

## TITLE 5 - TAXATION

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### CROSS REFERENCES

- Power to levy income tax - see Ohio Const., Art. XVIII, sec. 3
- Payroll deductions - see Ohio R.C. 9.42
- Municipal income taxes - see Ohio R.C. Ch. 718
- Tax Commissioner - see Title 3 Addyston Codified Ordinances

## ADDYSTON EARNINGS AND INCOME TAX

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# ADDYSTON EARNINGS AND INCOME TAX

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## ADDYSTON MUNICIPAL INCOME TAX

### 5.01 DEFINITIONS

As used In this Ordinance, the following words, shall have the meaning ascribed to tem in this Section, except as and if the context clearly indicates or requires a different meaning.

(A) “ASSOCIATION” means a partnership, limited partnership, or any other form of unincorporated enterprise, owned by two or more persons.

(B) “BOARD OF REVIEW” means the Board created by and constituted as provided for herein.

(C) “BUSINESS” means an enterprise, activity, profession, or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation, or any other entity, including, but not limited to, the renting of leasing of either real property, personal property, or both.

(D) “CORPORATION” means a corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, commonwealth, territory, or foreign country or dependency.

(E) “EMPLOYEE” means one who works for wages, salary, commission, or other type of compensation in the service of any employer. “EMPLOYEE” also includes a person who is self-employed.

(F) “EMPLOYER” means and individual, partnership, association, corporation, governmental body, or unit, or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission, or other compensation basis.

(G) “FISCAL YEAR” means an accounting period of twelve (12) months or less ending on any day other than December 31st.

(H) “GROSS RECEIPTS” means the sum total of all income of taxpayers from whatever source derived. “GROSS RECEIPTS” includes interest, dividends, trust benefits, rental income, annuity benefits, retirement benefits, pension plans, social security benefits unless otherwise exempted under state or federal law, and any other income from whatever source derived.

(I) “MUNICIPALITY” means the Village of Addyston, Ohio.

(J) “NET PROFITS” means the net gain from the operation of business, profession, enterprise or other activity after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for Federal income tax purposes, without deduction of taxes imposed by this chapter, Federal, State and other taxes based on income, exclusive of the amount of Ohio Franchise Tax computed on the net worth basis; and in the case of an association,

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without deduction of salaries paid to partners and other owners; and otherwise adjusted to the requirements of this chapter.

(K) “NON-RESIDENT” means a person, whether an individual, association, corporation, or other entity, domiciled outside the Village of Addyston.

(L) “PERSON” means every natural person, partnership, fiduciary, association, corporation, or other entity. Whenever used in any clause prescribing and imposing a penalty, the term “person” as applied to any unincorporated association shall mean the partners or members thereof and as applied to corporations, the officers thereof.

(M) “PLACE OF BUSINESS” means any bona-fide office (other than a mere statutory office), factory, warehouse, or other space which is occupied and used by the taxpayer in carrying on any business activity, individually or through one or more of his regular employees.

(N) “RESIDENT” means an individual, association, corporation, or other entity, domiciled or having a place of business in the Village of Addyston.

(O) “TAX YEAR” means the calendar year or the fiscal year upon the basis of which net profits are to be computed under this Chapter and, in the case of a return for a fractional part of a year, the period for which such return is required to be made.

(P) “TAX COMMISSIONER” means the Tax Commissioner of the Village of Addyston or the person executing the duties of the aforesaid Commissioner as described within this Chapter.

(Q) “TAX PAYER” means a person, whether an individual, partnership, association, corporation, or other entity required by the Chapter to file a return or pay a tax.

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

(S) “LANDLORD” means the owner, lessor, or sublessor of residential or business premises, the agent or the owner, lessor, or sublessor, or any person authorized by the owner, lessor, or sublessor to manage the premises or to receive rent from a tenant under a rental agreement. (R.C. § 5321.01(B))

(T) “ORGANIZATION” means a structure through which individuals cooperate systematically to conduct business. “ORGANIZATION” includes any business enterprise that engages in business activities with the primary purpose of generating a profit whether or not a profit is, in fact, derived. “ORGANIZATION” is defined by its business purpose and includes any form of business whether sole proprietorship, partnership, limited liability enterprises or any business enterprise, incorporated or not, that employs one or more employee(s). All “ORGANIZATIONS” are subject to the organizational penalties if they are found to violate the provisions of the Addyston earnings tax set forth herein.

5.011 UNIFORM RATES: LIMITATIONS WITHOUT VOTE: PROHIBITIONS

(A) As used in this chapter

(1) “Internal Revenue Code” means the Internal Revenue Code OF 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. **R.C. § 718.01(A)(1)**

(2) “ Schedule C” means internal revenue service schedule C filed by a taxpayer pursuant to the Internal Revenue Code. **R.C. § 718.01(A)(2)**

(3) “Form 2106” means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code. **R.C. § 718.01(A)(3)**

(4) “Generic Form” means and electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation’s tax on income.

(5) “Intangible Income” means income of any of the following types: income yield, interest, dividend, 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 Revised Code. Internal Revenue Code. **R.C. § 718.01(A)(4)**

(6) “Internet” means the international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork called the World Wide Web. Internal Revenue Code. **R.C. § 341.42(A)(3)**

(7) “Other Payer” means any person that pays an individual any item included in the taxable income of that individual, other than the individual’s employer or that employer’s agent.

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

(B) No municipal corporation with respect to that income which it may tax shall tax such income at other than a uniform rate.

(C) No municipal corporation shall levy a tax on income at a rate in excess of one per cent without having obtained the approval of the excess by a majority of the electors of the municipality voting on the question at a general, primary, or special election. The legislative authority of the municipal corporation shall file with the board of elections at least seventy-five days before the day of the election a copy of the ordinance together with a resolution specifying the date the election is to be held and directing the board of elections to conduct the election. The ballot shall be in the following form: “Shall the Ordinance providing for a ... per cent levy on income for (Brief description of the purpose of the levy) be passed?”

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	FOR THE INCOME TAX
	AGAINST THE INCOME TAX

In the event of an affirmative vote, the proceeds of the levy may be used only for the specified purpose.

(D)(1) Except as otherwise provided in division (D)(2) of this section, no municipal corporation shall except from a tax on income, compensation for personal services of individuals over eighteen years of age or the net profit from a business or profession.

(2) The legislative body of a municipal corporation may, by ordinance or resolution, exempt from a tax on income any compensation arising from the grant, sale, exchange, or other disposition of a stock option; the exercise of a stock option; or the sale, exchange, or other disposition of stock purchased under a stock option.

(E) Nothing in this section shall prevent a municipal corporation from permitting lawful deductions as prescribed by ordinance. If a taxpayer's taxable income includes income against which the taxpayer has taken a deduction for federal income tax purposes as reportable on the taxpayer's form 2106, and against which a like deduction has not been allowed by the municipal corporation, the municipal corporation shall deduct from the taxpayer's taxable income an amount equal to the deduction shown on such form allowable against such income, to the extent not otherwise so allowed as a deduction by the municipal corporation. In the case of a taxpayer who has a net profit from a business or profession that is operated as a sole proprietorship, no municipal corporation may tax or use as the base for determining the amount of the net profit that shall be considered as having a taxable status in the municipal corporation, a greater amount than the net profit reported by the taxpayer on schedule C filed in reference to the year in question as taxable income from such sole proprietorship, except as otherwise specifically provided by ordinance or regulation.

(F) No municipal corporation shall tax any of the following:

(1) The military pay or allowances of members of the armed forces of the United States and of members of their reserve components, including the Ohio National Guard;

(2) The income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property or tax-exempt activities;

(3) Except as otherwise provided in division (G) of this section, intangible income;

(4) Compensation paid under section 3501.28 or 3501.36 of the Revised Code to a person serving as a precinct election official, to the extent that such compensation does not exceed one thousand dollars annually. Such compensation in excess of one thousand dollars may be subjected to taxation by a municipal corporation. A municipal corporation shall not require the payer of such compensation to withhold any tax from that compensation.

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(5) Compensation paid to an employee of a transit authority, regional transit authority, or regional transit commission created under Chapter 306. of the Revised Code for operating a transit bus or other motor vehicle for the authority or commission in or through the municipal corporation, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such a tax by reason of residence or domicile in the municipal corporation, or the headquarters of the authority or commission is located within the municipal corporation.

(6) 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 Revised Code, except starting January 1, 2002, the income of an electric company or combined company, as defined in section 5727.01 of the Revised Code, may be taxed by the municipal corporation. For a combined company, only the income attributed from the activity of an electric company shall be subject to taxation by a municipal corporation. The income of an electric company or combined company subject to taxation by a municipal corporation shall be computed by taking into account the adjustments provided by division (I)(16) of section 5733.04 of the Revised Code.

(7) On and after January 1, 2003, items excluded from federal gross income pursuant to section 107 of the Internal Revenue Code.

(8) On and after January 1, 2001, compensation paid to an individual for personal services performed within the municipal corporation, if the individual does not reside in the municipal corporation, performs such personal services in the municipal corporation on twelve or fewer days in the calendar year, and, if the individual is an employee, the principal place of business of the individual's employer is located outside the municipal corporation. Division (F)(8) of this section does not apply to professional entertainers or professional athletes or the promoters of professional entertainment or sports events and their employees, as reasonable defined by the municipal corporation.

(G) Any municipal corporation that taxes any type of intangible income on March 29, 1988, pursuant to Section 3 of Amended Substitute Senate Bill No. 238 of the 116th General Assembly, may continue to tax that type of income after 1988 if a majority of the electors of the municipal corporation voting on the question of whether to permit the taxation of that type of intangible income after 1988 vote in favor thereof at an election held on November 8, 1988.

(H) Nothing in this section or section 718.02 of the Revised Code, shall authorize the levy of any tax on income that a municipal corporation is not authorized to levy under existing laws or shall require a municipal corporation to allow a deduction from taxable income for losses incurred from a sole proprietorship or partnership. **(R.C.718.01)** Eff. 9-29-99

### 5.02 PURPOSE AND IMPOSITION OF TAX.

(A) To provide funds for the purposes of general Municipal operations, for retirement of debt and for capital improvements of the Village, there is hereby levied a tax on salaries, wages, commissions, income, and other compensation, and on net profits as hereinafter provided.

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An annual tax for the purposes specified above shall be imposed on and after September 12, 1992 at the rate of one percent (1%) per annum upon the following:

(1.) The aggregate amounts of salaries, wages, tips, commissions, and other compensation earned, 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. Notwithstanding the provisions herein “intangible income” is exempted from municipal taxation pursuant to the Uniform Municipal Income Tax Act as amended in 1986 by Am.Sub.S.B. No. 238.

(2.) On all salaries, tips, commissions, bonuses, wages, including sick pay, vacation pay, commissions, and other compensation earned or received, during the effective period of this Chapter, by nonresidents or residents of the Village for work done or services performed or rendered in the Village.

(3.) On the portion of net profits attributable to the Village earned during the effective period of this Chapter of all resident associations, unincorporated businesses, professions or other entities, derived from sales made, work done, services performed or rendered, and business or other activities conducted in the Village.

(4.) On a resident partner’s or owner’s share of the net profits earned during the effective period of this Chapter of a resident partner or owner of a resident association or other unincorporated business entity not attributable to the Village and not levied against such association or other unincorporated entity by the Village.

(5.) On the portion of net profits attributable to the Village earned during the effective period of this Chapter, of all non-resident associations, unincorporated businesses, professions or other entities, derived from sales made, work done, services performed or rendered, and business or other activities conducted in the Village, whether or not such incorporated business association or other entity has an office or place of business in the Village.

(6.) On a resident partner’s or owner’s share of the net profits earned during the effective period of this Chapter of a non-resident association or other unincorporated business entity not attributable to the Village and not levied against such association or other unincorporated entity by the Village.

(7.) On the net profits earned during the effective period of this Chapter of all corporations derived from sales made, work done or services performed or rendered, and business or other activities conducted in the Village whether or not such corporations have an office or place of business in the Village.

(8.) On any and all income received, no matter how generated, and unless otherwise exempted, by any resident domiciled in the Village of Addyston.

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(9.) On any and all income received, no matter how generated, and unless otherwise exempted, by any non resident of the Village of Addyston when such income results from any work performed within the Village of Addyston or when such moneys results from any business activity, however small, performed within the Village of Addyston.

### (B) **EXEMPT INCOME**

(1.) Notwithstanding the foregoing provisions and unless otherwise mandated by the Ohio legislature and codified within the Ohio Revised Code, the following is specifically exempt from the Addyston Village Income and Earnings tax.

(a.) Lottery and gambling winnings are hereby exempt from taxation. Lottery and gambling losses shall not be deemed or otherwise considered legitimate deductions from income.

(b.) Annuity benefits.

(c.) Retirement benefits.

(d.) Pension benefits.

(e.) Social Security benefits.

(f.) Any governmental relief benefit received by the beneficiary of such benefit.

(g.) Any governmental assisted benefit received by the beneficiary of such benefit.

(h.) Trust benefits paid to the beneficiary of said Trust.

(i.) Supplemental Unemployment Benefits;

(j.) Compensation earned by itinerants;

(k.) The tax provided for herein shall not be levied upon the active military pay or allowances of members of the Armed Forces of the United States, or upon the net profits of any civic, charitable, religious, fraternal, or other organization specified in 718 of the Revised Code of Ohio to the extent that such net profits are exempted from municipal income taxes under said Section.

### **C. 12-DAY OCCASIONAL ENTRY RULE**

The Village of Addyston shall not tax the compensation of an individual if all of the following apply:

(1.) The individual does not reside in the Village of Addyston.

(2.) The compensation is paid for personal services performed by the individual in the Village of Addyston on twelve or fewer days during the calendar year.

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(3.) In the case of an individual who is an employee, the principal place of business of the individual's employer is located outside of the Village of Addyston and the individual pays tax on compensation earned from such employment to the City or Village in which the employer's principal place of business is located and no portion of that tax is refunded to the individual.

(4.) The individual is not a professional entertainer or professional athlete, the promoter of a professional entertainment of sports event, or an employee of such a promoter, all as may be reasonably defined by the Village of Addyston.

(5.) For the purpose of this section:

(a.) "Day" means any part of a 24-hour calendar day where compensation is earned in the Village of Addyston. Beginning with the 13<sup>th</sup> day, the individual shall no longer be considered an occasional entrant and shall be liable for taxes on all income or compensation earned within the Village of Addyston including the income or compensation earned during the 12-day exclusion set forth herein.

(b.) "Athlete" means any person who engages in any sporting event as a member of a team the goal of which is to defeat another team through achieving a better score than the other team within the rules of the game at which both teams are engaged. "Athlete" also means any individual who is in a contest, the outcome of which is determined by the superior skill, speed or strength of one of the contestants. "Athlete" also means any individual who engages in feats requiring physical skill, physical dexterity, physical strength or speed, whether physical or whether mechanical provided that such person directly controls the mechanical device achieving such speed. "Athlete" also means any person who enters a contest, the outcome of which is determined by physical prowess rather than mental prowess.

(c.) "Professional Athlete" means any athlete who is paid to participate in a sporting event or who, as a result of the outcome of his participation in an event, receives something of value. "Something of Value" does not include a stipend paid to the athlete to cover his out-of-pocket expenses for travel and necessary items such as room and board while in the area for the purpose of participating as an athlete. "Something of Value" does not include trophies, medals, ribbons or any other thing of no utility other than to recognize the athlete for participating in or for prevailing at the sport for which the athlete appeared. "Professional Athlete" does not include a person who is an amateur athlete. "Professional Athlete" does not include a person whose primary source of income is derived from some other source of employment provided; however, that said person spends the majority of his working time engaging in such other employment.

(d.) "Entertainer" means any person engaged for the purpose of drawing an audience to watch or hear the entertainer perform.

(e.) "Professional Entertainer" means any entertainer who is paid to perform in front of an audience. "Professional Entertainer" does not include amateur entertainers or entertainers who are not paid for performing in front of an audience.

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(f.) A “Promoter of a professional entertainment of sports event” means the person or entity that has advertised the professional entertainment or the sporting event or the person entity that stages such events with the purpose of deriving a profit therefrom whether or not such profit is derived.

### **D. \$150 DEMINIMUS RULE**

(1.) A nonresident employer, agent of such employer, or other payer that is not situated in the Village of Addyston shall not be required to deduct and withhold taxes from the taxable income of an individual unless the total amount of tax required to be deducted and withheld for the Village of Addyston on account of all of the employer’s employees or all of the other payer’s payees exceeds one hundred fifty dollars (\$150) for a calendar year.

(2.) If the total amount of tax required to be deducted and withheld on account of all of the nonresident employer’s employees or all of the other payer’s payees exceeds one hundred fifty dollars (\$150) for a calendar year, the employer, agent of such an employer or other payer must deduct and withhold taxes in that calendar year and in each ensuing year even if the amount required to be deducted and withheld in each of those ensuing years is one hundred fifty dollars (\$150) or less, until such time that the tax so deducted and withheld is one hundred fifty dollars (\$150) or less for three (3) consecutive years.

(3.) A nonresident employer, agent of such an employer, or other payer that is not situated in the Village of Addyston and is exempt from withholding pursuant to this sections shall report all taxable income paid to its employees or agents working in the Village of Addyston on an annual basis. This report shall be due on or before the due date of reconciliation of the Village of Addyston of each year, and shall include a calculation of the total compensation earned in the Village of Addyston by all employees during the preceding calendar year.

(4.) The employer as set forth above is not relieved of paying over the first \$150 in withholding when he does in fact exceed \$150 in withholding for the Village of Addyston.

(5.) Any nonresident employer who withholds taxes for an employee in the name of the Village of Addyston must report such withholding to the Village of Addyston and to the employee.

### **5.03 ALLOCATION OF NET PROFITS**

(A) In the taxation of income that is subject to municipal income taxes, if the books and records of a taxpayer conducting a business or profession both within and without the boundaries of a municipal corporation disclose with reasonable accuracy what portion of its net profit is attributable to that part of the business or profession conducted within the boundaries of the municipal corporation, then only such portion shall be considered as having a taxable status in such municipal corporation for purposes of municipal income taxation. In the absence of such records, net profit from a business or profession conducted both within and without the boundaries of a municipal corporation shall be considered as having a taxable status in such municipal corporation for purposes of municipal income taxation in the same proportion as the average ratio of:

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

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

(2) Wages, salaries, and other compensation paid during the taxable period to persons employed in the business or profession for services performed in such municipal corporation to wages, salaries, and other compensation paid during the same period to persons employed in the business or professions, wherever their services are performed, excluding compensation described in division (F)(8) of section 718.01 of the Revised Code;

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

If the foregoing allocation formula does not produce an equitable result, another basis may be substituted, under uniform regulations, so as to produce an equitable result.

(B) As used in division (A) of this section, “sales made in a municipal corporation” mean:

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

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

(3) All sales of tangible personal property shipped from a place within such municipal corporation to purchasers outside such municipal corporation regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made. **(R.C. 718.02)**

### 5.031 NONRESIDENT EMPLOYER’S PARTIAL WITHHOLDING EXCEPTION

As used in this section, “Other Payer” means any person that pays an individual any item included in the taxable income of the individual, other than the individual’s employer or that employer’s agent.

(A.) Beginning January 1, 2001, a municipal corporation shall not require any nonresident employer, agent of such an employer, or other payer that is not situated in the municipal corporation to deduct and withhold taxes from the taxable income of an individual unless the total amount of tax required to be

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deducted and withheld for the municipal corporation on account of all of the employer's employees or all of the other payer's payees exceeds one hundred fifty dollars for a calendar year beginning on or after that date.

If the total amount of tax required to be deducted and withheld on account of all of the nonresident employer's employees or all of the other payer's payees exceeds one hundred fifty dollars for a calendar year beginning on or after January 1, 2001, the municipal corporation may require the employer, agent, or other payer to deduct and withhold taxes in each ensuing year even if the amount required to be deducted and withheld in each of those ensuing years is one hundred fifty dollars or less, except as otherwise provided in division (B) of this section.

(B) If a nonresident employer, agent of such an employer, or other payer that is not situated in the municipal corporation is required to deduct and withhold taxes for an ensuing year under division (A) of this section, and the total amount of tax required to be deducted and withheld under that division in each of the three consecutive ensuing years is one hundred fifty dollars or less, the municipal corporation shall not require the employer, agent, or other payer to deduct and withhold taxes in any year following the last of those consecutive years unless the amount required to be deducted and withheld in any such following year exceeds one hundred fifty dollars. **R.C. § 718.16** formerly R.C. 718.03

### 5.032 CONDITIONS UNDER WHICH A GENERIC TAX FORM IS PERMISSIBLE

(A) As used in this section:

(1) "Generic Form" means an electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation's tax on income.

(2) "Return Preparer" means any person other than a taxpayer to file an annual income tax return or report prior to the filing date for the corresponding tax reporting period as prescribed for such a taxpayer under the Internal Revenue Code.

(B) A municipal corporation shall not require a taxpayer to file an annual income tax return or report prior to the filing date for the corresponding tax reporting period as prescribed for such a taxpayer under the Internal Revenue Code.

(C) On and after January 1, 2001, any municipal corporation that requires taxpayers to file income tax returns, reports, or other documents shall accept for filing a generic form of such a return, report, or document if the generic form, once completed and filed, contains all of the information required to be submitted with the municipal corporation's prescribed returns, reports, or documents, and if the taxpayer or return preparer filing the generic form otherwise complies with rules or ordinances of the municipal corporation governing the filing of returns, reports, or documents.

The Village of Addyston shall accept a generic form of any return, report, or document required to be filed if the generic form, once completed and filed, contains all of the information required to be submitted with the Village of Addyston's prescribed returns, reports of documents, and if the taxpayer or return preparer filing the generic form otherwise complies with the rules of ordinances of the Village of Addyston governing the filing of returns, reports, or documents.

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A generic tax return must contain the following to be accepted as a valid Village of Addyston income tax return:

1. The taxpayer's name and address
2. The taxpayer's Social Security or Federal Employer Identification Number.
3. If a business tax return, schedules X, Y and Z
4. A credit section that shows payments made by the taxpayer, payments made on behalf of the taxpayer by any third party and withholdings made on behalf of the taxpayer by the taxpayer's employer(s) for the tax period to which the generic form applies.  The credit section shall show: A. The amount paid to the Village of Addyston for the current taxable period. B. The anticipated earnings tax due any village or municipality other than Addyston not to exceed 1% of the taxpayer's gross income taxable in the other or municipality. C. The source of every payment or withholding made by or on behalf of the taxpayer. If the source is the taxpayer's employer, the generic form shall also include the employer's name, business address and phone number. D. If the generic form relates to a partial tax period which has not yet ended, the taxpayer shall include an estimate of the taxes that will be paid or withheld during the entire taxable period. E. Any overpayments made to the Village of Addyston for the taxpayer's previous years' tax liability provided that such overpayments were not refunded by the Village of Addyston.
5. A penalty section indicating the anticipated amounts for penalty, interest, late fees and, at the bottom of said section, a total of the above anticipated penalties, interest and late fees.
6. Any generic form shall contain space at the bottom or at the end of the generic form for validation by the taxpayer or the tax preparer.
7. The validation section shall contain the following language:  "I CERTIFY THAT I HAVE EXAMINED THIS RETURN INCLUDING THE ACCOMPANYING SCHEDULES AND STATEMENTS, AND DECLARE THAT IT IS TRUE, CORRECT AND THAT THE FIGURES CONTAINED HEREIN ARE ACCURATE TO THE BEST OF MY KNOWLEDGE."  If the generic form does not contain the above language, it may contain language that is substantially similar. If the generic form does not contain either the above language or language that is substantially similar, it shall be returned to the taxpayer or the tax preparer and the taxpayer or tax preparer shall have five (5) business days to insert the proper language. If the taxpayer or the tax preparer does not correct the generic form within five business days, the Addyston Tax Commissioner shall refuse the generic form and any penalty or interest incurred thereby shall be the responsibility of the taxpayer.
8. The taxpayer or the tax preparer shall sign the generic form immediately underneath the validation section and such signature shall be an attestation that the generic form has been reviewed and is accurate to the best of the reviewers knowledge.

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9. All applicable federal schedules, forms and statements shall accompany the generic form. In the even the applicable federal schedules, forms and statements do not accompany the generic form, the taxpayer or tax preparer shall submit a statement explaining why the required schedules, forms and statements are not attached.

10. If the taxpayer or the tax preparer fails to comply with any of the above requirements, the generic form shall be returned to the taxpayer or tax preparer and the tax payer or tax preparer shall have five (5) business days to comply with the requirements set forth in this section. Any failure to timely comply with the requirements of this section may result in penalties and interest being levied against the taxpayer.

(D) Beginning January 1, 2001, any taxpayer that has requested an extension for filing a federal income tax return may request on extension for the filing of a municipal income tax return. The taxpayer shall make the request by filing a copy of the taxpayer's request for a federal filing extension with the individual or office charged with the administration of the municipal income tax. The request for extension shall be filed not later than the last day for filing the municipal income tax return as prescribed by ordinance or rule of the municipal corporation. A municipal corporation shall grant such a request for extension for a period not less than the period of the federal extension request. A municipal corporation may deny a taxpayer's request for extension only if the taxpayer fails to timely file the request, fails to file a copy of the request for the federal extension, owes the municipal corporation any delinquent income tax or any penalty, interest, assessment, or other charge for the late payment or nonpayment of income tax, or has failed to file any required income tax return, report, or other related document for a prior tax period. The granting of an extension for filing a municipal corporation income tax return does not extent the last day for paying the tax without penalty unless the municipal corporation grants an extension of that date. **R.C. § 718.05**, see also Section 5.06 herein.

### 5.033 INCOME FROM RENTAL PROPERTY AND LANDLORD'S DUTIES

(A) "LANDLORD" means the owner, lessor, or sublets of residential premises, the agent of the owner, lessor, or sublessor, or any person authorized by the owner, lessor, or sublessor to manage the premises or the receive rent from a tenant under a rental agreement. "LANDLORD" also means the owner, lessor, or sublets of business or commercial premised, the agent of the owner, lessor, or sublessor, or any person authorized by the owner, lessor, or sublessor to manage the premises or to receive rent from a tenant under a rental agreement.

(B) Within thirty days after a new tenant occupies rental property of any kind within the Village all property owners of rental property who rent to tenants of apartments, rooms and other rental accommodations shall file with Tax Commissioner of the Village a report showing the names, addresses and telephone numbers of each such tenant who occupies an apartment, room or other rental property within the corporate limits of the Village.

(C) With in thirty days after a tenant vacates an apartment, room or other rental property located within the Village, the property owner of such vacated rental property shall file with the Tax Commissioner, a report showing the date of vacation from the rental property and identifying each such vacating tenant.

(D) Willful violation of this section shall be an offense punishable by a fine not to exceed one hundred dollars (\$100.00).

## ADDYSTON EARNINGS AND INCOME TAX

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(E) All net income derived from any rental property shall be taxed in conformity with this chapter.

(F) In addition to the returns required by Section 5.06 of this ordinance, all landlords shall be required to furnish the Tax Commissioner with a list of the names and addresses of all tenants who have moved in or out of their properties during the previous quarter. (Ordinance 10-1981)

### 5.04 OPERATING LOSS CARRY-FORWARD

(A)(1) The portion of a net operating loss sustained in any taxable year, beginning with May 1, 1979, allocable to the Village, may be applied against the portion of the profit of succeeding tax years allocable to the Village, until exhausted, but in no event for more than five (5) taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.

(2) The portion of a net operation loss sustained shall be allocated by the Village in the same manner as provided herein for allocating net profits to the Village.

(3) In any return a net operating loss deduction is claimed, the following shall be furnished:

(a) A copy of the Federal income tax return for the year in which the net operating loss was sustained.

(b) The amount of net operating loss used as a deduction in prior years.

(c) The amount of net operating loss claimed as a deduction in the current year.

(4) The Tax Commissioner shall provide by Rules and Regulations the manner in which such net operating loss carry-forward shall be determined.

### (B) CONSOLIDATED RETURNS

(1) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by sock ownership interlocking directorates, or some other method, the Tax Commissioner shall require such information, in addition to the return hereinafter provided for, as he may deem necessary to ascertain whether net profits are properly allocated to the Village. If the Tax Commissioner finds net profits are not properly allocated to the Village by reason of transactions with stockholders or with other corporations related by sock ownership, interlocking directorates, or some other method, he may require the filing of a consolidated return or adjust such transactions so as to produce a full and proper allocation of net profits to the Village.

(2) On and after January 1, 2003, any municipal corporation that imposes a tax on the income or net profits of corporations shall accept for filing a consolidated income tax return from any affiliated group of corporations subject to the municipal corporation's tax 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. **R.C. § 718.06**

## ADDYSTON EARNINGS AND INCOME TAX

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### 5.05 EFFECTIVE PERIOD

The tax imposed by this Chapter shall be levied, collected, and paid with respect to all income and net profits subject to the tax earned on or after May 1, 1979.

### 5.06 RETURN AND PAYMENT OF TAX

#### (A.) DATES AND EXEMPTIONS

Each person who engaged in business, or whose salary, wages, commissions, or other comensation is subject to the tax imposed by this Ordinance shall, whether or not a tax be due thereon, make and file, on or before April 30th in each year, beginning with the year 1980, a return with the Tax Commissioner. A taxpayer on a fiscal year accounting basis for federal income tax purposes shall, beginning with hsi first fiscal year, any part of which falls within the effective period of this Ordinance, file his return within four (4) months from the end of such fiscal year or period.

In lieu of a tax return, the Tax Commissioner is hereby authorized to provide by regulation that the return of an employers, showing the amount of tax deducted by said employer or employers from salaries, wages, commissions, or other compensation of the employee, and paid by him or them to the Tax Commissioner may be accepted in lieu of the return required of any employee whose sole income, subject to tax under this Ordinance, is such salary wages, commisssions, or other compensaiotn.

#### (B.) RETURNS AND CONTENTS THEREOF

The return shall be filed with the Tax Commissioner on a form or forms furnished by or obtainable upon request from the Tax Commissioner setting forth:

(1.) The aggregate amounts of salaries, wages, commissions, and other compensation earned and fross 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 the tax;

(2.) The amount of the tax imposed by this Chapter on such earnings and profits; and

(3.) Such other pertinent statements, information retruns, or other relevant information as the Tax Commissioner may require, including a statement that the figures used in the return are the figures used in the return for federal income tax, adjusted to set forth only such income as is taxable under the Provisions of this Ordinance;

(4.) Income and expenses attributable to the Village clearly stated.

(5.) All returns are to be signed by the preparer attesting the accuracy of the statements therein.

#### (C.) EXTENTIONS AND ACCEPTANCE OF FEDERAL EXTENSIONS

(1.) The Tax Commissioner shall have the authority to extend the time for filing of the annual return upon the request of the taxpayer for a period of not to exceed six (6) months, or one (1) month beyond any extension requested of or granted by the Internal Revenue Service for filing of the Federal

## ADDYSTON EARNINGS AND INCOME TAX

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Income Tax Return provided that a written request has been submitted to the Tax Commissioner before the due date of such return. The Tax Commissioner may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due. No penalty or interest shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended.

(2.) Beginning January 1, 2001, any taxpayer that has requested an extension for filing a federal income tax return may request an extension for the filing of a Village of Addyston tax return. The taxpayer shall make the request by filing a copy of the taxpayer's request for a federal filing extension with the Tax Commissioner. R.C. 718.05(D).

(3.) Any taxpayer not required to file a federal income tax return may request an extension for filing a Village of Addyston tax return. Such request shall be in writing, shall be made to the Tax Commissioner and shall be filed on or before the date that a federal tax return would otherwise be required.

(4.) The request for an extension shall be filed no later than the last day the Village of Addyston income tax as prescribed by ordinance.

(5.) A valid extension request extends the due date for filing a return six (6) months from the original due date of such return.

(6.) The Village of Addyston may deny a taxpayer's request for an extension if the taxpayer:

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

(7.) The granting of an extension for filing a Village of Addyston income tax return does not extend the last date for payment of the tax; hence, penalty and interest any apply to any unpaid tax during the period of extension as set forth by the Addyston Tax Ordinances. No penalty shall be assessed in those cases in which the return is filed and the final tax paid is paid within the extension period provided all other filing and payment requirements of the Tax Code have been fulfilled. Any extension granted by the Tax Commissioner shall be granted with the understanding that declaration filing and payment requirements have been fulfilled; however, if, upon further examination it then becomes evident that declaration filing and payment requirements have not been fulfilled, penalty and interest may be assessed in full and in the same manner as though no extension had been granted. R.C. 718.05(D); see also Section 5.032 herein.

### (D.) PAYMENT WITH RETURNS

(1.) The taxpayer making a return shall, at the time of the filing thereof, pay to the Tax Commissioner the amount of taxes shown as due thereon; provided, however, that where that where the source, pursuant to the provisions of Section 6 of this Ordinance; or where any portion of said tax have been paid by the taxpayer, pursuant to the provisions of Section 7 of this Ordinance, or where an income

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tax creditable against the Addyston tax pursuant to Section 16 hereof has been paid to another Village, credit for the amount so paid shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing said return.

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

(E.) AMENDED RETURNS

(1.) Where necessary an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and limitations contained in Section 11 and 16, such Amended Returns shall be on a form obtainable on request from the Tax Commissioner.

(2.) Within three (3) months from the final determination of any Federal Tax liability affecting the taxpayer's Addyston tax liability, such payer shall make and file an amended Addyston return, showing income subject to the Village tax based upon such final determination of federal tax liability, and pay any additional tax shown thereon, or make claim for refund of any overpayment.

5.07 COLLECTION OF TAX AT SOURCE

(A.) WITHHOLDING BY EMPLOYER

Each employer situated within the Village of Addyston, each employer doing business within the Village of Addyston, each employer or person who conducts business within the Village of Addyston, and each employer who employs an employee subject to the provisions of the Addyston Tax Code although situated outside of the Village of Addyston and any other person or business entity that falls within the provisions of the Addyston and any other person or business entity that falls within the provisions of the Addyston Tax Code who employs one or more persons on salary, wage, commission, or other compensation basis shall regularly deduct, at the time of the payment of such salaries, wages, commission, or other compensations, due from said employer to each said employee, the estimated tax liability of said employee or business entity due the Village of Addyston and shall, on or before the last day of April, June, October and January of each year, beginning with the year 1980, make a return and pay to the Tax Commissioner the amount of taxes so deducted during the preceding Calendar quarter. Said return shall be on a form or forms prescribed by or acceptable to the Tax Commissioner and shall be subject to the rules and regulations prescribed therefore by the Tax Commissioner. Those taxes collected from employees during 1979 shall be remitted to the Bureau by the last day of the month following their collection.

(B.) EMPLOYER CONSIDERED AS TRUSTEE

Each employer in collecting said tax shall be deemed to hold the same, until payment is made by such employer to the Village, as a Trustee for the benefit of the Village, and any such tax collected by such employer from his employees shall until the same is paid to the Village, be deemed a trust fund in the hands of such employer. Each employee shall be liable for the payment of the tax required to be deducted and withheld, whether or not such tax, in fact, has been withheld.

## ADDYSTON EARNINGS AND INCOME TAX

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### (C.) CORPORATE OFFICERS PERSONAL LIABILITY

It shall be the responsibility, jointly and severally, of the officers of each corporation required to withhold the tax from wages of its employees under this section to see that all such taxes so withheld are paid to the Village in accordance with the provisions of this section. In the event taxes withheld by a corporation from the monies due its employees are not paid to the Village in accordance with the provisions of this section, the officers of said corporation shall each be criminally liable under the provisions of Section 11 hereof.

### (D.) EMPLOYEES' LISTINGS

On or before April 30th of each year, beginning with the year 1980, each employer shall file a withholding return, on a form or forms prescribed by and obtainable from the Tax Commissioner, setting forth the tax which was withheld during the preceding calendar year and such other information as may be required by the rules and regulations adopted by the Tax Commissioner.

### (E.) DOMESTIC SERVANTS

Provided, however, that no person shall be required to withhold the tax on the wages or other compensation paid domestic servants employed exclusively in or about such person's residence. However, such domestic servants shall be responsible for filing and paying their own returns and taxes.

## 5.08 DECLARATIONS

### (A.) REQUIREMENTS FOR FILING

Every person who anticipates any taxable income which is not subject to Section 5.06 hereof, or engages in any business, profession, enterprise, or activity, shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity, together with the estimated tax due thereon, if any.

### (B.) DATES FOR FILING

(1.) Beginning with the year 1980, and thereafter during the life of this Chapter, on or before April 30, or within four (4) months of the date the taxpayer first becomes subject to the provision of this section.

(2.) Those taxpayers reporting on a fiscal year basis shall file a declaration within four (4) months after the start of each year or period, excepting that no declaration need be filed prior to July 31, 1979.

### (C.) FORMS-PAYMENT DATES

(1.) Such declaration shall be filed upon a form furnished by or obtainable from the Tax Commissioner. Credit shall be taken in said declaration for Addyston tax to be withheld from any portion of such income and for income taxes to be paid to another taxing Village for which credit is allowed against the Addyston tax Section 16 hereof.

## ADDYSTON EARNINGS AND INCOME TAX

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(2.) Beginning with the year 1985 a declaration of estimated tax to be paid the Village shall be accompanied by a payment of at least one-fourth (1/4) of the estimated tax, less credit for taxes withheld or paid to another Village, and at least a similar amount shall be paid on or before that last day of the seventh, tenth and thirteenth months after the beginning of the tax year.

(3.) A declaration may be amended at any time provided, however, that in case an amended declaration is filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

### (D.) AMENDED DECLARATION

An amended declaration may be filed with the filing of any quarterly return. If it appears that the original declaration and payments made for such year underestimated the taxpayer's income by thirty percent (30%) or more the difference between seventy percent (70%) of said taxpayer's tax liability, and the amount of estimated tax he actually paid on or before January 31st, or the date fixed by regulation, whichever is applicable, shall be subject to the interest and penalty provisions of Section 10 hereof.

### (E.) ANNUAL RETURN REQUIRED

On or before the last day of the fourth month of the calendar or fiscal year following that for which the declaration was filed, an annual return shall be filed and any balance which may be due the Village shall be paid therewith in accordance with the provisions of Section 3 hereof.

## 5.081 ACTIONS TO RECOVER: TIME LIMITATION

(A.) Civil actions to recover municipal income taxes and penalties and interest on municipal income taxes shall be brought within three years after the tax was due or the return was filed, whichever is later.

(B.) Prosecutions for an offense made punishable under a municipal ordinance imposing an income tax shall be commenced within three years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five per cent or more of income required to be reported, prosecutions may be commenced within six years after the commission of the offense.

(C.) Claims for refund of municipal income taxes must be brought within the time limitation provided in division (A) of this section.

(D.) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment until the date of the refund of the overpayment, except that if any overpayment is refunded within ninety days after the final filing date of the the annual return or ninety days after the complete return is filed, whichever is later, no interest shall be allowed on the refunded overpayment. For purposes of computing the payment of interest on overpayments, no amount of tax for any taxable year shall be treated as having been paid before the date on which the tax return for that year was due without regard to any extension of time for filing that return. The interest shall be paid at the rate of interest prescribed by section 5703.41 of the Revised Code. **(R.C. 708.06)**

## ADDYSTON EARNINGS AND INCOME TAX

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### 5.09 DUTIES OF THE TAX COMMISSIONER

#### (A.) COLLECION AND MAINTENANCE RESPONSIBILITY

(1.) There is hereby created an independent department to be titled the Addyston Income Tax Bureau for the administration of the provisions of this Ordinance. Such Bureau shall consist of a Tax Commissioner, Deputy Tax Commissioner and clerical and secretarial personnal as may be determined to be necessary for the administration of this Chapter. All such personnel shall be appointed by the Mayor with the consent of Council. The Tax Commissioner and Deputy Tax Commissioner shall also be Deputy Village Treasurer, without additional compensaiton, for the purpose of collecting and depositing all income tax revenue. **R.C. § 733.85**

(2.) It shall be the duty of the Tax Commissioner to collect and receive the tax imposed by this Chapter in the manner prescribed herin, and to keep an accurate record therof, and to report all moneys so received.

(3.) It shall be the duty of the Tax Commissioner to enforce payment of all income taxes owing the Village, to keep accurate records for a minimum of five (5) years showing the amount due from each taxpayer required to file a declaration or make any return including a return of taxes withheld, and to show the dates and amounts of payments thereof.

#### (B.) ENFORCEMENT AUTHORITY

The Tax Commissioner is hereby charged with the enforcement of the provisions of this Chapter, and is hereby empowered, subject to the approval of Board of Review, to adopt and promulgate and enforce rules and regulations authorized or required by this Chapter, relating to any matter or thing pertaining to the collection and payment of taxes and the administration and enfrocement of the provisions of this Chapter, including provisions for the re-examinaion and correction of returns.

#### (C.) DETERMINATION OF TAXES

In any case where a taxpayer has failed to file a retrun or has filed a return which does not show the proper amount of tax due, the Tax Commissioner may determine the amount of tax appearing to be due the Village from the taxpayer and shall send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.

#### (D.) COMPOMISE AUTHORITY

Subject to the consent of the Board of Review or pursuant to regulaion approved by the Board of Review, the Tax Commissioner shall have the power to compromise any liability imposed by this Chapter.

### 5.10 INVESTIGATE POWERS OF THE TAX COMMISSIONER --PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION

(A.) EXAMINATION OF TAXPAYERS RECORDS--REQUIREMENT TO SUPPLY RECORDS OF EMPLOYMENT OF OUTSIDE CONTRACTORS.

## ADDYSTON EARNINGS AND INCOME TAX

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The Tax Commissioner, or any of his authorized agents, is hereby authorized to examine the books, papers, records, and federal income tax returns of any employer, taxpayer or any person subject to, or whom the Tax Commissioner believes is subject to the provisions of this Chapter for the purpose of verifying the accuracy of any withholdings or taxes due under this Chapter.

Every such employer, supposed employer, taxpayer, or supposed taxpayer, is hereby directed and required to furnish, upon written request of the Tax Commissioner, or his duly authorized agent or employee the means, facilities, and opportunity for making such examinations and investigations as are hereby authorized. Failure to comply with the orders of the Addyston Tax Commissioner shall be deemed refusal to comply and shall be punished pursuant to section 5.13.

Every employer that employs, hires, or otherwise uses contractors, subcontractors, or any person or business, other than an employee, to supply services or products within the Village shall report: (1) the names of such persons, contractors, subcontractors, or businesses, (2) the scope or nature of the services from such persons, contractors, subcontractors, or businesses, (3) the addresses and phone numbers of such contractors, subcontractors, persons, or businesses, (4) the approximate dates when such contractors, subcontractors, persons, or businesses supplied services. The report shall be forwarded to the Addyston Tax Commissioner on a quarterly basis and shall be due no later than January 20, April 20, July 20 and October 20 of each year. Failure to comply with this paragraph shall be punished pursuant to section 5.13.

(1.) When the Addyston Tax Commissioner or one of his duly appointed assistants finds that information is required pursuant to the provisions of the Addyston Tax Code, the Tax Commissioner shall notify the person or entity from which the information is sought. Notification shall be sent as follows:

(A.) CERTIFIED MAIL RETURN RECEIPT REQUESTED:

(1.) IF THE CERTIFIED MAIL IS REFUSED OR RETURNED UNCLAIMED, THEN NOTIFICATION SHALL BE SENT BY FIRST CLASS MAIL. IF FIRST CLASS MAIL IS NOT RETURNED BY THE UNITED STATES POST OFFICE, NOTIFICATION WILL BE DEEMED GIVEN.

OR

(B.) PERSONAL DELIVERY BY AN OFFICER OF THE ADDYSTON POLICE DEPARTMENT, OR A DEPUTY SHERIFF IN THE COUNTY WHERE THE TAXPAYER RESIDES.

NOTIFICATION TO PERSONS OR ENTITIES SHALL CONTAIN, IN CAPITAL PRINT THE FOLLOWING LANGUAGE:

“THIS COMMUNICATION HAS BEEN SENT TO YOU BY THE TAX COMMISSIONER OF ADDYSTON, OHIO. THE TAX COMMISSIONER OF ADDYSTON REQUIRES YOUR PRESENCE REGARDING YOUR ADDYSTON EARNING TAX. YOUR FAILURE TO CONTACT THE ADDYSTON TAX COMMISSIONER WITHIN THIRTY DAYS OF THIS LETTER AND SET UP AN APPOINTMENT IN THIS MATTER WILL BE DEEMED A REFUSAL TO COOPERATE AND MAY RESULT IN CRIMINAL ACTION TAKEN AGAINST YOU UNDER SECTION 5.13 OF THE ADDYSTON TAX ORDINANCES. YOUR FAILURE TO APPEAR AT YOUR APPOINTMENT MAY

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RESULT IN CRIMINAL ACTION TAKEN AGAINST YOU UNDER SECTION 5.13 OF THE ADDYSTON TAX ORDINANCES.

YOU ARE ENTITLED TO SEEK A CONTINUANCE IN THIS MATTER. IN ORDER TO PROCURE A CONTINUANCE, YOU MUST CONTACT THE ADDYSTON TAX COMMISSIONER WITHIN THIRTY DAYS. ONLY ONE CONTINUANCE MAY BE GRANTED. YOU MAY RETAIN LEGAL COUNSEL TO REPRESENT YOU IF YOU DESIRE.

SECTION 5.13 OF THE ADDYSTON TAX ORDINANCES PROVIDES FOR CRIMINAL PROSECUTION WHICH MAY RESULT IN A FINE AND INCARCERATION OF UP TO SIX MONTHS.

YOUR IMMEDIATE ATTENTION TO THIS MATTER IS REQUIRED.”

(2.) Once notification is given, the recipient has thirty days to make arrangements to personally meet with the Addyston Tax Commissioner and to supply the documentation as requested by the Tax Commissioner. The recipient may request one thirty day extension, which, in his discretion the Tax Commissioner may grant. The continuance is to be freely granted.

(3.) If the recipient fails to appear as scheduled, and fails to contact the Addyston Tax Commissioner within five working days regarding his failure he shall be deemed a refusing recipient. Every recipient shall have at least thirty days in which to respond.

(4.) If the recipient fails to respond, he shall be deemed a refusing recipient.

(5.) Once a recipient is deemed a refusing recipient, the Tax Commissioner shall file an affidavit with the mayor's court stating, briefly, the facts, the reasons information is required, that notification was properly given pursuant to the Addyston Tax Code, the estimated amount of tax due, if known, and the last known address of the recipient. In addition, the Tax Commissioner shall attach evidence showing that return receipt mailing was performed, whether or not the mail was picked up. In addition the Tax Commissioner shall request that the mayor, or a court of competent jurisdiction issue a subpoena duces tecum to the recipient ordering the refusing recipient to appear before the Addyston Tax Commissioner and Ordering the refusing recipient to, upon appearance, supply the requested information to the Tax Commissioner.

(6.) Upon receipt of the affidavit and proper attachments, the mayor, or judge of competent jurisdiction, shall issue a subpoena duces tecum ordering the refusing recipient to appear before the Tax Commissioner within fifteen days. The Subpoena shall be personally served upon the refusing recipient.

(7.) If the refusing recipient shall not appear as ordered, the mayor, or a court of competent jurisdiction, upon receipt of a written affidavit from the tax commissioner supported by the materials listed in paragraph six above, shall issue a warrant for the arrest of the refusing recipient and the refusing recipient shall be charged with a violation of the Addyston Tax Ordinances and shall be punished in conformity with Section 5.13 hereof. Nothing herein relieves the refusing recipient of his obligations to comply with further orders of the tax commissioner and nothing herein relieves the refusing recipient of his tax obligations under this chapter.

## ADDYSTON EARNINGS AND INCOME TAX

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### (B.) APPEARANCE ORDERS TO TAXPAYERS

The Tax Commissioner is hereby authorized to order any person presumed to have knowledge of the facts, to appear at the office of the Tax Commissioner and to examine such person, under oath, concerning any income which was or should have been returned for taxation, or withheld, or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records, federal income tax returns and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry or to complete a questionnaire or other forms to determine his/her/its responsibility to pay or file a tax return pursuant to the Addyston Income Tax Ordinance.

### (C.) RESULT OF REFUSAL TO SUBMIT INFORMATION

The refusal to produce books, papers, records, and/or federal income tax returns, or refusal to submit to such examination by any employer or person subject, or presumed to be subject, to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax, or the failure of any person to comply with the provisions of this section or with an order or subpoena of the Tax Commissioner authorized hereby shall be deemed a violation of this Chapter punishable as provided in Section 13 hereof.

### (D.) RETENTION OF RECORDS BY TAXPAYER

Every taxpayer shall retain all records necessary to compute his tax liability for a period of five (5) years from the date his return is filed or the taxes required to be withheld are paid.

### (E.) CONFIDENTIAL NATURE OF INFORMATION

(1.) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by this chapter or by a charter or ordinance of a municipal corporation levying an income tax pursuant to this chapter is confidential, and no person shall disclose such information except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of the municipal corporation as authorized by this chapter or the charter or ordinance authorizing the levy. The tax administrator of the municipal corporation may furnish copies of returns filed under this chapter to the internal revenue service and the tax commissioner. (R.C. 718.13) formerly R.C. 718.07.

(2.) Any person divulging such information in violation of this section shall be guilty of a misdemeanor in the third degree and shall be fined not more than Five Hundred (\$500.00) dollars and imprisoned not more than sixty (60) days, or both, for each offense. Each disclosure shall constitute a separate offense. In addition to the above penalty, any employee of the Village who violates the provisions of this section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

### (F.) TAX COMMISSIONER AND TAX COMMISSION IMMUNITY

(1.) Unless otherwise specified within these ordinances, or by statute, the Addyston Tax Commissioner and the employees of the Addyston Tax Department, in the performance of their normal

## ADDYSTON EARNINGS AND INCOME TAX

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and customary duties, are immune from civil liability from any cause of action which results from carrying out the duties placed on them to enforce Addyston Tax Ordinances.

### 5.11 INTEREST AND PENALTIES

#### (A.) INTEREST

All taxes imposed and moneys withheld or required to be withheld by employers under the provisions of this Chapter, remaining unpaid after they become due, shall bear interest at the rate of one-half of one percent (1/2% ) per month.

#### (B.) PENALTIES

In addition to interest as provided in Paragraph A hereof, penalties for failure to pay taxes and to withhold and remit taxes pursuant to the provisions of this Ordinance are hereby imposed as follows:

(1.) In the case of taxpayers failing to pay the full amount of tax due, a penalty of the higher of: (a) Fifty (\$50.00) Dollars or (b) one and one-half percent (1-1/2%) per month or fraction thereof, of the amount of the unpaid tax, if the tax is paid during the first three months after said tax became due; a penalty of two and one-half (2-1/2%) percent per month or fraction thereof, of the unpaid tax, if said tax is paid between the fourth and sixth months after said tax became due; and a penalty of four and one-half percent (4-1/2%) per month, or fraction thereof, of the amount of the unpaid tax, if said tax is paid later than six (6) months after its become due. The percentage herein specified, when used, shall apply from the first month of delinquency.

(2.) In the case of emoloyers who fail to withhold and remit to the Tax Commissioner the taxes to be withheld from employees, a penalty of the higher of (a) One hundred (\$100.00) Dollars or (b) two and one-half (2-1/2%) percent per month or fractin thereof, of the unpaid withholding, if paid during the first three (3) months after it was due; a penalty of four and one-half percent (4-1/2%) per month, or fraction thereof, of the unpaid withholding if paid during the fourth to sixth month, Inclusive, after it was due and a penalty of five and one-half percent (5.5%) per month or fraction thereof, of the unpaid withholding, if paid later that six (6) months after it was due. The percentage herein specified, when used, shall apply from the first month of delinquency.

(3.) Notwithstanding the provisions set forth in sections 1 and 2, above, should any court of compentent jurisdiction hold that the interest and/or penalties set forth above are illegal, then the interst and penalties shall be the highest amount permitted by the laws of Ohio.

#### (C.) EXCEPTIONS

A penalty shall not be assessed or an additional tax assessment made by the Tax Commissioner when a return has been filed, in good faith and the tax paid thereon within the time prescribed by the Commissioner; and provided further that, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, providing an amended return is filed and the additional tax is paid within three (3) months after final determination of the federal tax liability.

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### (D.) ABATEMENT BY BOARD OF REVIEW

Upon an appeal from the refusal of the Tax Commissioner to recommend abatement of penalty and interest, the Board of Review may abate such penalty or interest, or both.

### 5.12 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVER-PAYMENTS

#### (A.) TIME LIMITATION ON SUITS

(1.) Civil actions to recover municipal income taxes and penalties and interest on municipal income taxes shall be brought within three years after the tax was due or the return was filed, whichever is later.

(2.) Prosecutions for an offense made punishable under a municipal ordinance imposing an income tax shall be commenced within three years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five per cent or more of income required to be reported, prosecutions may be commenced within six years after the commission of the offense.

(3.) Claims for refund of municipal income taxes must be brought within the time limitation provided in division (A) of this section.

(4.) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment until the date of the refund of the overpayment, except that if any overpayment is refunded within ninety days after the final filing date of the annual return or ninety days after the complete return is filed, whichever is later, no interest shall be allowed on the refunded overpayment. For purposes of computing the payment of interest on overpayments, no amount of tax for any taxable year shall be treated as having been paid before the date on which the tax return for that year was due without regard to any extension of time for filing that return. The interest shall be paid at the rate of interest prescribed by section 5703.47 of the Revised Code. (R.C. 718.06)

All taxes imposed by this Chapter shall be collectible, together with any interest and penalties thereon, by suit as other debts of like amounts are recoverable.

#### (B.) TIME LIMITATION ON REFUNDS

Claims for refunds of municipal income taxes must be brought within three years after the tax was due or the return was filed, whichever is later. (R.C. 718.06(C))

### 5.13 VIOLATION--PENALTIES

#### (A.) ENUMERATION OF AND PENALTIES

Any person who, or business entity that:

- (1.) fails, neglects, or refuses to make any return or declaration required by this Chapter; or
- (2.) makes an incomplete, false, or fraudulent return; or

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- (3.) fails, neglects, or refuses to pay the tax, penalties, or interest imposed by this Chapter; or
- (4.) fails, neglects, or refuses to withhold the tax from his employees and remit such withholding tax to the Tax Commissioner; or
- (5.) refuses to permit the Tax Commissioner or any duly authorized agent or employee to examine his or her employer's books, records, papers, and federal income tax returns; or
- (6.) fails to appear before the Tax Commissioner and to produce his or her employer's books, records, papers, and federal income tax returns upon order or subpoena of the Tax Commissioner; or
- (7.) refuses to disclose to the Tax Commissioner any information with respect to such person's or such person's employer's income or net profits; or
- (8.) fails, neglects, or refuses to make any payments on the estimated tax for any year as required by Section 7; or
- (9.) fails, neglects, or refuses to make any payment on the estimated tax for any year as required by section 7; or
- (10.) fails, as an officer or resident manager of a corporation, to cause the tax withheld from the wages of the employees of such corporation pursuant to this Chapter to be paid to the Village in accordance with the provisions of Section 6 hereof; or
- (11.) attempts to do anything whatever to avoid the payment of the whole or any part of the tax, penalties, or interest imposed by this Chapter;
- (12.) shall be guilty of a misdemeanor in the first degree, and shall be fined not more than One Thousand Dollars (\$1,000.00) or imprisoned not more than six (6) months or both, for each offense. In the event the offender is an organization, the maximum fine shall be Five Thousand Dollars (\$5,000.00) and the maximum sentence shall be not more than six (6) months. (R.C. 2929.31)

### (B.) TIME LIMITATIONS ON PROSECUTIONS

- (1.) Civil actions to recover municipal income taxes and penalties and interest on municipal income taxes shall be brought within three years after the tax was due or the return was filed, whichever is later.
- (2.) Prosecutions for an offense made punishable under a municipal ordinance imposing an income tax shall be commenced within three years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five per cent or more of income required to be reported, prosecutions may be commenced within six years after the commission of the offense.
- (3.) Claims for refund of municipal income taxes must be brought within the time limitation provided in division (A) of this section.
- (4.) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal

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income tax obligation from the date of the overpayment until the date of the refund of the overpayment, except that if any overpayment is refunded within ninety days after the final filing date of the annual return or ninety days after the complete return is filed, whichever is later, no interest shall be allowed on the refunded overpayment. For purposes of computing the payment of interest on overpayments, no amount of tax for any taxable year shall be treated as having been paid before the date on which the tax return for that year was due without regard to any extension of time for filing that return. The interest shall be paid at the rate of interest prescribed by section 5703.47 of the Revised Code. (R.C. 718.06)

### (C.) FAILURE TO OBTAIN FORMS NOT A DEFENSE

The failure of any employer, taxpayer, or person to receive or procure a return, declaration, or other required form shall not excuse him from making any information return, or declaration, from filing such form, or from paying the tax.

### (D.) RESPONSIBILITY OF CORPORATION EMPLOYEES

The term "person" as used in this section shall, in addition to the meaning prescribed in Section 1 of this Chapter, include in the case of an association or corporation not having any partner, member, or officer within the Village, any employee or agent of such association or corporation who can be found within the corporate limits of the Village.

## 5.14 BOARD OF REVIEW

### (A.) COMPOSITION

A Board of Review which shall consist of three persons, who shall be appointed by the Mayor with the consent of Council, is hereby created. The individual acting as the local tax administrator shall act as secretary of the Board. Board members shall receive such compensation as Council may determine.

### (B.) PROCEDURE

A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. All hearings by the Board shall be conducted privately unless taxpayer requests a public hearing, and the provisions and the provisions of Section 9 hereof with reference to the confidential character of information required to be disclosed by the Chapter shall apply to such matters as may be heard before the Board on appeal.

### (C.) APPEALS TO THE BOARD OF REVIEW

(1.) Whenever the Tax Commissioner issues a decision regarding an income tax obligation that is subject to appeal as provided in this section, or in an ordinance or regulation of the Village of Addyston, the Tax Commissioner shall notify the taxpayer at the same time of the taxpayer's right to appeal the decision and of the manner in which the taxpayer may appeal the decision.

(2) Any person who is aggrieved by a decision of the Tax Commissioner and who has filed with the Village of Addyston the required returns or other documents pertaining to the municipal income tax obligation at issue in the decision may appeal the decision to the Board of Review by filing a request with the Tax Commissioner. The request shall be in writing, shall state with particularity why the

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decision should be deemed incorrect or unlawful, and shall be filed within thirty (30) days after the Tax Commissioner has issued the decision.

(3.) The imposition of a penalty and interest as prescribed in the codified ordinances of the Village of Addyson is not a sole basis for an appeal.

(4.) The Board of Review shall schedule a hearing within forty-five (45) days after receiving the request, unless the taxpayer waives the hearing.

(5.) If the taxpayer does not waive the hearing, the taxpayer may appear before the Board and may be represented by an attorney at law, certified public accountant or other representative provided, however, that a certified public accountant or representative other than an attorney at law is prohibited from raising or addressing any matters of law. If the taxpayer wishes to raise a legal challenge, the taxpayer must be represented by an attorney at law, in good standing and licensed to practice in the State of Ohio or the taxpayer may raise such a legal challenge on a pro se basis. Any person, other than a taxpayer appearing pro se or an attorney at law is unauthorized to offer legal advice or a legal opinion on behalf of the taxpayer.

(6.) The Board may affirm, reverse, or modify the Tax Commissioner's decision or any part of that decision. The Board shall issue a decision on the appeal within ninety (90) days after the Board's final hearing on the appeal, and send notice of its decision by ordinary mail to the petitioner with fifteen (15) days after issuing the decision.

(7.) Each Board or Review created pursuant to this section shall adopt rules governing its procedures and shall keep a record of its transactions. Such records are not public records available for inspection under Section 149.43 of the Ohio Revised Code. Hearings requested by a taxpayer before a Board of Review created pursuant to this section are not meetings of a public body subject to Section 121.22 of the Ohio Revised Code.

(8.) The purpose of the Board of Review is Administrative only.

Any person dissatisfied with any ruling or decision of the Tax Commissioner which is made under the authority conferred by this Chapter may appeal therefrom to the Board of Review within thirty (30) days from the announcement of such ruling or decision by the Tax Commissioner, and the Board shall, on hearing, have jurisdiction to affirm, reverse, or modify any such ruling or decision, or any part thereof. Any appeal from a decision of the Board must be pursued to the County Court of Common Pleas in conformity with the provisions of the Ohio Revised Code.

### 5.15 ALLOCATION OF FUNDS

(A.) The funds collected under the provisions of this Chapter shall be deposited in the General Fund and said funds collected from the imposition date of the tax under this Chapter shall be disbursed for the following, to wit:

(1.) Such part thereof as shall be necessary to defray all cost of collection the taxes and the cost of administering and enforcing the provisions thereof.

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(2.) The balance of any monies collected under the provisions of this Chapter shall be allocated as follows:

(I) Ninety Percent (90%) to the general fund for the purpose of general municipal operations.

(II) Ten Percent (10%) for Youth Funds

### 5.16 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY

#### (A.) LIMITATION ON AMOUNT PAID

Every individual taxpayer who resides in the Village and who receives salaries, wages, commissions, or other compensation or net profits from sales made, work done, or services performed or rendered outside of the Village, if it be made to appear that he has paid a municipal income tax on such income, taxable under this Chapter, to another municipality, shall be allowed a credit for such tax paid against the tax imposed by this Chapter in an amount not to exceed the tax due the Village of Addyston.

#### (B.) CREDITS AND LIMITATIONS THEREOF.

Notwithstanding the provisions contained in Section 11 hereof, or any other provisions inconsistent herewith, a claim for refund or credit under this section shall be made in such manner as the Tax Commissioner may be regulation provide. No such claim for refund or credit shall be allowed unless made on or before the date of filing the taxpayer's final return and unless such taxpayer's employer files with the Tax Commissioner a list showing the tax withheld from the taxpayer's wages, salaries, or commissions for other municipalities.

### 5.17 SAVING CLAUSE

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