted to the City Income Tax Administrator, and there has been a termination of the employee-employer relationship, the taxpayer (employee) may obtain an adjustment by application to the City Income Tax Administrator.

ARTICLE VII
Collection Of Unpaid Taxes

All taxes imposed by the Ordinance remaining unpaid when the same have become due, together with all interest and penalties thereon, become a debt due the City of Bucyrus from the taxpayer, and are recoverable as other debts by suit instituted by the City Income Tax Administrator, his representative, or City Prosecutor.

Employers who or which, although obliged under the Ordinance to withhold and remit to the City Income Tax Administrator, the taxes required to be withheld at the source (Article IV-1) shall if they fail to withhold and remit become liable to the City of Bucyrus in a civil action to enforce the payment of the debt created by such failure.

When a final return is filed as described in Article III hereof and a deficiency is determined to be due the City of Bucyrus, action to collect the same must be brought within three (3) years after the tax was due or the return filed, whichever is later. However, in the case of fraud, failure to file or the omission of twenty-five (25) percent or more of income required to be reported and taxed prosecution may be commenced within six (6) years of the later of commission of the offense, due date of return or date return was filed.

If any of the above circumstances occur and are discovered by the Federal Internal Revenue Service or any other tax administering authorities, taxpayers are required to notify the City Income Tax Administrator within 30 days and satisfy the City of Bucyrus claim on such discovery.

ARTICLE VIII
Identification Required

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.

ARTICLE IX
Applicability

This Resolution 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.

ARTICLE X
Savings Clause

If any sentence, clause, section or part of this Resolution, 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 sentence, clause, section or part of this Resolution and shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or other parts of this Resolution. It is hereby declared to be the intention of the Council of the City of Bucyrus that this Resolution would have been adopted had such unconstitutional, illegal or invalid sentence, clause,

section or part thereof not been included herein.

ARTICLE XI

Split Payrolls

In the case of hourly employees where a pay period of one half (½) month or less, encompasses two (2) different tax rate periods, said payroll shall be considered a split payroll with the proper rate applied to each periods earnings. If the breakdown of said payroll would constitute an accounting hardship on the employer, with the permission of the City Income Tax Administrator, an equitable average rate of pro-rating of earnings, or any such fair solution may be allowed.

In the case of salaried employees paid on a calendar month, or less basis, and said payroll encompasses two (2) different tax rate periods, said payroll shall be considered a split payroll with the proper rate applied to each periods earnings. If the breakdown of said payroll would constitute an accounting hardship on the employer, with the permission of the City Income Tax Administrator, an equitable average rate of pro-rating of earnings shall be allowed.

ARTICLE XII

Withholding Statements

The Bucyrus Income Tax Department will require employers to file annual employee earnings reports on forms similar to Federal Form W-2 or a substitute form or list approved by the City Income Tax Administrator.

These forms and an approved form reconciling the earnings and withheld municipal income taxes with quarterly withholding reports shall be filed with the City Income Tax Administrator on or by February 28 of each year. A copy of the wage and tax statement shall be furnished each employee by January 31.

Non-resident employers that are required to withhold tax under Article IV-1 subsection (2) must provide the Bucyrus Income Tax Department with a report containing the name, address, social security number and gross wages earned in Bucyrus for every employee that falls under this provision. This information shall be filed with the City Income Tax Administrator on or by February 28 of each year. If a non-resident employer is required to withhold tax under the provisions of subsection (b) of the aforementioned section, the employer must file annual employee earnings reports and a reconciliation report as described herein. If an employer reaches the threshold during any part of the year thus requiring that employer to begin withholding Bucyrus Income Tax, all aforementioned reports must be filed by the aforesaid deadlines.

ARTICLE XIII

Registration Of All Businesses Operating In The City Of Bucyrus

Every business, whether sole proprietorships, partnerships, associations, corporations, or any other entity, located within or without the City of Bucyrus, but doing business or any function of said business within the City of Bucyrus on or after January 1, 2001 shall register with the Bucyrus Income Tax Department within thirty (30) days of the beginning of that business and comply with the Income Tax Ordinance and the Regulations in force at that time. Any business subletting or subcontracting work within the City of Bucyrus shall furnish the Bucyrus City Income Tax Department with copies of Federal Form 1099 or a complete list of subcontractors including the appropriate name, address, social security number and amounts paid for work performed inside the City limits for each calendar year to be submitted by February 28 of the following year. Failure to comply will result in a penalty of

\$500.00 plus other appropriate penalties and interest due.

ARTICLE XIV

Function Of City Income Tax Administrator

As to administration of all functions of the Bucyrus Income Tax Ordinance, including but not limited to the receipt and processing of Bucyrus City Income Tax Returns and collection of these taxes, whether by present or prior Ordinance or Resolution, the term City Income Tax Administrator shall include City Auditor.

ARTICLE XV

Exemptions

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

1. The military pay or allowances of members of the armed forces of the United States and members of their reserve components, including the Ohio National Guard.
2. Poor relief, pensions, social security, unemployment compensation, and disability benefits (not to be confused with employees' sick pay) received from private industry or local, state, or Federal governments, or from charitable, religious, or educational organizations.
3. Dues, contributions and similar payments received by charitable, religious, educational, or literary organizations or labor unions, lodges and similar associations.
4. Receipts from casual entertainment, amusements, sports events and health and welfare activities, conducted by bona fide charitable, religious and educational organizations and associations.
5. Any association, organization, corporation, club, or trust which is exempt from Federal taxes on income by reason of its charitable, religious, educational, literary, scientific etc., purposes. However, employees of such organizations are subject to the tax and/or taxes of the Ordinance and the foregoing organizations are considered employers for purposes of withholding. Also, businesses making sales to or performing services for the above mentioned organization for remuneration are considered to be receiving taxable income unless such businesses themselves are exempt under the Ordinance.
6. Gains from involuntary conversions, cancellation of indebtedness, unless in the normal course of business, and income from a decedent's estate during the period of administration (except such income from the operation of a business).
7. Earnings and income of all persons under eighteen (18) years of age, whether residents or non- residents.
8. If any item of income which is specifically exempt from taxation by the Ordinance is included in the net business profits of a business entity's Federal return, an adjustment will be allowed for the purpose of the Bucyrus Income Tax.
9. Ministers' housing allowance.
10. Compensation paid to a person serving as a precinct election official, to the extent that such compensation does not exceed one thousand dollars annually.

11. Compensation of an individual if all of the following apply:-
- a. The individual does not reside in the City.
 - b. The compensation paid is for personal services performed by the individual in the City on twelve or fewer days, or any part of a day, in the calendar year.
 - c. In the case of an individual who is an employee, the principal place of business of the individual's employer is located outside the City, and the individual pays tax on said compensation to the municipality, if any, in which the employer's principal place of business is located and no portion of that tax is refunded to the individual.
 - d. The individual is not a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such a promoter.

ARTICLE XVI

Tenant Rosters

Every person or business who owns property inside the City limits of Bucyrus for the purpose of renting or leasing to others are required to submit to the Bucyrus Income Tax Department an annual statement to include the name(s) of the tenant(s), the street address of the rental property and the date in which the tenant took occupancy of the property. The statement will be completed on a form as prescribed by the City Income Tax Administrator and will be due no later than November 30 of each year."

SECTION 2. That this Resolution is hereby enacted in place of Resolution No. 253-2000

effecting a consolidation of subject matter contained in Resolution No. 253-2000 and its amendments and bringing the Resolution into compliance with changes made by the State Legislature which have been incorporated in the "Rules and Regulations" under the authority of Section 5, City of Bucyrus, State of Ohio Income Tax Ordinance No. 57-2003, the same to read as follows (said changes set forth in bold italics):-

ARTICLE I-1

Definitions

(A) As used in these 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.

1. The definitions of the terms "association", "business", "City", "City Income Tax Administrator", "corporation", "domicile", "employee", "employer", "fiscal year", "Internal Revenue Code", "limited liability company", "net profit", "non-resident", "non-resident unincorporated business entity", "owner", "other entity", "pass-through entity", "person", "place of business", "qualified retirement plan", "qualifying wages", "resident", "resident unincorporated business entity", "schedule C", "schedule E", "schedule F", "S corporation", "taxable income", "taxable year" and "taxpayer" shall be the same as set forth in Section 1 of the Ordinance.

2. "Form 2106" means Internal Revenue Service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.

3. "Generic form" means an electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability or for filing a refund claim that is not prescribed by the City Income Tax Administrator for the reporting of the City's tax on income.

4. "Gross receipts" means total income of taxpayers from whatever source derived.

5. "Intangible income" means income of any of the following types: income yield, interest, capital gains, dividends or other income arising from the ownership, sale, exchange or other disposition of intangible property including, but not limited to, investments, deposits, money or credits as those terms are defined in chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, trade names, investments in real estate trusts, investments in regulated investment companies and appreciation of deferred compensation. "Intangible income" does not include prizes, awards or other income associated with any lottery winnings or other similar games of chance.

6. "Nonqualified deferred compensation plan" means a compensation plan described in section 3121(v)(2)(C) of the Internal Revenue Code.

7. "Ordinance" means Ordinance No. 51-2003 enacted by the Council of the City of Bucyrus on December 30, 2003, and any amendments or supplements thereto.

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

(B) The singular shall include the plural and the masculine shall include the feminine and the neuter.

ARTICLE I-2

Commencement And Duration Of The Tax

The tax imposed by the Ordinance is effective as to *qualifying wages, commissions, other compensation and other taxable income* and *net* profits earned or accruing on and after January 1, 2004 and payroll deductions must be made against all *qualifying wages* earned or accruing on or after that date.

The Ordinance remains in effect until further legislative change but in no way affects tax rates stated in any prior ordinance, resolution or tax legislation ongoing or of limited duration in effect prior to January 1, 2004.

ARTICLE II-1

Imposition Of Tax - Resident Employees

In the case of residents of the City of Bucyrus, an annual tax of one (1) percent is imposed on all *qualifying wages, commissions, other compensation and other taxable income* earned or accrued on or after January 1, 2004. There is also imposed on these same earnings any additional amount of tax of limited duration imposed by any prior ordinance or resolution for whatever time period is stated in that ordinance or resolution. For the purpose of determining the tax on the earnings of resident taxpayers, the source of the earnings and the place or places in or at which the services were rendered are immaterial. The tax, or taxes, shall be imposed on *qualifying wages*. All such earnings, wherever earned or paid are taxable; however, if a taxpayer's income includes income against which the taxpayer has taken a deduction for Federal income tax purposes for employee business expense, as

reported on Form 2106, a deduction in the same amount as shown on Form 2106 will be allowed for Bucyrus income tax purposes. If the income against which this deduction is taken was taxed by another municipality, credit for the tax paid to that city will be reduced in accordance with the said deduction.

The following are items which are subject to the tax:

(A) *Qualifying wages and other compensation* received by an individual, whether directly or through an agent and whether in cash or in property, for services rendered on and after January 1, 2004.

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, subdivision, 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, subdivision, 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;

6. As an employee of any other entity or person.

(B) *Qualifying wages and other compensation* received by an individual, whether directly or through an agent and whether in cash or in property, for services rendered on and after January 1, 2004.

1. Whether based upon hourly, daily, weekly, semi-monthly, monthly, annual, unit of production, or piece-work rates; and

2. Whether paid by an individual, limited partnership, partnership, association, corporation (including charitable and other non-profit corporations), governmental administration, agency, arm, authority, board, body, branch, department, division, subdivision, section or unit, or any other entity.

(C) Commissions received by a taxpayer whether directly or through an agent and whether in cash or in property, for services rendered on and after January 1, 2004 regardless of how computed, by whom or wheresoever paid.

If amounts received as a drawing account exceed the commissions earned, the tax is paid on the gross amount received.

Amounts received from an employer by way of employee business expense and not by way of compensation and used as such by the individual receiving them, are not deemed to be compensation, whether or not the employer deducts these amounts as an expense in determining his net profits.

If such commissions are included in the net earning of a trade, business, profession, enterprise or activity carried on by such individual and therefore subject to tax under Subsection C, of Section 2 of the Ordinance, they shall not again be separately taxed. In such case, such net earnings shall be taxed as provided in Article II-9 of the Resolution.

(D) The receipt of fees and other compensation for personal services rendered shall be deemed to be subject to tax under the Ordinance.

(E) Domestic servants are subject to tax under the Ordinance, but are not subject to withholding provisions. That is to say, the Domestic will report earnings and pay the tax directly to the Bucyrus Income Tax Department.

(F) Other compensation includes but is not limited to qualifying wages paid by the employer for the purpose of health, rest, recuperation or other rewards, regardless of label as sick pay, vacation pay, holiday pay, personal days, severance pay, annual leave, longevity, bonuses, or wage continuation plans.

(G) If a taxpayer has a nonqualified deferred compensation plan and does not receive said compensation as a result of the following, a refundable credit will be allowed as provided in Section 718.021 of the Ohio Revised Code:-

- 1. The insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan; or*
- 2. The employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation.*

ARTICLE II-2

Imposition Of Tax - Non-Resident Employees

In the case of individuals who are non-residents of Bucyrus, there is imposed an annual tax of one (1) percent, plus any additional tax of limited duration imposed by the Ordinance or Resolution, already in effect at this time, on all *qualifying wages, commissions, other compensation and other taxable income*, earned or accruing on or after January 1, 2004 for work done or services performed or rendered within the City of Bucyrus, whether such remuneration or compensation is received or earned directly or through an agent and whether paid in cash, property, or services. This section should not be construed as levying a tax on income that is exempted under Article XV (11) contained herein.

The items subject to tax under this Section are the same as those listed and defined in Article II-1. For methods of computing the extent of such work or services performed within the City of Bucyrus, and cases involving compensation partly within and partly outside of the City of Bucyrus, see Article IV-1.

ARTICLE II-3

Imposition Of Tax Net Business Profits - Residents

1. In the case of trades, businesses, professions, other activities or undertakings conducted, operated, engaged in, prosecuted, or carried on by residents of the City of Bucyrus, there is imposed an annual tax of one (1) percent plus any additional tax of limited duration imposed on income, whether by the Ordinance or Resolution, already in effect on profits earned or accruing on or after January 1, 2004.

2. For the purpose of construing subsection (c) and (d) of Section 2 of the Ordinance, the term, "residents" in the phrase "conducted by residents of the City of Bucyrus", will ordinarily be construed to have reference to the business entity itself, as distinguished from the partners, proprietors or other participants in its profits.

3. Generally, a partnership, association or other unincorporated enterprise owned by two or more persons will be taxed as an entity. However, in the case of a non-resident partnership, association or unincorporated enterprise which cannot be reached or taxed directly by the City of Bucyrus, or if only part of its earnings may be directly taxed, then in either such case, resident partners, co-owners, proprietors or other participants in the profits thereof must include in their declaration and tax return or returns their distributive shares of such profits, or portion thereof not taxed to the business enterprise as an entity, and must pay the tax thereon. If such earnings were taxable by another municipality in this state, credit for taxes

paid to said municipality will be granted. The amount of the credit shall equal the lesser of the following amounts, subject to Section (4) of *the* Ordinance.

- a. The amount, if any, of tax paid by the partnership, association or other unincorporated enterprise to another municipality in this state, apportioned ratably according to the ownership interest of the taxpayer in proportion to the ownership interest of all owners of the entity.
- b. The amount of tax that would be imposed on the partnership, association or other unincorporated enterprise by the City if the said entity conducted business in Bucyrus, apportioned ratably according to the interest of the taxpayer in proportion to the ownership interest of all owners of the entity.

4. The tax imposed under Section 2 (c) of the Ordinance is levied upon the entire net profits of the resident trade, business, profession, other activity, enterprise, or undertaking, wherever earned, paid or accrued and regardless of the fact that any part of such business or professional activity may have been conducted at or through a place or places of business located outside the City of Bucyrus. Credit will be given for city income taxes paid to other municipalities as prescribed under Section 4 of *the* Ordinance.

(Removal of last three paragraphs appearing in Resolution No. 253-2000)

ARTICLE II-4
Imposition Of Tax
Net Business Profits- Non-Residents

1. In the case of a non-resident individual, partnership, association, fiduciary, or other entity (other than a corporation) engaged in the conduct, operation, or prosecution of any trade, business, enterprise, undertaking or other activity, there is imposed an annual tax of one (1) percent plus any additional tax imposed by Ordinance or Resolution of limited duration, on the net profits of such trade, business, profession, enterprise, undertaking or other activity if, and to the extent, conducted in or derived from activity in the City of Bucyrus.

2. A non-resident entity within the meaning of subsection (E) of Section 2 of the Ordinance which has a branch or branches, office or offices, and/or store or stores, warehouse, or other place or places in which the entity's business is transacted, located in the City of Bucyrus, shall be considered to be conducting, operating, prosecuting, or carrying on a trade, business, profession, enterprise, undertaking or other activity to the full extent of the sum total of all transactions originating or consummated in, by or through such Bucyrus branch, office, store, warehouse or other place of business, including (a) billings made on such transactions, or (b) services rendered, or (c) shipments made, or (d) goods, chattels, merchandise, etc., sold or (e) commissions, fees or other remuneration or payments earned.

3. In the case of the partnership, association, or other unincorporated business owned by one or more persons the tax, generally, shall be upon said partnership, association, or business enterprise as an entity and not ordinarily upon the partners or members thereof. However, the provisions of Article II-3 are applicable to render taxable against such resident partners or members their distributive share of any profits of such non-resident entity not taxable under the Ordinance.

4. In determining the proportion or amount of the taxable net profits of a non-resident business entity having a place or places of business within and outside the City of Bucyrus, the net profits taxable to the City of Bucyrus shall be determined using the Business Apportionment Percentage Formula explained in Article II-6.

ARTICLE II-5
Imposition Of Tax
Net Business Profits - Corporation

1. In the case of a corporation doing business in Bucyrus, whether domestic or foreign, whether in production, sales, service, or any facet of corporate business, and whether domiciled in Bucyrus or elsewhere, there is imposed an annual tax of one (1) percent, plus any additional tax of limited duration imposed by any prior ordinance or resolution for whatever time period is stated in that ordinance or resolution, on net profits earned or accruing on or after January 1, 2004 of such corporation as a result of work done or service performed or rendered, and business activities conducted in the City of Bucyrus.

2. The Provisions of Paragraph 2 of Article II-4 of these regulations are applicable to such corporations.

3. *A corporation doing business both within and outside the City of Bucyrus shall determine the Bucyrus net profits using the Business Apportionment Percentage Formula explained in Article II-6.*

ARTICLE II-6
Business Apportionment Percentage Formula

This section does not apply to taxpayers that are subject to and required to file reports under Chapter 5745 of the Ohio Revised Code. Net profit from a business or profession conducted both within and without the City of Bucyrus shall be considered as having taxable situs in Bucyrus for purposes of the Bucyrus Income Tax in the same proportion as the average ratio of the following:

(1) The average *original cost* of the real and tangible personal property owned or used by the taxpayer in the business or profession in Bucyrus during the taxable period to the average *original cost* of all of the real and tangible personal property owned and used by the taxpayer in the business or profession during the same period, wherever situated.

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

(2) Wages, salaries and other compensation paid during the taxable period to persons employed in the business or profession for services performed in Bucyrus to wages, salaries and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed, excluding compensation described in Article XV (11).

(3) Gross receipts of the business or profession from sales made and services performed during the taxable period in Bucyrus to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

As used in the preceding paragraph "sales made in Bucyrus" mean:

(a) All sales of tangible personal property delivered within Bucyrus regardless of where title passes if shipped or delivered from a stock of goods within Bucyrus;

(b) All sales of tangible personal property delivered within Bucyrus regardless of where title passes even though transported from a point outside Bucyrus if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within Bucyrus and the sales result from such solicitation or promotion;

(c) All sales of tangible personal property shipped from a place in Bucyrus to purchasers outside such municipal corporation regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

If one of the factors (property, sales, or payrolls) is missing, the other two (2) percentages are added and the sum is divided by two (2), and if two (2) of the factors are missing, the remaining percentage is the business *apportionment* percentage.

A factor is applicable even though it may be apportioned entirely in or outside the City of Bucyrus.

EXAMPLE 1:

Corporation having places of business in Bucyrus, Detroit and Cleveland.

Bucyrus real and tangible personal property \$10,000. All real and personal property (Bucyrus, Detroit and Cleveland) \$100,000. Percentage: 10%.

Bucyrus sales \$15,000. All sales \$75,000. Percentage: 20%.

Bucyrus payroll \$6,000. All payroll \$20,000. Percentage: 30%.

Business *Apportionment* Percentage:

10% plus 20% plus 30% divided by 3 = 20%.

EXAMPLE 2:

Same corporation owning no real or tangible personal property anywhere. Bucyrus sales \$15,000. All sales \$75,000. Percentage: 20%.

Bucyrus payroll \$6,000. All payroll \$20,000. Percentage 30%

Business *Apportionment* Percentage:

20% plus 30% divided by 2 = 25%.

EXAMPLE 3.

Same corporation owning real and tangible personal property in Bucyrus valued at \$10,000 and owning no real or tangible personal property outside Bucyrus. Other factors same as in Examples 1 and 2.

Business *Apportionment* Percentage:

100% plus 20% plus 30% divided by 3 = 50%.

After determining such business *apportionment* percentage, the tax shall be determined by applying that percentage to the entire net profits of the taxpayer, wherever derived (thus arriving at the taxable net profit), and computing one (1) percent plus any additional tax of limited duration imposed by Ordinance or Resolution of the resultant taxable net profit.

Generally, the Business *Apportionment* Percentage Formula will result in a fair apportionment of the taxpayer's net profits within and without the City of Bucyrus. However, due to the peculiar circumstances of certain businesses, the formula may result in an overstatement of earnings and tax in some cases or result in a tax evasion in others, thus does not do justice to the taxpayer or the City of Bucyrus. Accordingly, in such cases, the City Income Tax Administrator may substitute factors calculated to bring about a fair and proper *apportionment* in any case where the taxpayer has used the Business *Apportionment* Percentage Formula.

ARTICLE II-7

On What Earnings Or Net Profit Tax First Levied

The tax or taxes referred to in Article II-1 and II-2 shall first be levied, collected, and paid with respect to the *qualifying wages, commissions, other compensation and other taxable income* earned or accruing on and after January 1, 2004. The tax or taxes remains in effect until legislative change but in no way affects any prior ordinance, resolution, or tax legislation of limited duration in effect prior to January 1, 2004.

The tax or taxes referred to in Article II-3, II-4, II-5 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 (in accordance with regular accounting system as approved by Director of Internal Revenue) from and after January 1, 2004. The tax remains in effect until legislative change but in no way affects any prior ordinance, resolution, or tax legislation of limited duration.

ARTICLE II-8

Fiscal Years

Where the fiscal year of 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. Any rate change in subsequent fiscal years would be taxed on appropriate records or if it is not possible, prorated. A fiscal year will only be recognized if it has been approved by the Internal Revenue Service, and a short year will be considered a full tax year.

ARTICLE II-9

Net Business Profits

(A) For taxable years beginning on or after January 1, 2004, net profits for a taxpayer other than an individual shall be based on "adjusted federal taxable income" as defined herein.

1. "Adjusted federal taxable income" is a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code adjusted as follows:

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

(b) Add an amount equal to five percent (5%) of intangible income deducted under (A)(1)(a) of this article, but excluding that portion of intangible income directly related to the sale, exchange or other disposition of property described in section 1221 of the Internal Revenue Code.

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

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

(e) Division (A)(1)(d) of this article does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.

(f) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income.

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

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

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

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

(B) For taxable years beginning on or after January 1, 2004, net profits for a taxpayer who is an individual shall mean the individual's profit required to be reported on schedule C, schedule E, or schedule F.

1. Rentals, as reported on schedule E, may aggregate profits and losses for a net rental income but no net loss may be taken against other income nor may it be carried either forward or backward.

2. All other businesses may aggregate profits and losses of separate businesses for a net business profit depending on if such profits and losses are aggregated on schedule SE for federal income tax purposes, excluding the profits or losses of resident partnerships, associations or other unincorporated businesses taxed as entities as provided in Article II-3(3) and the profits or losses of non-resident partnerships, associations or other unincorporated businesses apportioned to Bucyrus.

3. In no case may business losses or rental losses be taken against wages or other compensation earned as an employee.

(C) All rentals of every description shall constitute a business or profession regardless of the amount of gross rents or the form or compensation.

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

ARTICLE II-9.1

Status Of Loss Carryover & Carryback In Income Tax Computation

If a Net Operating Loss has been sustained in any taxable year, such loss may not be carried forward or backward to any other taxable year.

ARTICLE II-10

Reconciliation With Federal Return

In a form satisfactory to the City Income Tax Administrator there shall be submitted with each return filed by a taxpayer subject to the Federal Income Tax, a reconciliation between the amount shown in the return filed with the City Income Tax Administrator and the income reported to the Federal Internal Revenue Service.

If as a result of a change made in income by the Federal Internal Revenue Service, or by a judicial decision, an additional amount will result as owing to the City of Bucyrus, a report of such change shall be filed by the taxpayer within thirty (30) days after the receipt of the final notice of such change from the Federal Authorities or after final decisions of a Court adjudicating any such Federal Income Tax liability.

If such decision or decisions result in a lessening of tax, a refund may be applied for within a three (3) year period from the later of the filing date or date of notice of reduction by authorities.

ARTICLE III

Return & Payment Of Tax

(A) On or before April 15th of each year, every taxpayer, eighteen (18) years of age and older, subject to the provisions of section 2, paragraph A through I inclusive of the Ordinance shall, except hereinafter provided, make and file with the City Income Tax Administrator a City tax return on a form prescribed by and acceptable to the City Income Tax Administrator, whether or not tax is due. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed on or before the fifteenth (15th) day of the fourth (4th) month following the end of such fiscal year or period.

1. The annual withholding statement of an employer or employers, showing the amount of tax deducted by said employer or employers from the qualifying wages, commissions, other compensation and other taxable income of a nonresident employee, and paid by him or them to the City Income Tax Administrator may be accepted as the return required of a nonresident employee whose sole income, subject to tax under the Ordinance, is such qualifying wages, commissions, other compensation and other taxable income.

2. Any resident individual eighteen (18) years of age and older who is permanently disabled or retired and has no income subject to the City Income Tax may, with the approval of the City Income Tax Administrator, file a form prescribed by the City Income Tax Administrator stating that he has no income subject to the City Income Tax and state a return shall be filed upon any change to his situation that would necessitate the filing of such a return.

(B) A husband and wife may file either separate returns or a joint return for City purposes, even though one of the spouses has neither taxable income nor deductions included on the City return regardless of whether their federal and state returns were filed separately or jointly. If a joint City return is made, the tax shall be computed on the aggregate taxable income and the liability with the respect to the tax shall be joint and several.

(C) The return shall be filed with the City Income Tax Administrator on a form or forms furnished by or obtainable upon the request from the City Income Tax Administrator, or on a generic form if the generic form, when completed and filed, contains all of the information required to be submitted with the City's prescribed return and if the taxpayer or return preparer filing the generic form otherwise complies with all of the applicable provisions provided in the Ordinance and herein.

(D) Consolidated Returns

1. A consolidated return may be filed by a group of corporations, who are affiliated through stock ownership, if that affiliated group filed for the same tax period a consolidated return for federal income tax purposes pursuant to section 1501 of the Internal Revenue Code. A consolidated return must include all companies that are so affiliated.

2. Once a consolidated return has been filed for any taxable year, consolidated returns shall continue to be filed in subsequent years unless the taxpayer files a written request to discontinue the filing of consolidated returns and said request is approved by the City Income Tax Administrator.

(E) The return shall set forth:

1. The aggregate amounts of qualifying wages, commissions, other compensation received, allocated, apportioned or set aside, other income defined by statute as taxable, and gross income from any business, profession or other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to said tax; and

2. The amount of the tax imposed by the Ordinance and herein on such earnings and profits; and

3. Such other pertinent statements, information returns, copies of the federal or state tax returns and/or schedules, or other information as the City Income Tax Administrator may require.

(F) Extensions

1. Any taxpayer that has requested an extension for filing a federal income tax return may request an extension for the filing of a City Income Tax Return by filing a copy of the taxpayer's federal extension request with the City Income Tax Department. Any taxpayer not required to file a federal income tax return may request an extension for filing a City Income Tax Return in writing. The request for extension must be filed on or before the original due date for the annual return. If the request is granted, the extended due date of the City Income Tax Return shall be the last day of the month following the month to which the due date of the federal income tax return has been extended.

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

- (a) fails to timely file the request; or
- (b) fails to file a copy of the federal extension request (if applicable); or
- (c) owes the City any delinquent income tax, penalty, interest or other charge for the late payment or nonpayment of income tax; or
- (d) has failed to file any required income tax return, report, or other related document for a prior tax period.

3. The granting of an extension for filing a City Income Tax Return does not extend the due date as provided in this article for the payment of the tax; hence, penalty and interest may apply to any unpaid tax during the period of extension at the rate set out by section 7 of the Ordinance. No penalty and interest shall be assessed in those cases where either 90% of the tax due or 100% of the prior tax year's liability has been paid on or by the original due date.

(G) Payments with Returns

1. The taxpayer making a return shall, at the time of the filing thereof, pay to the City Income Tax Administrator the amount of taxes shown as due. However, credit shall be allowed for:

- (a) Any portion of the tax so due, which shall have been deducted at the source pursuant to the provisions of article IV-1; and
- (b) Any portion of said tax, which shall have been paid by the taxpayer pursuant to the provisions of article V-1; and
- (c) Credit to the extent allowed by section 4 of the Ordinance for tax paid to

another municipality.

2. Subject to the provisions contained in article VI-2 if a proper refund is called for on a City Income Tax Return, it shall be paid within ninety (90) days of the filing date of the return or its due date, whichever is later, or interest at the "going rate" will be paid on said refund.

3. As to the matter of final amounts due or overpaid, any amount under \$2.01 need not be remitted if owed, nor will these amounts be refunded or credited if overpaid.

(H) Information returns, schedules and statements required to support tax returns which are incomplete without such information shall be filed within the time limits set forth for the filing of tax returns and the failure to file such information returns, schedules and statements shall be a violation of these Rules and Regulations. Provided, however, that the taxpayer shall have fifteen (15) days after notification by the City Income Tax Administrator or duly authorized representative, to file the items provided by this paragraph.

ARTICLE IV-1 Collection At Source

1. It is the duty of each employer within, or doing business within, the City who employs one or more persons on a salary, wage, commission or other compensation basis to deduct when such salary, wage, commission or other compensation is paid, allocated, apportioned or set aside, the tax of one (1) percent plus any additional tax of limited duration imposed by ordinance or resolution of the qualifying wages due by such employer to such employee. The tax shall be deducted by the employer from:

(a) All *qualifying wages* paid to employees who are non-residents of the City of Bucyrus for services rendered, work performed, or other activities engaged in to earn such *qualifying wages* within the City of Bucyrus; and

(b) All *qualifying wages* paid to employees who are residents of the City of Bucyrus, regardless of the place where the services are rendered, unless said services are rendered in another municipality levying a tax and the employer is required to withhold tax from said wages for that municipality. In which case, the employer shall withhold and remit tax to the City of Bucyrus for only the difference, if any, between the tax imposed by such other taxing municipality and the tax imposed by the Ordinance on said *qualifying wages*.

2. An employer is not required to make any withholding with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of the corporation with respect to whose stock has been issued.

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 received. The failure of an employer to remit to the City the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer in connection with the failure to remit the tax withheld.

4. Commissions and fees paid to professional persons, brokers, and others who are independent contractors and not employees of the payor, are not subject to withholding or collection of the tax at the source. Such taxpayers must in all instances file returns and pay tax pursuant to the provisions of Section 2 of the Ordinance. (See Article II-3 and II-4).

5. Where a non-resident employee receives compensation for personal services rendered or performed partly within and partly without the City of Bucyrus, the withholding employer shall withhold and remit from that portion of the compensation which was earned within the City of Bucyrus, in accordance with the following rules of apportionment, income tax of one (1) percent plus any additional tax of limited duration imposed by ordinance or resolution of said compensation:

(a) If the non-resident is a salesperson, agent, or other employee whose compensation on the basis of commission depends directly on the volume of business transacted by *said non-resident*, the deducting and withholding shall attach to the portion of the entire compensation which the value of business transacted by *said non-resident within* the City of Bucyrus bears to the *total* volume of business transacted by *said non-resident* within and outside the City of Bucyrus.

(b) 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 Bucyrus bears to the total number of working days employed within and outside the City of Bucyrus.

(c) If it is impossible to apportion the earnings as provided above because of (1) the peculiar nature of the service of the employee, or (2) the unusual basis of compensation, apportionment shall be made in accordance with the facts and the tax deducted and withheld accordingly.

(d) The occasional entry into the City of Bucyrus of a non-resident employee who performs the duties for which he is employed entirely outside the City of Bucyrus, but enters the City for the purpose of reporting, receiving instructions, accounting, etc., incidental to his duties outside the City shall not be deemed to take such employee out of the class of those rendered their services entirely outside the City of Bucyrus.

6. 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 7 below) where such advances are in excess of commissions earned.

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 by the employer to the employee for expense necessarily and actually incurred by the employee in the actual performance of his services, provided, that such expense must be of the kind and in the amount recognized as deductible for Federal Income Tax purposes.

ARTICLE IV-2

Returns Of Tax Withheld And Payment

The deduction from salaries, wages and other compensation required to be made by employers are to begin with compensation earned on and after January 1, 2004. The first return and payment required to be made on account of such deduction shall be made, filed and paid to the City Income Tax Administrator on or before April 30, 2004.

Each employer within the City of Bucyrus who employs one or more persons on a salary, wage, commission, or other compensation basis shall deduct at the time of the payment of such salary, wage, commission, or other compensation, the tax of one (1) percent plus any other tax of limited duration imposed by ordinance or resolution of *qualifying wages due* by the said employer to the said employee and shall make a return and pay to the City Income Tax Administrator the amount of taxes so deducted as follows:

For the three (3) months ending March 31st, on or before April 30th;

For the three (3) months ending June 30th, on or before July 31st;

For the three (3) months ending September 30th, on or before October 31st;

For the three (3) months ending December 31st, on or before the following January 31st;

The reporting periods referred to in the preceding paragraphs are elastic to this extent: The employer will use the same quarterly accounting period for reporting taxes withheld under the City of Bucyrus Income Tax Ordinance as he uses in reporting quarterly taxes withheld to the Federal Government.

Said return shall be on a form prescribed by and obtainable from the City Income Tax Administrator and shall be subject to the rules and regulations prescribed therefore by the City Income Tax Administrator.

Commencing January 1, 2004, when the total amount of Bucyrus City Income Tax deducted from salaries, wages and other compensation required to be withheld by employers does not exceed \$100.00 per month, or in those cases when the account is a so-called "Courtesy" account where the employer is not required by law to withhold from its employees, the return and payment of tax withheld may be filed quarterly as prescribed above. If the total tax withheld exceeds \$100.00 per month, the employer must file the return and payment monthly as prescribed in Article IV-2A.

(removal of paragraph sixth appearing in Resolution 253-2000)

For adjustment of errors in returns of tax withheld by *employers* see Article VI-2 of these regulations.

ARTICLE IV-2A

Returns Of Tax Withheld And Payments

Commencing January 1, 2004, when the total amount of Bucyrus City Income Tax deducted from salaries, wages and other compensation required to be withheld by employers exceeds \$100.00 per month, a return and payment are required to be filed on account of such deduction to the City Income Tax Administrator on or before the last day of each following month in 2004, and thereafter.

ARTICLE IV-3

Limitation On Creditor For Tax Paid At Source

The failure of any employer, residing either within or outside the City of Bucyrus, to collect the tax and to make any return 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.

ARTICLE IV-4

Status And Liability Of Employers

Every employer is deemed to be a trustee of the City of Bucyrus in collecting and holding the tax required under the Ordinance to be withheld, and the funds so collected by such withholding are deemed to be trust funds until the same is paid to the City of Bucyrus.

Every such employer required to deduct and withhold the tax at the source is liable directly to the City of Bucyrus for the payment of such tax, whether actually collected by

such employer or not.

Any person who is required to withhold tax from qualifying wages shall pay all such tax to the City in accordance with the provisions of Article IV-2. In the event taxes withheld from the qualifying wages of employees are not paid to the City in accordance with the provisions of Article IV-2, all officers, members, managers, employees, and trustees having control or supervision of or charged with the responsibility of filing the return and making payment are jointly and severally personally liable for the tax not filed or paid to the City as well as any related interest and penalties, and are also liable under the provisions of section 8 of the Ordinance. The dissolution, termination or bankruptcy of a corporation, limited liability company, or business trust does not discharge an officer's, members, manager's, employee's or trustee's liability for a failure of the corporation, limited liability company or business trust to file returns or pay said taxes.

ARTICLE V-1
Declarations

1. An employee whose entire wages, salaries, or other compensation for any taxable year will be subjected to the withholding provisions under Article IV-1 of these Regulations, whose tax will accordingly be withheld as to his entire earnings for such year by his employer, and who during such taxable year expects to derive no other compensation or other income which is subject to tax under the Ordinance, need not file a declaration as provided in this Article.

2. All other taxpayers (as defined in the Ordinance and in these Regulations) subject to the taxes imposed in Section 2 of the Ordinance, 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 City Income Tax Administrator a declaration of his estimated tax as follows:

(a) On or before April 30th, 2004 every such calendar year taxpayer shall file a declaration of his estimated tax for the taxable period beginning January 1, 2004 and ending December 31, 2004.

(b) On or before April 15, 2005 every such calendar year taxpayer shall file a declaration of his estimated tax for the taxable period beginning January 1, 2005 and ending December 31, 2005.

(c) A similar declaration shall be filed by each such taxpayer on or before the fifteenth (15th) day of April each subsequent year during the life of the Ordinance, as long as the conditions in Article V-1(2) exist and each declaration shall contain a statement of the taxpayer's estimated tax for the full taxable year in which such declaration is filed.

3. Taxpayers who, or which are permitted, pursuant to provisions of Article II-8, to file a return and pay their tax on a fiscal year basis shall file their first declaration within four (4) months after the beginning of the first fiscal year beginning on or after January 1, 2004. The declaration shall set forth the taxpayer's estimated tax for the full taxable year in which the declaration is filed.

(a) For fiscal years beginning on or after January 1, 2005, a declaration shall be filed on or before the fifteenth (15th) day of the fourth (4th) month following the start of each fiscal year or period.

(b) Such taxpayers shall make quarterly payments as prescribed in Article V-2.

4. The estimated tax for a calendar year taxpayer may be paid in full with the filing of the declaration or in equal installments as prescribed under Article V-2.

5. The declaration so required shall be filed upon a form furnished by or obtainable from the City Income Tax Administrator. In lieu of said form, a generic form may be used provided it contains all of the information required by the City Income Tax Administrator and the preparer of said form complies with all of the applicable provisions provided herein. Any taxpayer who has filed an estimate for Federal Income Tax purposes may, in making the declaration, required hereunder, simply state therein that the figures therein contained are the same figures used by the taxpayer in making the declaration of his estimate for the Federal Income Tax. However, in addition to such statement, any such taxpayer may, in such declaration, modify and adjust such declared income so as to exclude therefrom income which is not subject to tax under the Ordinance.

6. Any estimate filed hereunder may be amended by the filing of an amended estimate at the time prescribed for the payment of any installment of tax paid in accordance with Article V-2 of these regulations.

ARTICLE V-2

Payment Of Tax Installments

1. At the time of filing each declaration (required by Article V-1) each taxpayer who is an individual shall pay to the Income Tax Administrator twenty-two and one-half per cent (22.5%) of his estimated tax liability for the current year. Thereafter, on or before the 31st day of July, October and January, such taxpayer shall pay at least a similar amount. 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 diminished (as the case may be) in such a manner that ninety percent (90%) of the estimated tax liability shall be paid on or before January 31st through the payment of quarterly installments of equal amounts during the quarterly periods remaining from and after the filing of *said* amended declaration.

2. At the time of declaration (required by Article V-1), each taxpayer who is not an individual shall pay to the Income Tax Administrator twenty-two and one-half percent (22.5%) of the taxpayer's estimated tax liability for the current year. Thereafter, on or before the 15th day of June, September and December, such taxpayer shall pay at least a similar amount. For taxpayers on a fiscal year, payments shall be made on or before the 15th day of the sixth, ninth and twelfth month of the taxpayer's taxable year. 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 liability, the *installments* then and thereafter due shall be increased or diminished (as the case may be) in such a manner that ninety percent (90%) of the estimated tax liability shall be paid on or before December 15th or the 15th day of the twelfth month through the payment of quarterly installments of equal amounts during the quarterly periods remaining from and after the filing of any such amended declaration.

3. Penalty and/or interest will not be assessed for the late payment or non-payment of estimated tax liability in either of the following circumstances:-

- a. The taxpayer is a resident individual who resides in Bucyrus but was not domiciled in the City on the first day of January of the current calendar year.
- b. The taxpayer has remitted, pursuant to (1) or (2) of this section, an amount at least equal to one hundred percent (100%) of the taxpayer's tax liability for the preceding year, provided that the return for the preceding year reflected a twelve-month period and the taxpayer filed a return for the preceding year.

4. For final returns and final adjustments of tax due, see Article III.

ARTICLE VI-1

Records To Be Kept By Employers And Taxpayers

Employers and others subject to the tax under the Ordinance are required to keep such

records as will enable the filing of true and accurate returns whether of taxes withheld at source or of taxes paid or payable upon earnings or net profits, or both and such records are to be preserved to enable the City Income Tax Administrator, or any agent or employee of the City Income Tax Administrator, to verify the correctness of the returns filed. Such records shall be preserved three (3) years from the due date or date of filing whichever is later. Omission of twenty-five (25) percent of gross income, fraud, or failure to file extends this to six (6) years.

ARTICLE VI-2
Collection Of Deficiencies
Allowance Of Credit For Overpayment

If, as a result of investigation conducted by the City Income Tax Administrator, a return is found to be incorrect, the City Income Tax Administrator is authorized to assess and collect any underpayment of tax withheld at the source or any underpayment of tax owing by any taxpayer with respect to earnings or net profits or both: If no return has been filed and a tax is found to be owed the tax actually owed may be assessed and collected with or without the formality of obtaining a delinquent return from the employer or taxpayer.

If the tax assessed was erroneously paid or withheld to another municipality and if at the time of assessment the period allowed for refund from said municipality has expired, a non-refundable credit will be allowed. Said credit shall be calculated under the provisions of section 4 of the Ordinance.

Should it be disclosed, either as a result of an investigation by the City Income Tax Administrator, or through the medium of the filing of a claim or petition for refund or credit, that an overpayment has been made, the following guidelines shall apply;

- (1) The claim must be made within three years from the date on which such payment was made or the return was due, whichever is later.
- (2) No refund shall be made to any taxpayer until he has complied with all provisions of *the* Ordinance and has furnished all information required by the City Income Tax Administrator.
- (3) Overpayments will either be refunded or credited to the taxpayer's current year's liability at his or her option. Where no election has been made by the taxpayer, overpayments of any year's taxes shall be applied as follows:
 - (a) To taxes owed for any year in the order in which such taxes become due.
 - (b) In the case of a business, any refund or credit may be applied to an outstanding balance in the corresponding withholding account.
 - (c) To his or her account in the form of a credit in the current tax year.
- (4) Credits of less than \$2.01 will not be allowed and refunds of less than \$2.01 will not be paid.

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 it from the employee. If too much has been withheld, the excess shall be refunded by the employer to the employee. The withholding agent (employer) will be expected to maintain complete records of such adjustments with the employees and explain the details of such adjustments in the withholding return either by schedule or statement. A refund of over-withheld tax may be paid directly to the employee provided the employer submits a statement to the City Income Tax Administrator detailing the circumstances involving said overpayment and relinquishing the right to have said funds directly refunded to them.

In those cases in which too much has been withheld by an employer from an employee and remitted to the City Income Tax Administrator, and there has been a termination of the employee-employer relationship, the taxpayer (employee) may obtain an adjustment by application to the City Income Tax Administrator.

ARTICLE VII
Collection Of Unpaid Taxes

All taxes imposed by the Ordinance remaining unpaid when the same have become due, together with all interest and penalties thereon, become a debt due the City of Bucyrus from the taxpayer, and are recoverable as other debts by suit instituted by the City Income Tax Administrator, *said Administrator's* representative, or City Prosecutor.

Employers who or which, although obliged under the Ordinance to withhold and remit to the City Income Tax Administrator, the taxes required to be withheld at the source (Article IV-1) shall if they fail to withhold and remit become liable to the City of Bucyrus in a civil action to enforce the payment of the debt created by such failure.

When a final return is filed as described in Article III hereof and a deficiency is determined to be due the City of Bucyrus, action to collect the same must be brought within three (3) years after the tax was due or the return filed, whichever is later. However, in the case of fraud, failure to file or the omission of twenty-five (25) percent or more of income required to be reported and taxed prosecution may be commenced within six (6) years of the later of commission of the offense, due date of return or date return was filed.

If any of the above circumstances occur and are discovered by the Federal Internal Revenue Service or any other tax administering authorities, taxpayers are required to notify the City Income Tax Administrator within 30 days and satisfy the City of Bucyrus claim on such discovery.

ARTICLE VIII
Identification Required

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.

ARTICLE IX
Applicability

This Resolution 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.

ARTICLE X
Savings Clause

If any sentence, clause, section or part of this Resolution, 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 sentence, clause, section or part of this Resolution and shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or other parts of this Resolution. It is hereby declared to be the intention of the Council of the City of Bucyrus that this Resolution would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

ARTICLE XI
Split Payrolls

In the case of hourly employees where a pay period of one half (1/2) month or less, encompasses two (2) different tax rate periods, said payroll shall be considered a split payroll with the proper rate applied to each periods earnings. If the breakdown of said payroll would constitute an accounting hardship on the employer, with the permission of the City Income Tax Administrator, an equitable average rate of pro-rating of earnings, or any such fair solution may be allowed.

In the case of salaried employees paid on a calendar month, or less basis, and said payroll encompasses two (2) different tax rate periods, said payroll shall be considered a split payroll with the proper rate applied to each periods earnings . If the breakdown of said payroll would constitute an accounting hardship on the employer, with the permission of the City Income Tax Administrator, an equitable average rate of pro-rating of earnings shall be allowed.

ARTICLE XII
Withholding Statements

The Bucyrus Income Tax Department will require employers to file annual employee earnings reports on forms similar to Federal Form W-2 or a substitute form or list approved by the City Income Tax Administrator.

These forms and an approved form reconciling the earnings and withheld municipal income taxes with quarterly withholding reports shall be filed with the City Income Tax Administrator on or by February 28 of each year. A copy of the wage and tax statement shall be furnished each employee by January 31.

(Removal of paragraph third appearing in Resolution No. 253-2000)

ARTICLE XIII
Registration Of All Businesses
Operating In The City Of Bucyrus

Every business, whether sole proprietorships, partnerships, associations, corporations, or any other entity, located within or without the City of Bucyrus, but doing business or any function of said business within the City of Bucyrus on or after January 1, 2004 shall register with the Bucyrus Income Tax Department within thirty (30) days of the beginning of that business and comply with the Income Tax Ordinance and the Regulations in force at that time. Any business subletting or subcontracting work within the City of Bucyrus shall furnish the Bucyrus City Income Tax Department with copies of Federal Form 1099 or a complete list of subcontractors including the appropriate name, address, social security number and amounts paid for work performed inside the City limits for each calendar year to be submitted by February 28 of the following year. Failure to comply will result in a penalty of \$500.00 plus other appropriate penalties and interest due.

ARTICLE XIV
Function Of City Income Tax Administrator

As to administration of all functions of the Bucyrus Income Tax Ordinance, including but not limited to the receipt and processing of Bucyrus City Income Tax Returns and collection of these taxes, whether by present or prior Ordinance or Resolution, the term City Income Tax Administrator shall include City Auditor.

ARTICLE XV
Exemptions

The provisions of *this Resolution and the Ordinance* shall not be construed as levying a tax upon the following:

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

2. Poor relief, pensions, social security, unemployment compensation, and disability benefits (not to be confused with employees' sick pay) received from private industry or local, state, or Federal governments, or from charitable, religious, or educational organizations.

3. Dues, contributions and similar payments received by charitable, religious, educational, or literary organizations or labor unions, lodges and similar associations.

4. Proceeds of insurance, annuities, workers' compensation insurance, permanent disability benefits, compensation for damages for personal injury and like reimbursements, not including damages for loss of profits and wages.

5. Alimony or spousal support.

6. Gains from involuntary conversions, cancellation of indebtedness, interest on Federal obligations, and income of a decedent's estate during the period of administration (except income from the operation of a business).

7. Earnings and income of all persons under eighteen (18) years of age, whether residents or non-residents.

8. Compensation for damage to property by way of insurance or otherwise.

9. The rental value of a home furnished to a minister of the gospel as part of his compensation, or the rental allowance paid to a minister of the gospel as part of his compensation, to the extent used by him to rent or provide a home pursuant to section 107 of the Internal Revenue Code.

10. Compensation paid under section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct official, to the extent that such compensation does not exceed one thousand dollars annually. Such compensation in excess of one thousand dollars may be subject to taxation. The payer of such compensation is not required to withhold City tax from that compensation.

11. Compensation of an individual if all of the following apply:-

- a. The individual does not reside in the City.
- b. The compensation paid is for personal services performed by the individual in the City on twelve or fewer days, or any part of a day, in the calendar year.
- c. In the case of an individual who is an employee, the principal place of business of the individual's employer is located outside the City, and the individual pays tax on said compensation to the municipality, if any, in which the employer's principal place of business is located and no portion of that tax is refunded to the individual.
- d. The individual is not a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such a promoter.

12. Interest and dividends from intangible property.

13. *Income of any charitable, educational, fraternal or other type of nonprofit association or organization enumerated in Ohio Revised Code 718.01 to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.*

14. *Any association or organization falling in the category listed in the preceding paragraph receiving income from non-exempt real estate, tangible or intangible personal property, or business activities of a type ordinarily conducted for profit by taxpayers operating for profit shall not be excluded hereunder.*

15. *In the event any association or organization receives taxable income as provided in the preceding paragraph from real or personal property ownership or income producing business located both within and without the corporate limits of the City, it shall calculate its income apportioned to the City under the method or methods provided in Article II-6 of the Rules and Regulations.*

16. *If exempt for federal income tax purposes, fellowship and scholarship grants are excluded from City income tax.*

17. *The income of a public utility, when that public utility is subject to the tax levied under Section 5727.24 or 5727.30 of the Ohio Revised Code, except a municipal corporation may tax the following, subject to Chapter 5745. of the Ohio Revised Code:*

- a. *The income of an electric company or combined company;*
- b. *The income of a telephone company.*

As used in (17) of this section, "combined company", "electric company", and "telephone company" have the same meanings as in section 5727.01 of the Ohio Revised Code.

18. *An S corporation shareholder's distributive share of net profits of the S corporation, other than any part of the distributive share of net profits that represents wages as defined in section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in section 1402(a) of the Internal Revenue Code, to the extent such distributive share would not be allocated or apportioned to this state under division (B)(1) and (2) of section 5733.05 of the Ohio Revised Code if the S corporation were a corporation subject to the taxes imposed under Chapter 5733 of the Ohio Revised Code.*

19. *Generally the above noted items in this section are the only forms of income not subject to the tax. Any other income, benefits, or other forms of compensation shall be taxable.*

ARTICLE XVI

Tenant Rosters

Every person or business who owns property inside the City limits of Bucyrus for the purpose of renting or leasing to others are required to submit to the Bucyrus Income Tax Department an annual statement to include the name(s) of the tenant(s), the street address of the rental property and the date in which the tenant took occupancy of the property. The statement will be completed on a form as prescribed by the City Income Tax Administrator and will be due no later than November 30 of each year.

SECTION 3. That this Resolution is hereby declared to be an emergency measure inasmuch

as said changes which become effective 1 January, 2004 are needed for efficient

operation of the city government and are deemed necessary for the preservation of the

health, safety and welfare of the citizens of the City of Bucyrus, and it shall therefore
be in full force and effect from and after its passage.

Passed this 30th day of December, 2003

ATTEST: Regina H. Zornes
Regina H. Zornes,
Clerk of the Council

Linda L. Presler
Linda L. Presler,
President Pro-Tem of Council.

Approved this 30th day of December, 2003.

Glenn T. Achtermann
Glenn T. Achtermann - MAYOR