



CLEVELAND HEIGHTS

Income Tax Rules and Regulations
Revised 3-4-96

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TABLE OF CONTENTS

			PAGE
CHAPTER	1:00	DEFINITIONS	1
CHAPTER	2:00	IMPOSITION OF INCOME TAX	5
	2:01	Resident Individuals	5
	2:02	Non-Resident Individuals	8
	2:03	Resident Unincorporated Businesses	9
	2:04	Non-Resident Unincorporated Businesses	10
	2:05	Corporations	10
	2:06	Effective Period	10
CHAPTER	3:00	DETERMINATION OF ALLOCATION OF TAX	11
	3:01	Separate Accounting Method	11
	3:02	Business Allocation Percentage Method	11
	3:03	Substitute Method	14
	3:04	Change of Method	15
	3:05	Rentals from Real Property	15
	3:06	Operating Loss Carry Forward	16
CHAPTER	4:00	EXEMPTIONS	17
	4:01	Income of Members of Armed Forces and Certain Institutions	17
	4:02	Payments from Governments and Certain Organizations	18
	4:03	Insurance and Annuity Proceeds, Certain Employee Benefits and Gift	18
	4:04	Receipts of Certain Organization and Associations	18
	4:05	Alimony	19
	4:06	Minors	19
	4:07	Personal Injuries and Damage to Property	19
	4:08	Income from Intangibles	19
	4:09	Involuntary Conversions and Other Exemptions	19
	4:10	Taxation Prohibited by Federal Government	19
	4:11	Taxation Prohibited by State of Ohio	20
CHAPTER	5:00	RETURNS	20
	5:01	Returns and Requirements	20
	5:02	Information Required and Reconciliation with Federal Returns for Individuals and Businesses	23
	5:03	Extensions	24
	5:04	Consolidated Returns	25
	5:05	Allocation of Net Profits by Administrator	27
	5:06	Amended Returns	27
CHAPTER	6:00	PAYMENT OF TAX	27
	6:01	Payment with Annual Return	27
	6:02	Collection at Source	32

	6:03	Collection at Source - Return and Payment of Tax Withheld and Status of Employers	38
	6:04	Dates of Payments of Estimated Tax	35
	6:05	Final Returns Required	36
	6:06	Liability for Employer's Taxes	36
	6:07	Payments Toward Multiple Debts.....	36
	6:08	Payments of Currency	37
CHAPTER	7:00	TAXPAYER RELIEF	37
	7:01	Tax Credit	37
	7:02	General	37
CHAPTER	8:00	INTEREST AND PENALTIES	38
	8:01	Interest	38
	8:02	Penalties	38
	8:03	Exceptions	38
	8:04	Abatement of Penalty and Interest.....	39
	8:05	Violations	40
	8:06	Limitations on Prosecutions	41
	8:07	Failure to Receive Forms Is No Excuse.....	41
	8:08	Bad Checks	41
CHAPTER	9:00	COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS	42
	9:01	Unpaid Taxes	42
	9:02	Refunds	42
CHAPTER	10:00	DISBURSEMENT OF RECEIPTS OF TAX COLLECTION.....	43
CHAPTER	11:00	DUTIES AND AUTHORITY OF THE ADMINISTRATOR	43
	11:01	Collection of Tax and Records.....	43
	11:02	Duty to Enforce Collection	43
	11:03	Authority to Make and Enforce Regulations	43
	11:04	Authority to Arrange Installment Payments	43
	11:05	Authority to Determine Amount of Tax Due	44
	11:06	Authority to Make Investigations	45
	11:07	Authority to Compel Production of Records.....	45
	11:08	Refusal to Produce Records.....	46
	11:09	Confidential Nature of Information Obtained	46
	11:10	Retention of Records	46

CHAPTER 12:00 BOARD OF REVIEW ESTABLISHED	47
12:01 Composition	47
12:02 Duty to Approve Regulations and to Hear Appeals	47
12:03 Right to Appeal	47
APPENDIX FORMS	48

**CHAPTER 1:00
DEFINITIONS**

- 1:01 For purposes of these Rules and Regulations, the singular shall include the plural and the masculine shall include the feminine and the neuter with regard to the terms, phrases, words and the derivatives used herein. As used in these Rules and Regulations, the following words defined herein shall have the meaning ascribed to them in this Chapter except where the context clearly indicates or requires a different meaning.
- 1:02 ADMINISTRATOR means the individual designated by the Ordinance to administer and enforce the provisions of the Income Tax Ordinance of the City of Cleveland Heights.
- 1:03 ASSOCIATION means a partnership, cooperative, limited partnership, joint venture or any other form of unincorporated enterprise owned by two or more persons.
- 1:04 BOARD OF REVIEW means the Board created by and constituted as provided for in the Ordinance of the City of Cleveland Heights.
- 1:05 BUSINESS means an enterprise, cooperative 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, excluding, however, all non-profit corporations which are exempt from the payment of Federal Income Tax. The administration of a decedent's estate by the executor or administrator and the mere custody, supervision and management of trust property under an intervivos or testamentary trust unaccompanied by the actual operation of a business, shall not be construed as the operation of a business.
- 1:06 CORPORATION means a corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory, foreign country or dependency.
- 1:07 DOMICILE is that place where an individual has his true, fixed and permanent home, and principle establishment, and to which, whenever he is absent, he has the intention of returning. All individuals have a domicile.
- A.) The presumption exists that anyone living in Cleveland Heights, lacking another domicile, is domiciled in Cleveland Heights.
- B.) The presumption exists that anyone living in Cleveland Heights for twelve (12) contiguous months is domiciled in Cleveland Heights.

1:08 EMPLOYEE means one who works for wages, salary, commission or other type of compensation in the service of an employer. Generally, the relationship of employer and employee exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished, but also as to the details and means by which that result is accomplished. Any person from whom an employer is required to withhold for Federal Income Tax purposes shall prima facie be deemed an employee.

1:09 EMPLOYER means an individual, association, corporation or other entity, who or that employs one or more persons on a salary, wage, commission or other compensation basis whether or not such employer is engaged in business or operated for a profit. The term employer includes that State of Ohio, its political subdivisions and its agencies, instrumentalities, boards, bureaus, departments, etc., as well as other governmental subdivisions, agencies, instrumentalities, boards, bureaus, departments, etc., to the extent that any such body withholds tax on a mandatory or voluntary basis. No rights, duties, or obligations are imposed with respect to any such body not otherwise authorized by law.

The term employer does not include a person who employs only domestic help for such person's private residence.

1:10 FISCAL YEAR means an accounting period of twelve (12) months or less ending on any day other than December 31st. Only fiscal years accepted by the Internal Revenue Service for federal income tax purposes may be used for municipal income tax purposes.

1:11 GROSS RECEIPTS means the total income from any source whatsoever, gross receipts shall include, but not be limited to, income in the form of commissions, fees, rentals, and real and tangible personal property, and other compensation for work or services performed or rendered as well as income from sales of stock in trade.

1:12 NET PROFITS means the net gain from the operation of a business profession, enterprise, or other activity after deduction of all ordinary and necessary expenses, paid or accrued in accordance with the accounting method used by the taxpayer for Federal Income Tax purposes.

(A) Net Profits as disclosed on any return filed pursuant to the provisions of the Ordinance shall be computed by the same accounting method used in reporting net income to the Federal Internal Revenue Service (providing such method does not conflict with any provisions of the Ordinance).

All ordinary and necessary expenses of doing business, including reasonable compensation paid employees shall be allowed, but no deduction may be claimed for salary or withdrawal of a proprietor or of the partners, members, or other owners of any unincorporated business or enterprise.

- 1.) If not claimed as part of the cost of goods sold or elsewhere in the return filed, there may be claimed and allowed a reasonable deduction for depreciation, depletion, obsolescence, losses resulting from theft or casualty not compensated for by insurance or otherwise of property used in trade or business, but the amount may not exceed that recognized for the purposes of the Federal Income Tax.
- 2.) Current amortization of equipment, facilities and other property under the provisions of the Internal Revenue Code, if recognized as such for Federal Income Tax purposes, may be included as an expense deduction hereunder.
- 3.) Where depreciable property is voluntarily destroyed, only the cost of such demolition and the undepreciated balance thereof will be allowed as an expense in the year of such demolition to the extent allowable for Federal Income Tax purposes.
- 4.) Bad debts in a reasonable amount may be allowed in the year ascertained worthless and charged off; or, if the reserve method is used, a reasonable addition to the reserve may be claimed, but in no event shall the amount exceed the amount allowable for Federal Income Tax purposes.
- 5.) Only taxes directly connected with the business may be claimed as a deduction. If for any reason the income from property is not subject to the tax, then taxes on and other expenses of said property are not deductible. In any event, the following taxes are not deductible from income: the tax under that Ordinance; Federal or taxes based upon income; gift or inheritance taxes; franchise tax; and taxes for local benefits or improvements to the property which tend to appreciate the value thereof.
- 6.) Capital gains and losses, ordinary gains or losses, as determined under the Internal Revenue Code, from sale, exchange or other disposition of property shall not be taken into consideration in arriving at net profits earned.
- 7.) In general, non-taxable income and expenses incurred in connection therewith are not to be considered in determining net profits.

1:13 NON-RESIDENT means an individual domiciled outside the boundaries of the City of Cleveland Heights.

1:14 NON-RESIDENT UNINCORPORATED BUSINESS ENTITY means an unincorpo-

rated business entity not having an office or place of business within the City of Cleveland Heights.

- 1:15 ORDINANCE means the Income Tax Ordinance enacted by the Council in the City of Cleveland Heights and any amendments and supplements thereto.
- 1:16 PERSON means every natural person, fiduciary, association, corporation, or other entity. Whenever used in a clause prescribing or imposing a penalty, the term person, as applied to any unincorporated entity, shall mean the partners or members thereof, and as applied to a corporation, the officers thereof.
- 1:17 PLACE OF BUSINESS means any bonafide office (other than a mere statutory office), factory, warehouse, or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his regular employees regularly in attendance.
- 1:18 REAL PROPERTY as the term is used in these Regulations, shall include commercial property, residential property, farm property, and any and all types of real estate.
- 1:19 RESIDENT means an individual domiciled in or whose usual place of abode is in the City of Cleveland Heights at any time during the taxable year. (Amended 3/4/96)
- 1:20 RESIDENT UNINCORPORATED BUSINESS ENTITY means an unincorporated business entity having an office or place of business within the City of Cleveland Heights.
- 1:21 TAXABLE INCOME means wages, salaries and other compensation paid by an employer or employers before deduction of any kind, and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of the Ordinance (see Section 5:01 [G] of these Regulations entitled "Non-Reimbursed Business Expenses").
- 1:22 TAXABLE YEAR means the calendar year or the fiscal year used as the basis on which net profits are to be computed under the Ordinance, and in the case of a return for a fractional part of a year, the period for which such a return is required to be made.
- 1:23 TAXING MUNICIPALITY means any municipal corporation levying a municipal income tax on salaries, wages, commissions and other compensation earned by individuals and on the net profits earned from the operation of a business, profession or other activity.
- 1:24 TAXPAYER means a person (whether an individual, association, corporation or other entity) required by the Ordinance to file a return or pay a tax.

- 1:25 TAX YEAR means the year in which the taxable year ends.
- 1:26 FUNDAMENTAL CHANGE means any substantial alteration by an employer including liquidation, dissolution, bankruptcy, and reorganizations such as merger, consolidation, acquisition, transfer or change in identity, form or organization.
- 1:27 MANAGER means any of the employer's officers, responsible person, employees having control or supervision, and employees charged with the responsibility of filing the return, paying taxes, and otherwise complying with the ordinance.

CHAPTER 2.00
IMPOSITION OF INCOME TAX
(RATE AND INCOME TAXABLE)

2:01 RESIDENT INDIVIDUALS

- A.) In the case of residents of the City of Cleveland Heights, an annual tax of 2% is imposed on all salaries, wages, commissions, and other compensation earned and received, or earned and accrued, during the effective period of the Ordinance.

For the purpose of determining the tax on earnings of resident taxpayers under the rate and income taxable section of the Ordinance, the source of earnings and the place or places in or at which the services were rendered are immaterial. All such earnings wherever earned are taxable. The location of the place from which payment is made or where payment is received is immaterial.

- B.) The following are items which are subject to the tax imposed by the rate and income taxable section of the City of Cleveland Heights Ordinance:
- 1.) Salaries, wages, bonuses, and incentive payments earned by an individual whether directly or through an agent and whether in cash or in property for services rendered during the tax period as:
 - a.) An officer or employee of a corporation (including charitable and other non-profit organizations);
 - b.) An employee (as distinguished from a partner or member) of a partnership, limited partnership, fiduciary or any form of unincorporated enterprise owned by two or more persons;
 - c.) An employee (as distinguished from a proprietor) of a business, trade or profession conducted by an individual owner;

- d.) An officer or employee (whether elected, appointed or commissioned) of the United States Government or of a corporation created and owned or controlled by the United States Government, or any of its agencies; or any foreign country or dependency except military pay exempted as stated in Section 4:01 of these Regulations.
 - e.) An employee of any other entity or person, whether based on hourly, daily, weekly, semi-monthly, monthly, annual, unit of production piece work rates.
- 2.) Commissions earned by a taxpayer whether directly or through an agent and whether in cash or in property for services rendered during the effective period of the Ordinance, regardless of how computed or by whom or wheresoever paid:
- a.) If amounts received as a drawing account exceed the commissions earned and the excess is not subject to the demand of the employer for repayment, the tax is payable on the amounts received as a drawing account (but not then on the commissions also).
 - b.) Amounts received from an employer for expenses and used as such by the individual receiving them are not deemed to be compensation if the employer deducts such expenses or advances as such from his gross income for the purposes of determining his net profits taxable under Federal law and the employee is not required to include such receipts as income (or has directly offsetting business expenses) on his Federal Income Tax return.
 - c.) If commissions are included in the net earnings of the trade, business, profession, enterprise, or activity, carried on by an unincorporated entity of which the individual receiving such commission is owner or part owner and, therefore, subject to the tax on the net profits provisions of the Ordinance, they shall not be taxed under the provisions relating to salaries, wages, or commissions earned.
- 3.) Fees, including Director's fees, unless fees are properly includable as part of the net profits of a trade, business, profession or enterprise regularly carried by an unincorporated entity owned or partly owned by said individual and such net profits are subject to the tax under the net profits provision of the Ordinance.

- 4.) Other compensation shall include:
- a.) Tips received by waiters and others.
 - b.) Bonuses.
 - c.) Gifts or gratuities in connection with employment.
 - d.) Compensation paid to domestic servants, casual employees, and other types of employees.
 - e.) Benefits resulting from employers assuming a tax imposed on employees.
 - f.) Fellowships, grants or stipends paid to a graduate in the full amount except that amount allocated in writing for tuition, books and laboratory fees shall be excluded.
 - g.) Dismissal or severance pay.
 - h.) Incentive payments.
 - i.) Retirement and Other Plans. Employee contributions to retirement plans are neither excludable nor deductible by the employee. Withholding applies to the employee's full compensation unreduced by an employee's contribution to a retirement plan. The same rules apply with respect to other amounts withheld from employees and contributed to other types of plans.
 - j.) Non-qualified stock options.
 - k.) Royalty Income - Income earned by a taxpayer from a royalty interest in the production of an oil or gas well whether managed, extracted or operated by the taxpayer individually or through an agent or other representative, shall be included in the computation of net profits from a business activity to the extent that such royalty interest constitutes a business activity of the taxpayer.

Where the gross income received by a taxpayer from a royalty interest in the production of an oil or gas well in a taxable year exceeds \$3,000.00, it shall be prima facie evidence that the income was derived from a business activity of such taxpayer and the net income from such royalty interest shall be subject to tax.

- l.) Deferred compensation.
 - m.) Profit sharing plans.
 - n.) Supplemental unemployment benefit pay.
 - o.) If the income appears on W-2 and is not defined in chapter 4:00 as non-taxable income, it shall be considered other compensation and, therefore, taxable to a resident individual.
 - p.) The employer's income derived from finance and carrying charges associated with their consumer's accounts receivable.
- 5.) Vacations, holidays, sickness, etc. Payments made to employees by an employer as vacation or holiday wages are taxable. Payments made to an employee by an employer directly under a wage continuation plan during periods of disability or sickness are taxable. Such vacation, holiday, disability or sickness payments shall be apportioned in the same ratio as regular wages if the employee works in more than one municipality.
- C.) Where compensation is paid or received in property, its fair market value, at the time of receipt, shall be subject to the tax and to withholding. Board, lodging and similar items received by an employee in lieu of additional cash compensation shall be included in earnings at their fair market value; except that in the case of domestics and other employees whose duties require them to live at their place of employment or assignment, board and lodging shall not be considered as wage or compensation earned.

2:02 NON-RESIDENT INDIVIDUALS

- A.) In the case of individuals who are not residents of the City of Cleveland Heights, there is imposed under the Ordinance a tax (of 2%) on all salaries, wages, commissions, and other compensation earned and received, or earned and accrued, on and after the effective date of the Ordinance for work done or services rendered or performed within the City of Cleveland Heights whether such compensation or remuneration is received or earned directly or through an agent and whether paid in cash or in property. The location of the place from which payment is made or where payment is received is immaterial.

The items subject to tax under the Rate and Income Taxable Section of the Ordinance are the same as those listed and defined in Section 2:01 (B) hereof. For the methods of computing the extent of such work or services performed

within a taxing community in cases involving compensation for personal services partly within and partly without the City of Cleveland Heights, see Section 6:02 (E) hereof.

2:03 RESIDENT UNINCORPORATED BUSINESSES

- A.) In the case of resident unincorporated businesses, professions, enterprises, undertakings, or other activities conducted, operated, engaged in, prosecuted, or carried on in the City of Cleveland Heights, there is imposed an annual tax (of 2%) on the net profits earned and received, or earned and accrued, during the effective period of the Ordinance, determined by a method of allocation provided in Chapter 3:00 hereof, derived from sales made, work done or services performed or rendered and business or other activities conducted in the City of Cleveland Heights.
- B.) The tax imposed on resident unincorporated entities is upon the entities rather than the individual members or owners thereof. (For tax on that part of a resident owner's distributive share of net profits not taxed against the entity by the City of Cleveland Heights, see Section 2:03 (E) hereof.)
- C.) The tax imposed by the Ordinance of the City of Cleveland Heights is imposed on all resident unincorporated entities having net profits attributable to the City of Cleveland Heights determined by a method of allocation provided in Chapter 3:00 hereof, regardless of where the owner or owners of such resident unincorporated business entity reside.
- D.) Resident unincorporated entities owned by one or more persons all of whom are residents of the City of Cleveland Heights, having all income allocable to the City of Cleveland Heights, or having income allocable to other municipalities not levying a similar tax shall disregard the method of allocation provided for in the Ordinance and pay the City of Cleveland Heights the tax on the entire net profits thereof.

Payment of the tax by the entity on the entire net profits thereof shall constitute payment of all tax due the City of Cleveland Heights from the owner or members thereof on their distributive shares of the entity net profits. Separate individual returns and Declaration of Estimated Tax still must be filed by the owners or members of the entity even though these persons have no other taxable income.

- E.) In the case of an individual who is a resident, partner or owner of a resident unincorporated entity, there is imposed an annual tax (see Tax Rate Schedule) on such individual's distributive share of net profits earned and received, or earned and accrued, not taxed against the entity by the City of Cleveland Heights.

2:04 NON-RESIDENT UNINCORPORATED BUSINESSES

- A.) In the case of non-resident unincorporated businesses, professions, enterprises, undertakings, or other activities conducted, operated, engaged in, prosecuted or carried on in the City of Cleveland Heights, there is imposed an annual tax (see Tax Rate Schedule) on the net profits earned and received, or earned and accrued, during the effective period of the Ordinance determined by a method of allocation in Chapter 3:00 hereof, derived from sales made, work done or services performed or rendered and business or other activities conducted in the City of Cleveland Heights.
- B.) The tax imposed on non-resident unincorporated entities is the entities rather than the individual members or owners thereof. (For tax on that part of a resident owner's distributive share of net profits not taxed against the entity, see Section 2:04 (D) hereof.)
- C.) The tax imposed by the Ordinance is imposed on all non-resident unincorporated entities having net profits attributable to the City of Cleveland Heights determined by a method of allocation provided in Chapter 3:00 hereof, regardless of where the owner or owners of such non-resident unincorporated business reside.
- D.) In the case of an individual who is a resident, partner or owner or a non-resident unincorporated entity, there is imposed an annual tax (see Tax Rate Schedule) on such individual's distributive share of net profits earned and received, or earned and accrued, and not taxed against the entity by the City of Cleveland Heights.

2:05 CORPORATIONS

In the case of corporations, whether domestic or foreign and whether or not such corporations have an office or place of business in the City of Cleveland Heights, there is imposed an annual tax on the net profits earned and received, or earned and accrued, during the effective period of the Ordinance determined by a method of allocation provided in Chapter 3:00 hereof, derived from sales made, work done, services performed or rendered and business or other activities conducted in the City of Cleveland Heights.

2:06 EFFECTIVE PERIOD

Said tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professions, or other activities earned on and after the effective date of the Ordinance.

CHAPTER 3:00
DETERMINATION OF ALLOCATION OF TAX
(METHOD OF DETERMINATION)

3:01 SEPARATE ACCOUNTING METHOD

- A.) If the books and records of a taxpayer conducting a business or profession both within and without the boundaries of the City of Cleveland Heights disclose with reasonable accuracy that portion of its net profit which is attributable to the business or profession conducted within the boundaries of the City of Cleveland Heights, then only such portion shall be considered as having a taxable situs in the City of Cleveland Heights for the purpose of municipal income taxation.
- B.) If the separate accounting method is used as a basis for attributing net profits rather than the business allocation formula, a statement must accompany the return explaining the manner in which such allocation is made in sufficient detail to enable the Administrator to determine whether the net profits attributable to the City of Cleveland Heights are allocated with reasonable accuracy.
- C.) If the separate accounting method is used, an adjustment shall be made for the contribution made to the production of such income by headquarters activities of the taxpayer, whether such headquarters is within the City of Cleveland Heights.

3:02 BUSINESS ALLOCATION PERCENTAGE METHOD

- A.) The portion of the entire net profits of a taxpayer to be allocated as having been derived from within the City of Cleveland Heights, in the absence of actual records thereof, shall be determined by multiplying the entire net profits by a business allocation percentage to be determined by a three-factor formula of property, payroll and sales.
- B.) The business allocation percentage shall be determined as follows:
 - 1.) STEP 1: Ascertain the percentage which the average net book value of real and tangible personal property, including leasehold improvements owned or used in the business and situated within the City of Cleveland Heights, is of the average net book value of all real and tangible personal property, including leasehold improvements owned or used in the business wherever situated, during the period covered by the return. Average net book value of property may be computed on a monthly, quarterly, semi-annual or annual basis, provided such method is consistently followed each year.

The percentage of taxpayer's real and tangible personal property within the City of Cleveland Heights is determined by dividing the average net book value of such property within the City of Cleveland Heights (without deduction of any encumbrances) by the average net book value of all such property within and without the City of Cleveland Heights. In determining such percentage, property rented by the taxpayer, as well as real and tangible personal property owned by the taxpayer, must be considered.

- a.) The net book value of real and tangible personal property rented by the taxpayer shall be determined by multiplying gross annual rents payable by eight (8).
 - b.) Gross rent means the actual sum of money or other consideration payable, directly or indirectly, by the taxpayer for the use and possession of property and includes:
 - i.) Any amount payable for the use or possession of real and tangible personal property or any part thereof, whether designated as a fixed sum of money or as a percentage of sales profits or otherwise.
 - ii.) Any amount payable as additional rent or in lieu of rent such as interest, taxes, insurance repairs or other amounts required to be paid by the terms of a lease or other arrangement.
- 2.) STEP 2: Ascertain the percentage which the total wages, salaries, commissions and other compensation of employees within the City of Cleveland Heights is of the total wages, salaries, commissions and other compensation of all the taxpayer's employees within and without the City of Cleveland Heights during the period covered by the return.
- a.) Wages, salaries, and other compensation may be computed on the cash or accrual basis. The basis does not have to be in accordance with the method of accounting used in the computation of the entire net income of the taxpayer.
 - b.) In the case of an employee who performs services both within and without the City of Cleveland Heights, the amount treated as compensation for services performed within the City of Cleveland Heights shall be deemed to be:

- i.) In the case of an employee whose compensation depends directly on the volume of business secured by him, such as a salesman on a commission basis, the amount received by him for the business attributable to his efforts within the City of Cleveland Heights.
 - ii.) In the case of an employee whose compensation depends on other than the volume of business transacted, the proportion of the total amount received by him which is his working time within the City of Cleveland Heights of his total working time.
 - c.) For the purpose of the computation, wages should include a reasonable amount attributable to the services of owners or partners (see Section 3:02 (B) (2) (b) hereof) for the amount treated as compensation for services performed within the City of Cleveland Heights.
- 3.) STEP 3: Ascertain the percentage which the gross receipts of the taxpayer derived from sales made and services rendered in the City of Cleveland Heights is of the total gross receipts wherever derived during the period covered by the return.
- a.) The following shall be considered sales made within the City of Cleveland Heights.
 - i.) All sales made through retail stores located within the City of Cleveland Heights to purchasers within or without the City of Cleveland Heights except so much of said sales to purchasers outside the City of Cleveland Heights that are directly attributable to regular solicitation made outside the City of Cleveland Heights personally by taxpayer's employees.
 - ii.) All sales of tangible personal property delivered to purchasers within the City of Cleveland Heights if shipped or delivered from an office, store, warehouse, factory or place of storage located within the City of Cleveland Heights.
 - iii.) All sales of tangible personal property delivered to purchasers within the City of Cleveland Heights, even though transported from a point outside the City of Cleveland Heights, if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City of Cleveland Heights and the sale is directly or indirectly the result of such solicitation.

- iv.) All sales of tangible personal property shipped from an office, store, warehouse, factory or place of storage within the City of Cleveland Heights to purchasers outside the City of Cleveland Heights if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place of delivery.
 - v.) Charges for work done or services performed incident to a sale, whether or not included in the price of the property, shall be considered gross receipts from such sale.
- b.) In the application of the foregoing sales determination factors, a carrier shall be considered the agent of the seller regardless of the F.O.B. point or other conditions of the sale and the place at which orders are accepted or contracts legally consummated shall be immaterial. Solicitation of customers outside the City of Cleveland Heights by mail or telephone from an office or place of business within the City of Cleveland Heights shall not be considered a solicitation of sales outside the City of Cleveland Heights.
4. STEP 4: Add the percentages determined in accordance with Steps 1, 2 and 3, or such of the aforesaid percentages as may be applicable to the particular taxpayer's business, and divide the total so obtained by the number of percentages used in ascertaining said total. The result so obtained is the business allocation percentage. In determining the average percentage a factor shall not be excluded from computation merely because said factor is found to be allocable entirely outside the City of Cleveland Heights. A factor is excluded only when it does not exist anywhere.
5. STEP 5: The business allocation percentage determined in Step 4 above shall be applied to the entire taxable net profits of the taxpayer wherever derived to determine the net profits allocable to the City of Cleveland Heights.

3:03 SUBSTITUTE METHOD

- A.) In the event a just and equitable result cannot be obtained under the formula, the Administrator, upon his own initiative, or upon application of the taxpayer, may substitute other factors in the formula or prescribe other methods of allocating net income calculated to effect a fair and proper allocation.
- B.) Application by the taxpayer to the Administrator to substitute other factors in the formula or to use a different method to allocate net profits must be made, in writing, not less than sixty (60) days before the due date of the

annual return without regard to extension and shall state the specific grounds on which the substitution of factors or use of a different method is requested and the relief sought to be obtained. No specific form need be followed in making such application. If, pursuant to a taxpayer's request a substitute method of allocation is authorized by the Administrator, a statement should be attached to the annual return for the year of change describing such substitute method was authorized by the Administrator.

3:04 CHANGE OF METHOD

A change in a method of allocation should be described in a statement attached to the return for the year of change (see also Section 3:03 hereof).

3:05 RENTALS FROM REAL PROPERTY

- A.) Rentals received by the taxpayer are to be included in the computation of net profits from business activities only if, and to the extent that, the rental, ownership, management or operation of the real estate from which such rentals are derived (whether so rented, managed or operated by the taxpayer individually or through agents or other representatives) constitutes a business activity of the taxpayer in whole or in part.
- B.) Where the gross monthly rental of any real properties, regardless of number and value, aggregate in excess of (\$250.00), it shall be prima facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer and the net income of such rental properties shall be subject to tax; provided that in the case of commercial property, the owners shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds (\$250.00); provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in the crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds (\$250.00); and provided, further, that the person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds (\$250.00).
- C.) In determining the amount of gross monthly rental of any real property, periods during which rentals are not received shall not be taken into consideration by the taxpayer.
EXAMPLE: Property located in Cleveland Heights rents for \$275.00 per month. In 1985, the property was rented for ten months; hence the average monthly rental would be \$229.16.

The relevant test is the amount of the gross monthly rent while the property is being rented which, in this case, is \$275.00.

- D.) Rental received by a taxpayer engaged in the business of buying or selling real estate shall always be considered as part of business income.
- E.) In determining the taxable income from rentals, the deductible expenses shall be of the same nature, extent and amount as are allowed by the Internal Revenue Service for Federal Income Tax purposes.
- F.) Owners of rental property who are non-residents of the City of Cleveland Heights, whether individuals or business entities, are subject to tax only on the income from real property located in the City of Cleveland Heights and, in determining whether gross monthly rentals exceed the rental rate (\$250.00) of the City of Cleveland Heights, only the income from such properties located within the City of Cleveland Heights shall be considered.
- G.) Owners of rental property who are residents of the City of Cleveland Heights are subject to tax on the net income from rentals (to the extent above specified) regardless of the location of the real property owned excepting that, if any such property is located in and subject to a municipal income tax by another taxing municipality, credit shall be claimed in accordance with Chapter 7:00 hereof.
- H.) Owners of rental property who are not residents of the City of Cleveland Heights may offset net losses against net profits only between rental properties located in the City of Cleveland Heights.
- I.) Corporations owning or managing real estate are taxable only on the portions of income derived from property located in the City of Cleveland Heights.
- J.) Any resident or non-resident receiving rental income from commercial property, farm property, or a licensed rooming house irrespective of the rental amount limitations (\$250.00), must file a return whether or not there is any tax due.

3:06 OPERATING LOSS CARRY FORWARD

- A.) The portion of a net operating loss, based on income taxable under the Ordinance sustained in any taxable year subsequent to the effective date of the Ordinance and allocable to the City of Cleveland Heights, may be applied against the portion of the profit of succeeding year(s) allocable to the City of Cleveland Heights until exhausted, but in no event, for more than five (5) taxable years. No portion of a net operating loss shall be carried back against net profits of any prior year.
- B.) In the event net profits are allocated both within and without this municipality, the portion of a net operating loss sustained shall be allocated to the

City of Cleveland Heights in the same manner as provided herein for allocating net profits to the City of Cleveland Heights. The portion of a net operating loss to be carried forward shall be determined in the year the net operating loss is sustained on the basis of the allocation factors applicable to that year.

- C.) In the case of fiscal years beginning prior to the effective date of the Ordinance, the net operating loss deduction will be that portion of the operating loss that the number of days of the fiscal year after the effective date of the Ordinance bears to the total number of days in such fiscal year, except when actual figures are available.
- D.) A short taxable year (a fiscal year of less than twelve (12) months) shall be considered a full taxable year for purposes of this section.
- E.) In any return in which a net operating loss deduction is claimed, a schedule should be attached showing:
 - 1.) Year in which net operating loss was sustained;
 - 2.) Method of accounting and allocation used to determine the portion of net operating loss allocable to the City of Cleveland Heights;
 - 3.) Amount of net operating loss used as a deduction in prior years;
 - 4.) Amount of net operating loss claimed as a deduction in current year.
- F.) The net operating loss of a business which loses its identity through merger, consolidation, etc., shall be allowed as a carry forward loss deduction to the surviving business entity to the extent permitted by the Internal Revenue Code.
- G.) In the case of a net operating loss in the filing of consolidated return, see Section 5:04 hereof.

**CHAPTER 4:00
EXEMPTIONS
(SOURCES OF INCOME NOT TAXED)**

4:01 INCOME OF MEMBERS OF ARMED FORCES AND CERTAIN INSTITUTIONS

- A.) All military pay and allowances of any member of the armed forces of the United States are exempt from the tax imposed by the Ordinance. This exemption includes not only the military pay and allowances received by the member himself, but also the military pay and allowances, such as depen-

gency allowances, received by another person by reason of the member's service.

- B.) The income of religious, fraternal, scientific, literary or educational institutions is exempt from the tax imposed by the Ordinance only to the extent that such income is derived from tax exempt real estate, tax exempt intangible property or tax exempt activities.

4:02 PAYMENTS FROM GOVERNMENTS AND CERTAIN ORGANIZATIONS

Poor relief, unemployment insurance benefits, old age pensions or similar payments, including disability benefits received from local, state or Federal governments or charitable, religious or educational organizations are exempt from the tax imposed by the Ordinance. The exempted benefits include all types of payments and allowances made or given by such government and organizations for the relief or correction of poverty, unemployment, delinquency, problems of health or advanced age, lack of education and similar problems. The exempted benefits include, for example: aid to dependent children and the aged; rent, food and clothing allowances or subsidies; job training allowances; Social Security and Medicare benefits; and Workmen's Compensation benefits.

4:03 INSURANCE AND ANNUITY PROCEEDS, CERTAIN EMPLOYEE BENEFITS AND GIFTS

Proceeds of insurance paid by reason of the death of the insured, gratuities not in the nature of compensation for services rendered, pensions, disability benefits (not under a wage continuation plan), retirement benefits and annuities are exempt from the tax imposed by the Ordinance, irrespective of the source from which derived. The exemption includes gifts and inheritances. Disability benefits include the proceeds of health and accident insurance and similar benefits. Pensions, retirement benefits, annuities and similar payments made to an employee or to the beneficiary of an employee under a retirement program or plan (whether formal or informal) after termination of employment are exempt from the tax; however, supplemental unemployment benefits are not exempt from taxation.

4:04 RECEIPTS OF CERTAIN ORGANIZATION AND ASSOCIATIONS

Receipts from seasonal or casual entertainment, amusements, sport events and health and welfare activities, when any such conducted by charitable, religious or educational organization or associations are exempt from the tax imposed by the Ordinance. This exemption refers only to the receipts of the organization and not to the compensation of employees and entertainers.

4:05 ALIMONY

Alimony received is exempted from the tax imposed by the Ordinance. Support payments made by one spouse for the benefit of the other spouse or children in connection with any divorce or separation, whether or not awarded by the courts, shall be deemed alimony for the purposes of this exemption.

4:06 MINORS

Personal earnings of any natural person under eighteen (18) years of age are exempt from the tax imposed by the Ordinance.

4:07 PERSONAL INJURIES AND DAMAGE TO PROPERTY

Compensation for personal injuries or for damages to property by way of insurance or otherwise is exempt from the tax imposed by the Ordinance.

4:08 INCOME FROM INTANGIBLES

Interest, dividends, gains and other revenue from intangible property are exempt from the tax imposed by the Ordinance.

Intangible property includes:

- a.) Shares of stock in corporations;
- b.) Interest bearing obligations (notes, bonds and savings accounts)
- c.) Annuities;
- d.) Patents and copyrights; and
- e.) Qualified stock options.

4:09 INVOLUNTARY CONVERSIONS AND OTHER EXEMPTIONS

Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations, items of income already taxed by the State of Ohio which the City of Cleveland Heights is specifically prohibited from taxing and income of a decedent's estate during the period of administration (except such income from the operation of a business), are exempt from the tax imposed by the Ordinance.

4:10 TAXATION PROHIBITED BY FEDERAL GOVERNMENT

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

4:11 TAXATION PROHIBITED BY STATE OF OHIO

Salaries, wages, commissions, other compensation and net profits, the taxation of which is prohibited by the Constitution of the State of Ohio or any act of the Ohio General Assembly limiting the power of the City of Cleveland Heights to impose net income taxes, are exempt from the tax imposed by the Ordinance and include:

- a.) Third party sick pay.
- b.) Group life insurance premiums paid by employer in excess of \$50,000.00.

4:12 The examples set forth in this Chapter are not all inclusive.

**CHAPTER 5:00
RETURNS**

5:01 RETURNS AND REQUIREMENTS

A.) ANNUAL RETURN REQUIREMENTS

Each taxpayer whether an individual, corporation or unincorporated business entity, subject to the provisions of Sections 2:01 through 2:06 of the Regulations, shall file a return or returns, as necessary, setting forth the aggregate amount of salaries, wages, commissions and other personal service compensation; net profits from business or other activities, including the rental from use of real and personal property; and other income taxable under the Ordinance for the period covered by the return or returns and other pertinent facts and information.

B.) WHO NEED NOT FILE AN ANNUAL RETURN

- 1.) Any person having no taxable income may file an Annual Declaration of Exemption in lieu of an Annual Report.

Any person who has retired and does not reasonably expect to receive taxable income in the future may request that the Administrator waive the requirement to file an Annual Return or an Annual Declaration of exemption.

No natural person who has not reached their 18th birthday shall be required to file an Annual Declaration of exemption. (Amended 3/4/96)

- 2.) A non-resident individual of a member municipality who is employed in the City of Cleveland Heights and withheld at the source equal to the existing tax rate of (2%) need not file an Annual Return as set forth in Section 5:01(A) of these Regulations.

C.) DATES AND REQUIREMENTS FOR ANNUAL RETURNS

Except as provided in Section 5:01(B) on or before April 15th of the year following the effective date of the Ordinance and on or before March 15th if the taxpayer wishes the City of Cleveland Heights to compute their tax and on or before April 15th of March 15th of each year thereafter, each taxpayer, whether an individual, corporation or unincorporated business entity subject to the provisions of Section 2:01 through 2:06 of these Regulations, must make and file with the Administrator a return on a form prescribed by and obtainable upon request from the Administrator whether or not a tax is due.

D.) FISCAL YEAR ACCOUNT

If the Annual Return is made for a fiscal year or any period less than a year, said return shall be made by the 15th day of the fourth (4th) month after the end of each fiscal year or other period.

E.) DECLARATION OF ESTIMATED TAX RETURN

Except as provided in Section 5:01(F), on or before April 15th of the year following the effective date of the Ordinance and on or before April 15th of each year thereafter, each taxpayer, whether an individual, corporation or unincorporated business entity subject to the provisions of Sections 2:01 through 2:06 of these Regulations, must make and file with the Administrator an Estimated Tax Return. If an estimate is not filed, an estimate may be filed by the Administrator if there is reason to believe an estimate will be owed.

F.) TAXPAYERS WHO NEED NOT FILE AN ESTIMATED TAX RETURN

- 1.) A taxpayer, who resides in the City of Cleveland Heights and who is employed exclusively within the City of Cleveland Heights and withheld at the source equal to the existing tax rate of the City of Cleveland Heights on all taxable income, need not file an Estimated Tax Return as set forth in Section 5:01(E) of these Regulations.
- 2.) A taxpayer, who has no taxable income (see Sections 4:01 through 4:12 of these Regulations), need not file an Estimated Tax Return as set forth in Section 5:01(E) of these Regulations.
- 3.) A non-resident, who is employed in the City of Cleveland Heights and withheld at the source equal to the existing tax rate of the City of Cleveland Heights need not file an Estimated Tax Return as set forth in Section 5:01(E) of these Regulations.

- 4.) A taxpayer, who has an estimated tax of \$100.00 or less for the taxable year, need not file an Estimated Tax Return. (Amended 3/4/96)

G.) NON-REIMBURSED BUSINESS AND MOVING EXPENSES

An individual taxpayer who is permitted for Federal Income Tax purposes to deduct certain business expenses from gross wages, salaries or commissions (I.R.C. Section 62), may file a copy of Federal Income Tax Form 2106 or an itemized statement of expenses with his municipal tax return. Expenses attributable to moving that are deductible for Federal tax purposes may be deducted if incurred after residency has been established or, if reimbursement was included in W-2 and the total reimbursement was included as involved income while a resident of the City of Cleveland Heights. (Amended 3/4/96)

H.) RESIDENT COMBINED RETURN

An individual taxpayer residing in the City of Cleveland Heights who has taxable compensation (salary, wages, etc.) and who also has a distributive share of net profit or loss from an unincorporated business entity or total ownership of an unincorporated business entity, the net profit of which is wholly or partly subject to taxation by the City of Cleveland Heights (or would be so subject if net profits existed), must report the taxable compensation and business net profit or loss on the same return. However, whether or not such compensation and net profit or loss are combined on one return, the following rules are to be applied:

- 1.) There is to be no offset of business losses against wages and other employee compensation;
- 2.) In computing the tax on unincorporated business entities:
 - a.) a business loss may be offset against business net profit in the same municipality; and
 - b.) a business loss in one municipality may not be offset against business net profits in another municipality; and
 - c.) for the City of Cleveland Heights tax, a business loss in a non-taxing municipality may offset net profits in the City of Cleveland Heights and, alternatively, net profits in a non-taxing municipality may offset a business loss in the City of Cleveland Heights.
 - d.) for the City of Cleveland Heights tax, income shall include the aggregate of all business losses and gains in all other taxing municipalities in which it operates.

I.) JOINT FILING

A husband and wife may file, in any tax year, a joint tax return.

Husband and wife are liable jointly and severally for payment of the tax associated with the joint return. A husband and wife's tax return shall be deemed a joint return whenever the facts indicate that the taxpayers intended to have the filed tax return be a joint return. Conclusive indications of such intention include when the husband and wife both signed the tax return, when the return reports both spouses' income or when the husband and wife were both required to file tax returns but only one spouse filed a tax return.

J.) PARTNERSHIPS AND OTHER UNINCORPORATED BUSINESSES

The tax is on the partnership or other unincorporated business as an entity, whether resident or non-resident, and a return is required disclosing the net profits allocable to the City of Cleveland Heights and the tax paid thereon (see Sections 2:03 and 2:04 of these Regulations.) In addition, any resident partner or member of any unincorporated entity is required to make a return and pay the tax on income allocable outside the City of Cleveland Heights in accordance with Sections 2:03(E) and 2:04(D) hereof.

K.) FIDUCIARY RETURNS

Trustees of trusts and executors and administrators of estates having income taxable under the Ordinance are required to file returns and pay the tax thereon (see also Section 5:01(J) of these Regulations).

5:02 INFORMATION REQUIRED AND RECONCILIATION WITH FEDERAL RETURNS FOR INDIVIDUALS OR BUSINESSES

A.) INFORMATION

In returns filed hereunder, there shall be set forth the aggregate amount of salaries, wages, bonuses, incentive payments, commissions, fees and other compensation subject to the tax earned from each employer, taxable net profits, and other pertinent information as the Administrator may require.

B.) ITEMS NOT TAXABLE OR DEDUCTIBLE

Where figures of total income, total deductions and net profits are included as shown by a Federal Return, then any items of income as are not subject to municipal income tax and unallowable expenses shall be eliminated in determining net income subject to municipal income tax. The fact that any

taxpayer is not required to file a Federal Income Tax Return does not relieve him from filing a Municipal Income Tax Return.

C.) CHANGES ON RETURN

- 1.) If a change in Federal Income Tax liability as finally determined by the Federal Internal Revenue Service or by judicial decision results in an additional amount of tax payable to the City of Cleveland Heights, a report of such change shall be filed by the taxpayer within three (3) months from the final determination of Federal tax liability (see Section 5:06 hereof.)
- 2.) If a change in Federal Income Tax liability results in a reduction of taxes owed and paid to the City of Cleveland Heights, a claim for refund shall be filed with the Administrator as prescribed in Sections 5:06 and 9:02 of these Regulations.

5:03 EXTENSIONS

A.) REQUESTS

All extension requests must be made on or before the date for filing the return and, for good cause shown, the Administrator may extend the time for filing such returns for a period not to exceed six (6) months or one (1) month beyond any extension granted by the Federal Internal Revenue Service. Upon receipt of a copy of any extension granted by the Internal Revenue Service within this guideline, an extension shall be automatically granted by the Administrator.

B.) AUTOMATIC

In cases where an automatic four (4) month extension (Form 4868) has been granted by the Internal Revenue Service, an automatic extension is granted by the Administrator with written request. A copy of the Form 4868 must be attached to the return when filed. However, should any tax owing be anticipated, the provisions of Paragraph C must be met.

C.) PAYMENT REQUIREMENT

In cases where a balance is due on such annual return, one half (½) of the estimated balance is due at the time the extension is filed. No penalty or interest will be assessed in those cases in which the return is filed and the final tax paid within the period as extended, provided all other filing and payment requirements of the Ordinance have been met (see Section 6:04).

D.) SUPPLEMENTAL DOCUMENTS

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

5:04 CONSOLIDATED RETURNS

A.) GENERAL

The filing of consolidated returns shall be limited to corporations filing Estimated Net Profit Returns and Annual Net Profit Returns.

B.) WHO MAY FILE A CONSOLIDATED RETURN

Consolidated returns may be filed by a group of corporations who are affiliated through stock ownership and who join in the filing of a Federal Consolidated Income Tax return. A consolidated return must include all subsidiaries which are includable members of an "affiliated group" as defined in the Federal Consolidated Return Regulation.

C.) DISCONTINUING FILING CONSOLIDATED RETURNS

When a consolidated return has been filed for any taxable year, the consolidated group must continue to file consolidated returns in subsequent years unless:

- 1.) Permission in writing is granted by the Administrator to file separate returns; or
- 2.) The affiliated group terminates in such manner that a Federal Consolidated Income Tax Return is no longer required; or
- 3.) Permission in writing has been granted by the Commissioner of Internal Revenue to discontinue filing a Federal Consolidated Income Tax Return.

D.) CORPORATION ENTERING OR LEAVING AN AFFILIATED GROUP

If a corporation becomes a member of the affiliated group during the taxable year, or if a corporation ceases to be a member of the affiliated group during that taxable year, the consolidated return must include the income of each subsidiary for the portion of the year during which it was a member of the affiliated group as computed in accordance with the Federal Consolidated Return Regulations.

E.) ALLOCATION FRACTIONS

In determining the allocation fraction where a corporation becomes a member of the group, or ceases to be a member of the group during the taxable year, the property fraction shall be determined on the basis of the average net book value of the property during the period such corporation was a member of the group. The rental portion of the fraction, however, shall be computed at eight (8) times the rent during this period. The gross receipt and wage fractions shall be based upon actual figures.

F.) COMMON CONSENT

All subsidiary corporations must agree in writing to the filing of the consolidated return. They will be liable jointly and severally for the tax as will be the parent corporation. The consent to file a consolidated return must be filed with the initial consolidated return on or before the due date for filing, including extensions of time within which to file the return.

G.) LOSS CARRY-OVER LIMITATIONS

The net operating loss carry-over of a corporation which filed a separate return in a prior year may be carried over to a consolidated return year in the same manner permitted by the Internal Revenue Code. For the purposes of this rule to the extent that the loss can only be carried forward to the same corporation's taxable net income, the net income attributable to the City of Cleveland Heights in a year a loss is being utilized shall be computed by using only the same corporation's net income and allocation methods.

H.) COMPUTING NET INCOME

In consolidating the net income, the taxable income of each corporation shall be computed in accordance with the provisions governing the taxable income of separate corporations except that unrealized profits and losses in transactions between members of the affiliated group shall be eliminated in the same manner and amount as computed in accordance with the Federal Consolidated Income Tax Return Regulations.

I.) NON-DEDUCTIBLE EXPENSE RULE

In determining expenses that are not allowable because they are allocable to non-taxable income, such calculations shall be based on the consolidated net income.

5:05 ALLOCATION OF NET PROFITS BY ADMINISTRATOR

In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates, or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within a member taxing municipality constituting a portion only of its total business, the Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to said taxing municipality. If the Administrator finds that net profits are not properly allocated to said taxing municipality by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates, or transactions with such division, branch, factory, office, laboratory or activity, or by some other method, he shall make such allocation as he deems appropriate to produce a fair and proper allocation of net profits.

5:06 AMENDED RETURNS

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 or limitations contained in the Ordinance. Such return shall be clearly marked "Amended". A taxpayer may not change the method of accounting or apportionment of the net profits after the due date for filing the original return. Amended Returns cannot be filed after three (3) years from original filing date.

**CHAPTER 6:00
PAYMENT OF TAX**

6:01 PAYMENT WITH ANNUAL RETURN

A.) AMOUNT DUE

The payment due at the time of filing the annual return shall be the amount of tax imposed by the Ordinance of the City of Cleveland Heights after deducting:

- 1.) The amount of said tax withheld (deducted at the source) by an employer or employers pursuant to the Section of the City of Cleveland Heights Ordinance entitled "Collection at the Source";
- 2.) Credit for any tax paid or due another taxing municipality in accordance with Section 7:01 of these Regulations; and
- 3.) The amount of said tax paid on a Declaration of Estimated Income Tax by individuals, or in the case of businesses, a Declaration of Estimated Tax on Net profits in accordance with the Section entitled "Re-

turns” of the Ordinance of the City of Cleveland Heights including any overpayments of previous years’ tax which have not been otherwise applied.

B.) AMOUNTS LESS THAN ONE DOLLAR

Payments less than One Dollar (\$1.00) should not be remitted and overpayments of less than One Dollar (\$1.00) will not be refunded or credited.

C.) OVERPAYMENT

Except as otherwise provided, should the return indicate an overpayment of tax to which the City of Cleveland Heights is entitled under the provisions of the City of Cleveland Heights Ordinance entitled “Refunds”, such overpayment shall be refunded or applied to the succeeding year’s tax liability in accordance with Section 9:02(B) of these Regulations.

6:02 COLLECTION AT SOURCE

A.) WITHHOLDING

It is the duty of each employer within or doing business within the City of Cleveland Heights who employs one or more persons on a salary, wage, commission or other compensation as defined elsewhere to deduct each time such compensation is paid to an employee, subject to the Ordinance, the tax (2%) from any such compensation due by said employer to said employee. Except as otherwise provided, the tax shall be deducted by the employer from:

- 1.) The gross amount of all salaries, bonuses, incentive payments, wages, commissions or other form of compensation paid to employees who are residents of the City of Cleveland Heights regardless of the place where the services are rendered.
- 2.) All compensation paid to employees who are non-residents of the City of Cleveland Heights for services rendered, work performed or other activities engaged in to earn such compensation within the City of Cleveland Heights.

B.) EMPLOYER RESPONSIBILITY

All employers within or doing business within the City of Cleveland Heights are required to make the collections and deductions in this Section specified, regardless of the fact that the services on account of which any particular deduction is required as to residents of the City of Cleveland Heights

were performed at a place of business of any such employer situated outside the City of Cleveland Heights.

C.) EMPLOYEE RESPONSIBILITY

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 (see Section 6:03(A) of these regulations).

D.) INDIVIDUALS NOT SUBJECT TO WITHHOLDING

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 the tax pursuant to the Section entitled "Payment of Tax" of the Ordinance of the City of Cleveland Heights.

E.) NON-RESIDENT EMPLOYEES

In the case of employees who are non-residents of the City of Cleveland Heights, the amount to be deducted and withheld is (2%) of the compensation paid with respect to personal services rendered in the City of Cleveland Heights.

Where a non-resident receives compensation for personal services rendered or performed partly within and partly outside the City of Cleveland Heights, the withholding employer shall deduct, withhold and remit the tax on the portion of the compensation which is earned within the City of Cleveland Heights in accordance with the following rules of apportionment:

- 1.) If the non-resident is a salesman, agent or other employee whose compensation on the basis of commissions 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 volume of business transacted by the employee within the City of Cleveland Heights bears to the volume of business transacted by him within and outside the City of Cleveland Heights.
- 2.) The deducting and withholding of personal services 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 and outside the City of Cleveland Heights bears to the total number of working days employed within and outside the City of Cleveland Heights.

- 3.) If it is impossible to apportion the earnings as provided above because of (a) the peculiar nature of the service of the employee or (b) the unusual basis of compensation, apportionment shall be made in accordance with the facts and the tax deducted and withheld accordingly. With respect to each such employee (or group of employees similarly or identically circumstanced), the employer shall furnish the Administrator with a detailed statement of facts.
- 4.) The occasional entry into the City of Cleveland Heights of a non-resident employee who performs the regular duties for which he is employed almost entirely, or entirely, outside the City of Cleveland Heights but also enters the City of Cleveland Heights for the purpose of reporting, receiving instructions, accounting, etc., incidental to his duties, shall not be deemed to take such employee out of the class of those rendering their services entirely outside the City of Cleveland Heights.
- 5.) In apportioning the earnings of an employee, an employer may accept the written reports of his employee as to any of the items set forth in (1), (2) and (3) above. However, the employer shall be responsible for any material error in an allocation as to employment with the City of Cleveland Heights.

F.) DRAWS AND ADVANCES

An employer shall withhold the tax on the full amount of any advances in the same manner as the employer withholds for Federal purposes.

G.) EXPENSES

An employer required to withhold the tax on compensation paid to an employee shall, in determining the amount on which the tax is to be withheld, ignore any amount allowed and paid to the employee for expenses necessarily and actually incurred by the employee in the actual performance of his services, provided such expenses are incurred in earning compensation, including commissions, and are not deducted as a business expense by the employee (other than as an offset to an advance or reimbursement).

H.) WITHHOLDING ON RESIDENTS

Except as herein provided, an employer within or doing business within the City of Cleveland Heights is required to withhold the tax of (2%) from the compensation paid to residents of the City of Cleveland Heights regardless of where the services compensated for were performed. Any employer who employs a resident of the City of Cleveland Heights in another taxing mu-

municipality, which employer is subject to the withholding provisions of both Ordinances, shall withhold and remit tax as follows:

1.) SAME TAX RATE

If the rate of tax levied by the other taxing municipality is the same as imposed by the City of Cleveland Heights Ordinance (2%), the employer shall withhold the tax on the entire wage earned by such resident of the City of Cleveland Heights and shall remit to such other taxing municipality the appropriate amount of tax due that municipality on the wages earned by such resident of the City of Cleveland Heights in such other taxing municipality, remitting to the City of Cleveland Heights only the balance, if any, of the tax withheld.

2.) LOWER TAX RATE

If the rate of tax levied by the other taxing municipality is less than the rate imposed by the Ordinance of the City of Cleveland Heights, such employer shall withhold tax (2%) on the entire wage earned by such resident of the City of Cleveland Heights and shall remit to the other taxing municipality only the tax imposed by the Ordinance of such other taxing municipality on the income earned therein by such resident of the City of Cleveland Heights and shall remit to the City of Cleveland Heights only the balance of the tax withheld.

3.) HIGHER TAX RATE

If the rate of tax levied by the other taxing municipality is at a higher rate than imposed by the Ordinance of the City of Cleveland Heights, such employer shall withhold and remit to such other taxing municipality its full rate of tax on compensation earned therein by such resident of the City of Cleveland Heights, remitting to the City of Cleveland Heights only the tax withheld on wages earned other than in such higher rate taxing municipality.

4.) GENERAL

The foregoing provisions are conditioned upon the employer's advising the respective cities in which the employer is subject to the withholding provisions of the amount of salaries, wages or compensation earned within such cities, such information to be incorporated in a form approved by the Administrator.

I.) EMPLOYEE ADDRESS RECORDS

An employer whose records show that an employee is a non-resident of the City of Cleveland Heights and who has no knowledge to the contrary, shall be relieved of the responsibility of withholding the tax on personal service compensation paid to such employee for services rendered or work done outside that City of Cleveland Heights by such employer provided, however, that such employer otherwise subject to withholding must withhold the tax on compensation paid such employee after the Administrator notifies said employer, in writing, that such employee is a resident of the City of Cleveland Heights. All employees are required to notify the employer of any change of residence and the date thereof.

J.) DOMESTIC HELP

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

6:03 COLLECTION AT SOURCE - RETURN AND PAYMENT OF TAX WITHHELD AND STATUS OF EMPLOYERS

A.) MANAGER'S OBLIGATION

- 1.) Every manager is deemed to be a trustee of the City of Cleveland Heights in collecting and holding the tax required under ordinance to be withheld, and the funds so collected by such withholding are deemed to be trust funds.

Every manager is liable directly to the City of Cleveland Heights for payment of such trust, whether actually collected by such employer or not. Any tax deducted and withheld is to be considered paid to the City of Cleveland Heights, whether or not the employer actually remits the tax to the City of Cleveland Heights for purposes of determining employee payments or credits.

- 2.) All managers shall be personally liable to the extent of the tax, interest and penalty, jointly and severally, for failure to file the employer's return or to pay the employer's tax, interest and penalty as required under this ordinance.
- 3.) No change in structure by an employer, including a fundamental change, discharges its managers from liability for the employees' or manager's failure to remit funds held in trust, to file a tax return or to pay taxes.

B.) DATES AND REQUIREMENTS

Any tax deductions from salaries, wages and other compensation required to be made by employers are to begin with compensation earned on and after the effective date of the Income Tax Ordinance of the City of Cleveland Heights.

- 1.) Such payment shall be made on an Employer's Municipal Tax withholding Statement (Form W-1) furnished by or obtainable upon request from the Administrator, setting forth the amount of tax deducted for the month. The copy of the Employer's Municipal Tax Withholding Statement (Form W-1) marked "Taxpayer's Copy" will be retained by the employer for his records. If validation of the "Taxpayer's Copy" is deemed necessary by the employer, the employer must enclose a stamped, self-addressed envelope with his remittance and both parts of the Employer's Municipal Tax Withholding Statement.
- 2.) The employer (in addition to any return required to be filed with respect to his own earnings or net profits) shall, on or before the last day of each month, make a return (Employer's Municipal Tax Withholding Statement, Form W-1) and pay to the Administrator the amount of taxes so deducted or withheld with respect to compensation paid to all of his employees subject to the tax under the Ordinance of the City of Cleveland Heights during the previous month, except as provided in the following paragraph:

If the amount of tax so deducted by an employer for the City of Cleveland Heights in any one month is less than \$100.00, the employer may defer the filing of a return and payment of the amount deducted until the last day of the month following the end of the calendar quarter in which such month occurred.

The return (Employer's Municipal Tax Withholding Statement, Form W-1) required to be filed under this Section shall be made on the form furnished by or obtainable from the Administrator.

- 3.) All tax so withheld and so required to be reported must be paid to the Administrator in full at the time of filing of such form.

C.) OVER-WITHHOLDING

If more than the amount of tax required to be deducted by the Ordinance is withheld from an employee's pay, such excess may be refunded by the employer or the Administrator depending upon the circumstances and the time when the over-withholding is determined as follows:

Current Employees:

- 1.) If the over-withholding is discovered in the same month, the employer shall make the necessary adjustment directly with the employee and the amount to be reported on the Employer's Municipal Tax Withholding Statement (Form W-1) as withheld shall be the corrected amount.
- 2.) If the over-withholding is discovered in a subsequent month of the same calendar year, the employer may make proper adjustment with the employee. In such case, the Employer's Municipal Tax Withholding Statement (Form W-1) for the month in which the adjustment is made shall reflect the total amount actually withheld for the month and the amount of the adjustment deducted therefrom.
- 3.) If the over-withholding is discovered in a subsequent month of the following calendar year, the employee must make and file a request for refund. This request is to be filed on a form prescribed by and obtainable from the Administrator.

Former Employees

- 1.) In the cases where an amount in excess of the tax has been withheld from an employee who is no longer employed by the employer, the Administrator shall refund the amount of such excess withholding to the employer.
- 2.) If the error is discovered by the employee, such employee shall file a claim with the Administrator and upon verification thereof by the employer, the Administrator shall refund the amount of such excess withholding to the employee.

D.) INSUFFICIENT WITHHOLDING

If less than the amount of tax required to be deducted is withheld from the employee and is discovered in the same year, such deficiency shall be withheld from subsequent wages. If the employee-employer relationship has terminated, or if the under-withholding is discovered in later year and the employee-employer relationship still exists, the employer shall notify the Administrator of such deficiency and the reason therefore and payment shall be made by the employer in conformity with Section 6:02 of these Regulations.

E.) ANNUAL RECONCILIATION

On or before February 28th following any calendar year in which such deductions have been made by any employer, such employer shall file with the Administrator, in the form prescribed by the Administrator an information return for each employee from whom municipal income tax has been withheld showing the name, address and social security number of the employee, the total amount of taxable compensation paid during the year and the amount of municipal income tax withheld for the City of Cleveland Heights from each employee.

F.) RECONCILIATION RETURN

In addition to such information returns and at the time the same are filed, such employer shall file with the Administrator Form W-7 to enable the Administrator to reconcile the sum total of taxes withheld as disclosed by the total W-2 Forms or lists of employees. The Form W-7 shall also reconcile to prior remittances and returns filed by the employer for such tax year with respect to taxes withheld.

G.) TYPES OF RECONCILIATION

The information return covered under Section 6:03(E) shall be made in one of two (2) ways at the election of each employer as follows:

- 1.) Those employees using Form W-2 furnished commercially may submit a copy of such commercial W-2 providing the copy furnished to the City of Cleveland Heights clearly shows the information required in Section 6:03(E).
- 2.) Where the furnishing of this information as above indicated will create a distinct hardship, the employer, upon written request to the Administrator, may be permitted to furnish a list of all employees subject to the tax, which list shall show the employee's full name, last known address, social security number, gross amount of taxable compensation paid during the year and the amount of municipal income tax withheld for the City of Cleveland Heights.

6:04 DATES OF PAYMENTS OF ESTIMATED TAX

- A.) The estimated tax may be paid in full with the Declaration of Estimated Tax or in equal installments on or before the 15th day of the fourth, seventh and tenth months of the taxable year and the 15th day of the first month of the year following the taxable year. Payments made on all billing statements become due on the 15th on the month after issuance of the bill, regardless of the quarter ending date.

- B.) When filing a Declaration of Estimated Tax (Form I-2) or a Declaration of Estimated Net Profits (Form N-2), the return must be accompanied by at least one-fourth (1/4) of the estimated tax due thereon.
- C.) In the event an Amended Declaration of Estimated Tax has been filed, the unpaid balance shown due thereon shall be paid in equal installments over the remaining payment dates.
- D.) If the total estimated tax for the current year amounts to not more than \$100.00, no payment of estimated tax is required.

6:05 FINAL RETURNS REQUIRED

The filing of a Declaration of Estimated Tax does not relieve the taxpayer of the obligation of filing a final return, even though there is no change in the declared tax liability. A final return must be filed to obtain a refund of any overpayment of over One Dollar (\$1.00).

The taxpayer may elect to file an annual return and pay the tax shown due thereon on or before the last day of the first month of the year following the taxable year for which such Declaration was filed. An annual return so filed and payment so made shall be in lieu of filing the final Declaration of Estimated Tax and payment of the final quarterly installment.

6:06 LIABILITY FOR EMPLOYER'S TAXES

If any employer which is liable for tax, interest and penalty imposed by this ordinance undergoes a fundamental change, then the employer and its manager shall be liable for taxes, interest and penalty due to the date of the fundamental change. Taxes and final tax returns shall be due immediately after the fundamental change. Any successor employer shall withhold from any purchase price that the successor owes to the predecessor an amount sufficient to pay all unpaid taxes, interest and penalty which the predecessor employer owes pursuant to this ordinance. The successor employer shall make such withholding until such time that the predecessor employer has paid such taxes, interest and penalties. If the successor fails to withhold said amount, then the successor and, in a personal manner, the successor's manager shall be jointly and severally liable for the payment of said taxes, interest and penalty.

6:07 PAYMENTS TOWARD MULTIPLE DEBTS

If any taxpayer or other debtor owes multiple debts and makes any single, partial payment to the City of Cleveland Heights with respect to such debts, this municipality shall apply such payment in accordance with the debtor's directions.

Otherwise, the City of Cleveland Heights shall apply partial payments to the taxpayer's oldest unpaid tax debt, then to his oldest penalty debt, and then to his interest debt.

6:08 PAYMENTS OF CURRENCY

No more than ten coins of each denomination type and no more than ten bills of each denomination type shall be accepted from taxpayers in payment of municipal income tax debt.

CHAPTER 7:00 TAXPAYER RELIEF

7:01 TAX CREDIT

When taxable income (see Section 1:22 of these Regulations) of a resident of the City of Cleveland Heights is subject to a municipal income tax in another municipality on the same income taxable under the Ordinance, such resident shall be allowed a credit on the amount of income tax paid on such taxable income to such other municipality equal to 50% of the amount obtained by multiplying the lower of the tax rate of such other municipality or 1% (.01) by the taxable income earned in or attributable to the municipality of employment or business activity. For the purpose of this Chapter, taxable income shall also include the distributive share of net profits of a resident, partner or owner or an unincorporated business entity.

7:02 GENERAL

- A.) No credit will be given unless the taxpayer claims such credit on his return or other form prescribed by the Administrator and presents evidence of the payment of a similar tax to another municipality as the Administrator may require.
- B.) In the event a resident of the City of Cleveland Heights fails, neglects or refuses to file an annual return or declaration on a form prescribed by the Administrator, he shall not be entitled to such credit or refund and shall be considered in violation of this Chapter for failure to file a return.

**CHAPTER 8:00
INTEREST AND PENALTIES**

8:01 INTEREST

Except as provided in Sections 8:03 and 8:04 hereof, all taxes imposed and all monies withheld or required to be withheld by employers and all taxes required to be paid under the provisions of the Ordinance and remaining unpaid after they have become due, shall bear interest in addition to the amount of the unpaid tax, withholdings or installments of estimated tax at the rate of ten percent (10%) per annum.

8:02 PENALTIES

In addition to interest as provided in Chapter 8:01 hereof, penalties based on the unpaid tax are hereby imposed as follows:

- A.) For failure to pay taxes or estimated taxes due other than taxes withheld at the rate of twenty percent (20%) of unpaid tax.
- B.) For failure to remit taxes withheld from employees, ten percent (10%) per month or fraction thereof, not to exceed fifty percent (50%) of the tax amount not paid.
- C.) For underpaying estimated taxes there is a charge of twenty five dollars (\$25.00) when the sum of the amount of quarterly installment payments actually made and the amount of tax withheld for the current tax year liability of the City of Cleveland Heights totals less than 80% of the amount of tax due for the year as shown by the annual return. No penalty will be assessed for underpaying estimated taxes when the amount of quarterly installment made for payments in the current tax year is equal to or greater than the amount of tax paid for the immediate preceding year.

8:03 EXCEPTIONS

- A.) No penalty shall be assessed on additional taxes found on audit to be due when a return was timely filed in good faith and the tax paid thereon within the prescribed time.
- B.) In the absence of fraud, neither penalty or interest will be assessed on any additional taxes resulting from a Federal Audit for Federal Income Tax purposes provided an Amended Return is filed and the additional tax paid within three (3) months after final determination of the Federal tax liability.

- C.) A taxpayer or employer shall have thirty (30) days after receipt of notice of any proposed imposition of interest and penalties within which to file a written protest or explanation with the Administrator. If no protest or explanation is filed within the prescribed time, the proposed imposition of interest and penalty shall become and be the final assessment. Upon filing of a written protest or explanation, the Tax Administrator of the City of Cleveland Heights shall redetermine the assessment which may or may not be the same as the proposed assessment.

8:04 ABATEMENT OF PENALTY AND INTEREST

- A.) The Tax Administrator may abate penalty and/or interest for good cause shown. The following situations qualify as “good cause”.
 - 1.) Where the taxpayer moves into Cleveland Heights from an area where there has been no local income tax, and the taxpayer did not receive the new homeowners package containing information about the local income tax, the penalty will be abated upon full payment of the outstanding tax due. Interest will not be abated.
 - 2.) Where the taxpayer demonstrated that he/she was ready, willing, and able to pay but was required to delay payment at the request of the City while waiting for a bill or other administrative function to be completed, which delay caused the assessment of penalty and interest, both penalty and interest shall be abated up to the time.
 - 3.) Where a clerical error on the part of the City caused the assessment of penalty and/or interest, penalty and/or interest shall be abated.
 - 4.) Where the taxpayer requested an extension for filing an annual return and such extension was granted by the Administrator or his delegate and where the return is filed and the final tax paid within the period as extended, no penalty and interest shall be assessed (See 157.1103)
 - 5.) Where the Administrator or his delegate has extended the time for filing or making any payment as provided for in Section 157.1308 not to exceed six months, no penalty or interest shall be assessed if the return is filed and tax paid within the period as extended. Period of extension cannot exceed six months.
 - 6.) Where a special abatement of penalty and/or interest is offered as part of a city wide subpoena program to collect delinquent taxes and taxpayer pays all the tax when due, penalty and/or interest shall be abated as provided in the program.

- 7.) Where taxpayer has not been notified of a prior year's delinquency and in good faith thought all taxes are paid, no penalty and interest shall be charged for time up to notification - provided full payment of tax liability is made.
 - 8.) Where taxpayer timely files short form and billing is not timely made, no penalty and interest shall be applied for the period of time between timely filing and first billing. If payment is not timely made, penalty and interest (from payment due date onward) shall be assessed. (Amended 11/6/87)
- B.) Adjustments to the amount of penalty and/or interest charged, to correct an error in the original assessment of that penalty and/or interest, does not constitute an abatement of penalty and/or interest.

8:05 VIOLATIONS

- A.) Any person who shall:
- 1.) Fail, neglect or refuse to make any return or declaration required by the Ordinance; or
 - 2.) Make any incomplete, false or fraudulent return; or
 - 3.) Intentionally or willfully fail, neglect or refuse to pay the tax, penalties or interest imposed by the Ordinance; or
 - 4.) Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator; or
 - 5.) Refuse to permit the Administrator or any duly authorized agent or employee to examine his books, records, papers and Federal Income Tax Returns relating to the income or net profits of a taxpayer; or
 - 6.) Fail to appear before the Administrator and to produce his books, records, papers or Federal Income Tax Returns relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator; or
 - 7.) Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer; or
 - 8.) Fail to comply with the provisions of the Ordinance or any order or subpoena of the Administrator authorized thereby; or

- 9.) Give to an employer false information as to his true name, correct social security number and residence address or fail to promptly notify an employer of any change in residence address and date thereof; or
- 10.) Fail to use ordinary diligence in maintaining proper records of employee's residence and address, total wages paid and municipal tax withheld or to knowingly give the Administrator false information; or
- 11.) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this Ordinance is guilty of a misdemeanor;

and shall be fined not more than Five Hundred Dollars (\$500.00) or imprisoned not more than six months or both for each offense or otherwise punished pursuant to the pertinent municipal ordinance.

8:06 LIMITATIONS ON PROSECUTIONS

- A.) Civil actions to recover municipal income taxes, penalties and interest on municipal income taxes shall be brought within three (3) years after the tax was due or the return was filed, whichever is later.
- B.) Prosecutions under the Ordinance shall be commenced within three (3) 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 (25) percent or more of income required to be reported, prosecutions may be commenced within six (6) years after the commission of the offense.

8:07 FAILURE TO RECEIVE FORMS IS NO EXCUSE

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

8:08 BAD CHECKS

If any check or money order in payment of any amount receivable under this Chapter is not duly paid, in addition to any other penalties provided by law, there shall be paid as a service charge by the person who tendered such check, upon notice and demand by the Administrator, in the same manner as tax, an amount equal to Eighteen Dollars (\$18.00).

CHAPTER 9:00
COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS

9:01 UNPAID TAXES

- A.) All taxes imposed by the Ordinance and not paid when due become, together with interest and penalties thereon, a debt due the City of Cleveland Heights from the taxpayer and are recoverable as are other debts by civil suit. Employers who are required under Section 6:02 of these Regulations to withhold and remit the taxes required to be withheld and remit the taxes required to be withheld at the source and who fail to withhold and / or remit become liable to the City of Cleveland Heights in a civil action to enforce the payment of the debt created by such failure.
- B.) Civil action to recover municipal income taxes shall be brought within three (3) years after tax was due or the return was filed, whichever is later.
- C.) Prosecution for an offense made punishable under a municipal ordinance imposing an income tax shall be commenced within three (3) years after the commission of the offense provided that in the case of fraud, failure to file a return or omission of twenty-five percent (25%) or more of income required to be reported, prosecution may be commenced within six (6) years after the commission of the offense.

9:02 REFUNDS

- A.) Taxes erroneously paid shall not be refunded unless a claim for refund is made in writing within three (3) years from the date on which such payment was made or the return was due.
- B.) Overpayments will either be refunded or credited to the taxpayer's current year's liability at his option, except that where taxes are owed for any previous years, overpayments shall be applied in the order in which such taxes became due before any refund is made. Where no election has been made by the taxpayer, overpayments of any year's taxes shall be applied as follows:
 - 1.) To taxes owed for any previous years in the order in which such taxes became due.
 - 2.) To his current estimated tax liability (and any excess refunded).
- C.) Civil actions to recover refunds of municipal income taxes, penalties and interest on municipal income taxes shall be brought within three (3) years after the tax was due or the return was filed, whichever is later and must be brought after the taxpayer requests a refund in accordance with division (A).

CHAPTER 10:00
DISBURSEMENT OF RECEIPTS OF TAX COLLECTION

10:01 Refer to Ordinance 157.2101

CHAPTER 11:00
DUTIES AND AUTHORITY OF THE ADMINISTRATOR

11:01 COLLECTION OF TAX AND RECORDS

It shall be the duty of the Administrator to receive the tax imposed by the Ordinance in the manner prescribed herein from the taxpayers, to keep an accurate record thereof, and to report all monies so received.

11:02 DUTY TO ENFORCE COLLECTION

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

11:03 AUTHORITY TO MAKE AND ENFORCE REGULATIONS

- A.) The Administrator is charged with the administration and enforcement of the provisions of the Ordinance and is subject to the approval of the Board of Review of the City of Cleveland Heights empowered to adopt, promulgate and enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the Ordinance. The Administrator has the authority to correct or adjust any return submitted when a correction or adjustment is necessary to accomplish the intent of the Ordinance.
- B.) Any taxpayer or employer desiring a special ruling on any matter pertaining to the Ordinance or these Rules and Regulations should submit to the Administrator, in writing, all the facts involved and the ruling sought, who shall render his ruling on this matter which ruling may be appealed to the Board of Review of the City of Cleveland Heights.

11:04 AUTHORITY TO ARRANGE INSTALLMENT PAYMENTS

- A.) Except as provided in Section 6:03(B)[3] hereof, the Administrator is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments when the taxpayer has proven to the Ad-

ministrator that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under the Ordinance.

- B.) Failure to make any deferred payment when due shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Chapter 8:00 and 9:00 of the Regulations shall apply.

11:05 AUTHORITY TO DETERMINE AMOUNT OF TAX DUE

- A.) Preparation of return by Administrator - If any taxpayer fails to file a tax return which is required by the City of Cleveland Heights ordinance within the time prescribed therefore but consents to disclose all information necessary to the preparation thereof, then the Administrator may prepare such return which, after being signed by such person, may be received by the Administrator as the return of such person.
- B.) Execution of Return by Administrator - If any taxpayer fails to file a tax return which is required by the City of Cleveland Heights ordinances within the time prescribed therefore, or makes willfully or otherwise, a false or fraudulent return, then the Administrator shall make in a reasonable manner such return from his own knowledge and from such information as he can obtain throughout testimony or otherwise.
- C.) Assessment of a Taxpayer by Administrator - The Administrator may calculate and assess any taxpayer for the amount of tax, penalty and interest which is imposed by the City of Cleveland Heights ordinance and which is due and owing. Such assessment shall be made by the Administrator's issuing summary records to the last known address of the taxpayer of the assessment. This summary shall include the identification of the taxpayer, the character of the liability assessed, the taxation period, and the amount of the assessment.
- D.) Status of Executed Return and Assessments - Any return executed by or any assessment made by the Administrator pursuant to the City of Cleveland Heights ordinances shall be prima facie good and sufficient for all legal purposes. The Administrator may execute supplemental tax returns and may issue supplemental assessments whenever the Administrator has knowledge derived from any source including the taxpayer's financial data that any executed tax return or assessment is imperfect or incomplete in any material respect.
- E.) Limitation of Prosecutions - Neither the Tax Administrator's execution of a return nor the Tax Administrator's assessment of a taxpayer shall start the

running of the period of limitations on prosecutions set forth elsewhere in the City of Cleveland Heights ordinance.

11:06 AUTHORITY TO MAKE INVESTIGATIONS

- A.) The Administrator, or his duly authorized agent, is authorized to examine the books, papers, records and Federal Income Tax Returns of any employer, taxpayer or person subject to the Ordinance of the City of Cleveland Heights, or whom the Administrator believes is subject to the provisions of the Ordinance, for the purpose of verifying the accuracy of any return made, or if no return was made, to ascertain and determine the tax due under the Ordinance of the City of Cleveland Heights.

- B.) An employer or taxpayer shall furnish within fifteen (15) days following a written request by the Administrator, or his duly authorized agent, the means, facilities and opportunity for making examinations and investigations authorized by the Ordinance of the City of Cleveland Heights.

11:07 AUTHORITY TO COMPEL PRODUCTION OR RECORDS

- A.) The Administrator is authorized to order any person to appear before him and may examine such person, under oath, concerning any income which was or should have been returned for taxation or any transaction tending to affect such income. The Administrator may compel the production of books, papers and records and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of the facts concerning any supposed income or supposed transaction of the taxpayer.

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

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

- D.) Persons required to attend any hearings shall be notified not less than fifteen (15) days prior to the time of the hearing. The notice shall show the time and place of the hearing and what books, papers or records the witness is to make available at such hearing.

- E.) The notice shall be served by the Administrator, or his duly authorized agent, by delivering it to the person named personally or by leaving the notice at his usual place of business or residence or by mailing it to the person by regular mail, as evidenced by a properly completed Certificate of Mailing by regular mail, addressed to his usual place of business or residence.

11:08 REFUSAL TO PRODUCE RECORDS

Refusal by an employer, supposed employer, taxpayer or supposed taxpayer or the refusal of any such person to appear before the Administrator, or his duly authorized agent, to submit to such examination or to produce the records requested constitutes a misdemeanor punishable by fine or imprisonment, or both, as prescribed by Section 8:05 of the Regulations.

11:09 CONFIDENTIAL NATURE OF INFORMATION OBTAINED

- A.) Any information gained as a result of any returns, investigations, verifications or hearing before the Administrator or the Board of Review required by the Ordinance of the City of Cleveland Heights or authorized by these Rules and Regulations shall be confidential and no disclosure thereof shall be made except for official purposes or as ordered by a court of competent jurisdiction. Any person divulging such information shall be guilty of a misdemeanor punishable by a maximum fine of Five Hundred Dollars (\$500.00) or imprisonment for not more than six (6) months, or both. Each disclosure shall constitute a separate offense.
- B.) In addition to the above penalty, any employee of the City of Cleveland Heights who violates the provisions of this Chapter relative to the disclosure of confidential information, shall be guilty of an offense punishable by immediate dismissal.

11:10 RETENTION OF RECORDS

All employees and taxpayers are required to keep such records as will enable the filing of true and accurate returns whether of taxes withheld at the source or of taxes payable upon earnings or net profits, or both. Such records shall be preserved for a period of not less than five (5) years from the date the final return is filed or the withholding taxes are paid.

CHAPTER 12:00
BOARD OF REVIEW ESTABLISHED

12:01 COMPOSITION

A Board of Review consisting of (A) the City Manager, (B) the Director of Law and (C) the Chairman of the Council Committee having jurisdiction of the subject matter hereof or a member of that committee is hereby created. The Board shall select each year, for a one-year term, one of its members to serve as Chairman and one to serve as Secretary. A majority of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transaction. Any hearings by the Board may be conducted privately and the provisions of Section 11:09 hereof with reference to the confidential character of information required to be disclosed by the Ordinance shall apply to such matter as may be heard before the Board of Review on appeal.

12:02 DUTY TO APPROVE REGULATIONS AND TO HEAR APPEALS

All Rules and Regulations and amendments or changes thereto which are adopted by the Administrator under the authority conferred by the Ordinance must be approved by the Board of Review of the City of Cleveland Heights before the same becomes effective. The Board shall hear and pass on appeals from any ruling or decision of the Administrator and, at the request of the taxpayer or Administrator, is empowered to substitute an alternate method of allocation.

12:03 RIGHT OF APPEAL

- A.) An appeal from a ruling of the Administrator by a taxpayer or employer may be made by filing a written notice of appeal with the Board of the City of Cleveland Heights, in care of the Director of Law, within thirty (30) days after the announcement of the Administrator's ruling or decision from which the appeal is taken. A copy of such notice of appeal must be filed with the Administrator.
- B.) The Board, by a majority vote, may affirm or reverse, in whole or in part, any such ruling or decision of the Administrator.
- C.) Hearings before the Board shall be private unless the taxpayer requests a public hearing.

APPENDIX A

FORM W-1 - EMPLOYER'S MUNICIPAL TAX WITHHOLDING STATEMENT

Due on the last day of the month following withholding period.

A return used to report total taxable wages for a given period, along with the tax on such wages. Tax to be remitted with the form.

FORM W-7 - RECONCILIATION OF RETURNS

Due February 28.

A return used as a balance of all tax paid on Form W-1 for a given year. It is to be submitted along with I.R.S. Forms W-2.

FORM N-2 - DECLARATION OF ESTIMATED MUNICIPAL TAX ON NET PROFITS

Due 15th day of the fourth month after the end of the tax year.

A return used for the estimation of net profits at the beginning of each tax year. This return generates a billing statement for subsequent quarterly payments.

FORM N-7 - ANNUAL NET PROFIT TAX RETURN

Due 15th day of the fourth month after the end of the tax year.

A return used as the comprehensive annual tax report for a given tax year. It deals exclusively with net profits.

FORM I-2 - DECLARATION OF ESTIMATED INCOME TAX

Due April 15.

A return used by individuals to estimate their earned income and the estimated taxes on such earned income. This return generates a billing statement for subsequent quarterly payments.

FORM I-8 - ANNUAL INDIVIDUAL TAX RETURN (LONG FORM)

Due April 15.

A return, used as the comprehensive annual tax report of an individual for a given tax year. Wages, other compensation and unincorporated business income are to be filed on this return.

FORM I-7 - ANNUAL INDIVIDUAL TAX RETURN (SHORT FORM)

Due March 15.

A return, used as the annual tax report of an individual having only wage income for a given year.

This form is used by those who want the City to calculate the amount of tax due for them. Taxes must be paid by April 15.

APPLICATION FOR MUNICIPAL INCOME TAX REFUND

A return to be used by individuals for obtaining refunds on over-withholding or overpayment of taxes.

FORM I-6 - APPLICATION FOR AUTOMATIC EXTENSION

Due by original due date of return.

A form to be submitted when requesting an extension of time to file.

FORM E-6 - EXEMPTION CERTIFICATE

Due April 15.

A form to be submitted when claiming exemption from filing Forms I-8 or I-7.