

BY: MR. ROBINSON

An Ordinance revising and restating the rules and regulations pertaining to and supplementing the Ordinance which levies a tax to provide funds for the purpose of general municipal operations and other municipal purposes, on all salaries, wages, third party sick pay, commissions and other compensation earned by residents of the City of Mansfield; on all salaries, wages, third party sick pay, commissions and all other compensation earned by non-residents of the City of Mansfield for work done or services performed or rendered in the City of Mansfield; on the net profits earned on all business professions or other activities conducted by residents of the City of Mansfield; on the net profits earned on all businesses, professions, or other activities conducted in the City of Mansfield by non-residents and on the net profits earned by all corporations having an office or place of business in the City of Mansfield, as the result of work done or services performed or rendered in the City of Mansfield; requiring the filing of returns and furnishing of information by employers and all those subject to said tax; imposing on employers the duty of collecting the tax at the source and paying the same to the City of Mansfield; providing for the administration, collection and enforcement of said tax; declaring violation thereof to be a misdemeanor and imposing penalties therefor, and providing that this Ordinance shall be an emergency measure. (Containing all revisions through December 19, 1995.)

BE IT ORDAINED BY THE COUNCIL OF THE  
CITY OF MANSFIELD, STATE OF OHIO:

SECTION 1. That the Rules and Regulations for Income Tax (Chapter 191 of Codified Ordinances and Charter Article II) be, and the same are hereby, restated as follows:

MANSFIELD INCOME TAX  
RULES AND REGULATIONS

ARTICLE I - 1.

DEFINITIONS

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

- (a) "Taxpayer" - A person, whether an individual, partnership, limited partnership, corporation, association or other entity, required to file a return or to pay tax hereunder.
- (b) "Association" - A partnership, limited partnership, or any other form of unincorporated enterprise, owned by two or more persons.
- (c) "Business" - An enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, limited partnership, corporation, association or any other entity.
- (d) "Corporation" - A corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory, or foreign country or dependency.
- (e) "Employee" - An individual whose earnings are subject to the withholding of Federal Income Tax or Social Security Tax.

(f) “Employer” - An individual, partnership, limited partnership, association, corporation, governmental body, unit or agency, or any other entity who or that employs one or more persons on a salary, wage, third party sick pay, commission, or other compensation basis.

(g) “Net Profits” - The net gain from the operation of a business, profession or enterprise after provision for all costs and expenses incurred in the conduct thereof, including reasonable allowance for depreciation, depletion, amortization, and reasonable additions to Reserves for Bad Debts, either paid or accrued in accordance with recognized principles of accounting applicable to the method of accounting regularly employed, and without deduction of Federal Taxes based on income, without deducting taxes imposed by the ordinance and without deducting business losses of previous years.

(h) “Non-Resident” - An individual, partnership, limited partnership, corporation, association or other entity domiciled outside the City of Mansfield.

(i) “Person” - Every natural person, partnership, limited partnership, corporation, fiduciary or association. Whenever used in any clause prescribing and imposing a penalty, the term “person” as applied to an association, shall mean the partners or members thereof, and as applied to a corporation, the officers thereof.

(j) “Resident” - An individual, partnership, limited partnership, corporation, association, or other entity domiciled in the City of Mansfield.

(k) “Other Entity” - The term “other entity” means any person or unincorporated body not previously named or defined and includes, inter alia, fiduciaries located within the City of Mansfield.

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

(m) “In The City” - shall include all city owned lands not situated within the boundaries of another municipal corporation.

(n) “Other Compensation” - includes tips and gratuities.

(o) The term “place of business” means any bona fide office, (other than a mere statutory office), factory, warehouse, or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his regular employees regularly in attendance. A vehicle from which a sale or service is consummated or rendered while within the city shall be deemed a place of business. Any person having an answering service within the city for the purpose of promoting, negotiating, accepting, confirming, recording or otherwise consummating sales or services on behalf of such person shall be deemed to have a place of business within this city.

A taxpayer does not have a regular place of business outside Mansfield solely by consigning goods to an independent factor or contractor outside the city for sale.

(p) The term “Business Allocation Percentage”, as used in these Regulations, means the average percentage arrived at by applying the formula set forth in Section 191.02, sub-section (h) of the ordinance. The “Business Allocation Percentage” is the percentage which may be applied to determine the portion of the entire net profits of a taxpayer to be allocated as having been made within the City of Mansfield within the meaning of the provisions of said Section 191.02.

(q) The term “The Ordinance” or “This Ordinance” means Ordinance #70-533 enacted by the

Council of the City of Mansfield, on December 22, 1970 and any amended and as contained in the Mansfield Codified Ordinances.

## ARTICLE I - 2.

### COMMENCEMENT AND DURATION OF THE TAX

The tax imposed by the ordinance is effective as to income and profits earned or accruing on and after January 1, 1971, and payroll deductions must be made against all salaries, wages, third party sick pay, commissions, bonuses and other compensation earned or accruing on and after that date.

## ARTICLE II - 1.

### IMPOSITION OF TAX - RESIDENT EMPLOYEES

In the case of the residents of the City of Mansfield an annual tax is imposed on all salaries, wages, third party sick pay, commissions and other compensation earned or accrued on or after January 1, 1971. For the purpose of determining the tax on the earnings of the resident taxpayers, taxed under sub-section (a) of Section 191.02 of the tax ordinance, the source of the earnings and the place or places in or at which the services were rendered are immaterial. All such earnings, wherever earned or paid, are taxable.

The following are items which are subject to the tax:

(a) Salaries, wages, third party sick pay, commissions, bonuses, or incentive payments received by an individual, whether directly or through an agent and whether in cash or in property, for services rendered on and after January 1, 1971:

1. As an officer or employee, or both, of a corporation (including charitable and other non-profit corporations), joint stock association or joint stock company;
2. As an employee (as distinguished from a partner or member) of a partnership, limited partnership, or any other form of unincorporated enterprise owned by one or more persons;
3. As an employee (as distinguished from the proprietor) of a business, trade or profession conducted by an individual owner;
4. As an officer or employee (whether elected, appointed or commissioned) of a governmental administration, agency, arm, authority, board, body, branch, bureau, department, division, sub-division, section or unit of the State of Ohio or any of the political sub-divisions thereof;
5. As an officer or employee (whether elected, appointed or commissioned) of a governmental administration, agency, arm, authority, board, body, branch, bureau, department, division, sub-division, section or unit of the United States Government or of a corporation created and owned, or controlled by the United States Government or any of its agencies;
6. As an employee of any other entity or person.

(b) Salaries, wages, third party sick pay, commissions, bonuses, or incentive payments received by an individual, whether directly or through an agent and whether in cash or in property, for services rendered on and after January 1, 1971:

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

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

(c) Commissions received by a taxpayer whether directly or through an agent and whether in cash or in property, for services rendered on and after January 1, 1971, regardless of how computed, by whom or wheresoever paid.

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

Amounts received from an employer by way of expenses and not by way of compensation, and used as such by the individual receiving them, are not deemed to be compensation if the employer deducts such expense advances as such from his gross income for the purpose determining his net profits taxable under the Ordinance.

If such commissions are included in the net earnings of a trade, business, profession, enterprise, or activity regularly carried on by such individual and therefor subject to tax under sub-section C of Section 191.02 of the Ordinance, they shall not again be separately taxed. In such case, such net earnings shall be taxed as provided in Article II-9 of these Regulations.

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

(e) Domestic employees (encompassing all domestic care, i.e., elderly, children, personal, house, grounds, etc.) are subject to Mansfield Income Tax under this Ordinance but are not subject to withholding provisions. The resident employer shall submit name, address, social security number and gross amount paid to domestic employees working within the city.

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

1. Military pay or allowances of members of the Active Armed Forces of the United States.
2. Poor relief, pensions, social security, unemployment compensation (but not including supplemental unemployment compensation) and disability benefits received from private industry or local, state or federal governments, or from charitable, religious or educational organizations.
3. Alimony received.
4. Dues, contributions and similar payments received by charitable, religious, educational or literary organizations or labor unions, lodges and similar organizations.
5. Receipts from casual entertainment, amusements, sports events and health and welfare activities conducted by bona fide charitable, religious and educational organizations and associations.
6. Any association, organization, club, or trust, which is exempt from federal taxes on income by reason of its charitable, religious, educational, literary, scientific, etc. purposes.

7. Gains from involuntary conversion, cancellation of indebtedness, interest on federal obligations and income of a decedent's estate during the period of Administration (except such income from the operation of a business).

8. Earnings of mentally handicapped and developmentally disabled employees earning less than the minimum hourly wage while employed at government-sponsored sheltered workshops shall be exempt from the levy of the tax provided herein.

9. Earnings and income of all persons under 18 years of age whether residents or non-residents.

## ARTICLE II - 2.

### IMPOSITION OF TAX - NON-RESIDENTS

In the case of individuals who are non-residents of Mansfield, there is imposed under the Ordinance an annual tax on all salaries, wages, third party sick pay, commissions and other compensations, earned or accrued on and after January 1, 1971, for work done or services performed or rendered within the City of Mansfield, whether such compensation or remuneration is received or earned directly or through an agent and whether paid in cash or in property.

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

## ARTICLE II - 3.

### IMPOSITION OF TAX - NET BUSINESS PROFITS - RESIDENTS

(a) In the case of trades, businesses, professions, other activities, enterprises or undertakings conducted, operated, engaged in, prosecuted or carried on by residents of Mansfield, there is imposed an annual tax on the net profits earned or accrued on and after January 1, 1971.

(b) For the purpose of construing sub-section (c) and (d) of Section 191.02 of the Ordinance, the term "residents" in the phrase "conducted by resident of the City of Mansfield" will be construed to have reference to the business entity itself, as distinguished from the partners, proprietors or other participants in its profits.

(c) A resident partnership, association or other unincorporated enterprise owned by two or more persons will be taxed as an entity. However, in the case of a non-resident partnership, association or unincorporated enterprise which cannot be reached or taxed directly by the City of Mansfield, or if only part of its earning may be directly taxed, then in either such case resident partners, co-owners, proprietors or other participants in the profits thereof must include in their declaration and tax return or returns their distributive shares of such profits, or portion thereof not taxed to the business enterprise as an entity, and must pay the tax thereon.

All partnership, associations or other unincorporated enterprises shall report the name, address, and social security number of their officers, partners and/or owners.

(d) The tax imposed under Section 191.02 sub-section (c) of the Ordinance is levied upon the entire net profits of the resident trade, business, profession, other activity, enterprise or undertaking, wherever earned, paid or accrued and regardless of the fact that any part of such business or professional activity may have been conducted at or through a place or places of business located outside the City of Mansfield.

#### ARTICLE II - 4.

##### IMPOSITION OF TAX - NET BUSINESS PROFITS NON-RESIDENTS

(a) In the case of a non-resident individual, partnership, association, fiduciary or other entity (other than a corporation) engaged in the conduct, operation, or prosecution of any trade, business, profession, enterprise, undertaking, or other activity, there is imposed an annual tax on the net profits, earned or accrued on and after January 1, 1971, of such trade, business, profession, enterprise, undertaking, or other activity if, and to the extent, conducted in or derived from activity in Mansfield.

(b) A non-resident entity within the meaning of sub-section (e) of Section 191.02 of the Ordinance which has a branch or branches, office or offices and/or store or stores, warehouse, or other place or places in which the entity's business is transacted, located in the City of Mansfield, shall be considered to be conducting, operating, prosecuting, or carrying on a trade, business, profession, enterprise, undertaking or other activity to the full extent of the sum total of all transaction originating or consummated in, by or through such Mansfield branch, office, store, warehouse or other place of business, including (a) billings made on such transactions, or (b) services rendered, or (c) shipments made, or (d) goods, chattels, merchandise, etc., sold, or (e) commissions, fees or other remuneration or payments earned.

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

(d) In determining the proportion or amount of the taxable net profits of a non-resident business entity having a place or places of business within and outside Mansfield, such business entity may at its option use and apply the Business Allocation Percentage Formula set forth in Section 191.02 sub-section (h) of this Ordinance. For explanation of Formula, see Article II-6.

#### ARTICLE II - 5.

##### IMPOSITION OF TAX - NET BUSINESS PROFITS - CORPORATIONS

(a) In case of a corporation doing business in Mansfield, whether domestic or foreign, and whether domiciled in Mansfield, or elsewhere, there is imposed an annual tax on that part of the net profits earned or accrued on and after January 1, 1971, of work done or services performed or rendered and business or other activities conducted in the City of Mansfield.

(b) The provisions of Paragraph (b) of Article II - 4 of these Regulations are applicable to such corporations.

(c) A corporation doing business both within and outside of the City of Mansfield may, in determining the part of the net profits which are taxable under this Ordinance, at its option:

1. Use the accounting system of the taxpayer corporation, so long as said accounting system shall be one acceptable to the U.S. Internal Revenue Department as evidenced by acceptance and approval of income tax returns filed therein; or

2. Use the Business Allocation Percentage Formula set forth in Section 191.02, sub-section (h) of the Ordinance.

## ARTICLE II - 6.

### BUSINESS ALLOCATION PERCENTAGE

(a) At the option of a corporate taxpayer or of a non-resident business entity, such taxpayer may, but are not obliged to, use the formula set forth in Section 191.02 of the Ordinance to compute the percentage of their entire net profits (derived from activities both within and outside the City of Mansfield) which is taxable under the Ordinance, and to determine the tax payable to the City of Mansfield thereunder.

If the taxpayer did not have a place of business outside Mansfield during the period covered by any declaration and/or return required under the Ordinance, its business allocation percentage is 100 percent; in other words the taxpayer is required to pay the tax on the entire net profit of the business.

If the taxpayer had a place or places of business outside Mansfield, and was doing business in Mansfield during such period, the business allocation percentage shall be computed on the following basis:

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

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

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

B. Wages, salaries, third party sick pay, and other compensation paid during the taxable period to persons employed in the business or profession for services performed in such municipal corporation to wages, salaries, third party sick pay and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed;

C. Gross receipts of the business or profession from sales made and services performed during the taxable period in such municipal corporation to gross receipts of the business or profession during the

same period from sales and services, wherever made or performed.

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

2. As used in division (a) of this section, “sales made in a municipal corporation” means:

A. All sales of tangible personal property which is delivered within such municipal corporation regardless of where title passes if shipped or delivered from a stock of goods within such municipal corporation;

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

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

The business allocation percentage is computed by determining the percentages (a) which Mansfield real and tangible personal property bears to all real and tangible personal property (including that situated in Mansfield) of taxpayer wheresoever situated; (b) which Mansfield business sales bear to taxpayer’s entire business sales wheresoever derived (including those derived from Mansfield); and (c) which payrolls paid by taxpayer within Mansfield bear to taxpayer’s entire payroll wheresoever paid (including Mansfield payrolls); adding together the three percentages so arrived at, and dividing the total by three.

However, if one of the factors (property, sales or payrolls) is missing, the other two percentages are added and the sum is divided by two:

**EXAMPLE 1:**

Corporation having places of business in Mansfield, Detroit and Cleveland.  
Mansfield real and tangible personal property \$10,000. All real and personal property (Mansfield, Detroit and Cleveland) \$100,000. Percentage: 10%  
Mansfield sales \$15,000. All sales \$75,000. Percentage: 20%  
Mansfield payroll \$6,000. All payroll \$20,000. Percentage: 30%  
Business allocation percentage: 10% plus 20% plus 30%  
60% divided by 3 equals 20%

**EXAMPLE 2:**

Same corporation owning no real or tangible personal property anywhere.  
Mansfield sales \$15,000. All sales \$75,000. Percentage: 20%  
Mansfield payroll \$6,000. All payroll \$20,000. Percentage: 30%  
Business allocation percentage: 20% plus 30%  
50% divided by 2 equals 25%

**EXAMPLE 3:**

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

Business allocation percentage: 100% plus 20% plus 30%  
150% divided by 3 equals 50%

After determining such business allocation percentage, the tax shall be determined by applying that percentage to the entire net profits of the taxpayer, wherever derived (thus arriving at the taxable net profit), and computing applicable tax rate of the resultant taxable net profit.

In case it shall appear to the Finance Director that any agreement, understanding or arrangement exists between the taxpayer and any other person, firm or corporation, whereby the activity, business, income or capital of the taxpayer is improperly or inaccurately reflected, the Finance Director may adjust items of income, deductions and capital, and disregard assets in computing any allocation percentage, provided any income directly traceable thereto is also excluded from the entire net income, so as equitably to determine the tax.

(b) EXPLANATION OF PROPERTY FACTOR

The percentage of the taxpayer's real and tangible personal property within Mansfield is determined by dividing the net book value (during the period covered by the report) of such property within Mansfield, without deduction of any encumbrances, by the average net book value similarly computed, of all such property within and without Mansfield. Only property owned by the taxpayer is considered in determining such percentage.

(c) EXPLANATION OF BUSINESS RECEIPTS FACTOR

Receipts from the following are also allocable to Mansfield:

1. Work done and performed or services rendered in Mansfield.
2. Rentals from property situated in Mansfield.
3. All other business receipts earned in Mansfield. For the purpose of determining business allocation percentage, no account shall be given to receipts, within or without Mansfield, of income derived from intangible (including stocks, bonds, royalties, and the like) the income of which is taxable under the statutes of the State of Ohio.

All receipts of the period covered by the report (computed on the cash or accrual basis, in accordance with the method of accounting used in the computation of the taxpayer's entire net income) must be taken into account.

(d) COMPENSATION FOR WORK DONE AND PERFORMED OR SERVICES RENDERED

1. Compensation and other receipts for work done or services performed within Mansfield are allocable to Mansfield and taxable under the Ordinance. All amounts so received, credited or charged by taxpayer in payment for such work or services are so allocable, irrespective of whether done or performed by employees or agents of taxpayer, by sub-contractors, or by any other persons. It is immaterial where such amounts were payable or where they were received.

Commissions or fees received by the taxpayer are allocated to Mansfield if the services for which the commissions were paid were performed in Mansfield. If the taxpayer's services for which commissions or fees were paid were performed for the taxpayer by salesmen or other agents or employees attached to or working out of a Mansfield place of business of the taxpayer, the taxpayer's services will be deemed to have been performed in Mansfield.

2. Where a lump sum is received by the taxpayer in payment for services within and without Mansfield, the amount attributable to services within Mansfield is to be determined on the basis of the relative value of, or amounts of time spent in the performance of, such services within and without Mansfield.

3. Other Business Receipts. Receipts from sale of capital assets (property not held by the taxpayer for sale to customers in the regular course of business) are not business receipts. Receipts from the sale of real property held by the taxpayer as a dealer for sale to customers in the regular course of business are business receipts and are allowable to Mansfield if the real property was situated in Mansfield. Receipts from sales of intangibles included in business capital, held by the taxpayer as a dealer for sale to customers in the regular course of business are business receipts and are allocable to Mansfield if the sales were made in Mansfield or through a regular place of business of the taxpayer in Mansfield.

(e) PAYROLL FACTOR

The percentage of the taxpayer's payroll allocable to Mansfield is determined by dividing the wages, salaries, third party sick pay, commission and other personal service compensation of the taxpayer's employees within Mansfield during the period covered by the report, by the total amount of compensation of all taxpayer's employees during such period.

Wages, salaries, third party sick pay, commission and other compensation are computed on the cash or accrual basis in accordance with the method of accounting used in the computation of the entire net income of the taxpayer.

Employees within Mansfield include all employees regularly connected with or working out of a place of business maintained by the taxpayer in Mansfield, irrespective of where the services of such employees were performed. However, if the taxpayer establishes to the satisfaction of the Finance Director that, because of the fact that a substantial part of its payroll was paid to employees attached to a Mansfield place of business who performed a substantial part of their services outside Mansfield, the computation of the payroll factor according to the general rule stated above would not produce an equitable result, then the Finance Director may, in his discretion, permit the payroll factor to be computed on the basis of the amount of compensation paid for services rendered within and without the City. On the other hand, wherever it appears that, because a substantial part of the taxpayer's payroll was paid to employees attached to places of business outside Mansfield who performed a substantial part of their services within Mansfield, the computation of the payroll factor according to the general rule would not properly reflect the amount of the taxpayer's business done within Mansfield by its employees, the Finance Director may require the payroll factor to be computed on the basis of the amount of compensation paid for services performed within and without the City. In any such case, where an employee performed services both within and without Mansfield, the amount treated as compensation for services performed within Mansfield shall be deemed to be (a) in the case of an employee whose compensation depends directly on the volume of business secured by him, such as a salesman on a commission basis, the amount received by him for the business attributable to his efforts within Mansfield; (b) in the case of an employee whose compensation depends on other results achieved, the proportion of the total compensation which the value of his services within Mansfield bears to the value of all his services; and (c) in the case of an employee compensated on a time basis, the proportion of the total amount received by him which the working time employed in Mansfield bears to the total working time.

(f) ADJUSTMENT OF BUSINESS ALLOCATION PERCENTAGE FORMULA

Generally, the Business Allocation Percentage Formula will result in a fair apportionment of the taxpayer's net profits within and without Mansfield. However, due to the peculiar circumstances of certain business, the formula may work a hardship in some cases or result in a tax evasion in others and thus not

do justice to the taxpayer or the City. Accordingly, in such cases, the Finance Director may substitute factors calculated to bring about a fair and proper allocation in any case where the taxpayer has adopted the optional use of the business allocation percentage formula.

## ARTICLE II - 7.

### ON WHAT EARNINGS OR NET PROFITS TAX FIRST LEVIED

The tax referred to in Article II-1 and II-2 shall first be levied, collected and paid with respect to the salaries, wages, third party sick pay, commissions, bonuses, incentive payments, fees and/or other compensations earned on and after January 1, 1971, as per Ordinance #70-533, passed December 22, 1970.

The tax referred to in Article II-3, II-4 and II-5 with respect to net profits of trades, business, professions, enterprises, undertakings, and other activities shall first be levied, collected and paid with respect to such net profits earned or accrued (in accordance with the regular accounting system of taxpayer as approved by the U.S. Collector of Internal Revenue) from and after January 1, 1971. (See Article II-8 for fiscal year returns.)

## ARTICLE II - 8.

### FISCAL YEARS

Where the fiscal year of a trade, business, profession, enterprise, undertaking and/or other activity differs from the calendar year, the tax shall be applicable to the net profits of the fiscal year, but for the first fiscal year with respect only to such portion thereof as was earned on and after January 1, 1971.

A fiscal year will be recognized only if it has been or may be recognized as such by the Director of Internal Revenue for the purpose of Federal Income Tax.

## ARTICLE II - 9.

### NET BUSINESS PROFITS

In amplification of the definition contained in Article I (g) of these Regulations, but not in limitation thereof, the following additional information and requirements respecting net business profits are furnished:

(a) Where necessary to properly reflect income, inventories must be used. The basis of pricing used for the purpose of the Federal Income Tax must in each instance be used.

(b) Where the books and records are kept on an "accrual basis", "long term contract basis", or "installment basis", and/or the "accrual basis" "long term contract basis" or "installment basis" is used in the filing of Federal Income Tax Returns, such basis must be used for the purpose of this tax.

(c) If the return is made on a "cash basis", gross profit shall include receipts from commissions, fees and interest, as well as the gross profit or loss from sales of merchandise, chattels, goods, wares, securities, notes, choses-in-action and services, except as hereinafter provided.

(d) If the return is made on an "accrual basis", gross profit shall include (1) commissions, fees and interest earned, plus (2) the gross profit or loss from sales of merchandise, chattels, goods, wares, securities, notes, choses-in-action and services except as hereinafter provided.

(e) From gross profit there shall be subtracted allowable expenses to arrive at the net profit subject to tax.

(f) All ordinary and necessary expenses of doing business, including reasonable compensation paid employees, shall be allowed (but no deduction may be claimed for “salary” or withdrawals of a proprietor or of the partners, members or other co-owners of an unincorporated business or enterprise).

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

(h) 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 allowed exceed the amount recognized as a deduction for the purpose of the Federal Income Tax.

(i) Taxes. Only taxes directly connected with the taxpayer’s business may be claimed as a deduction. If for any reason the income from property is not subject to tax, then the tax on said property is not deductible. In any event, the following taxes are not deductible from income:

1. The tax under the Ordinance;
2. Any Federal or State taxes based upon income;
3. Gifts, estate or inheritance taxes, and
4. Taxes for local benefits or improvements to the property which tend to appreciate the value thereof.

(j) Capital gains and losses (including gains or losses from the sale, exchange, or other disposition of depreciable business property, and real property used in the taxpayer’s trade or business) shall not be taken into consideration in arriving at “net profits earned”.

(k) If the taxpayer is a non-resident, only the amount of net profits applicable to the activities of the business in Mansfield shall be subject to tax. If the non-resident taxpayer’s records do not disclose the actual net profits for the Mansfield branch, office, store, or activity separately, then the basis of allocation shall be disclosed in the return. If such basis of allocation is not deemed correct, in view of all the known circumstances, the Finance Director will make a reallocation based upon gross receipts or any other basis which shall, under the circumstances of the case, more accurately reflect the net profits.

(l) All business expense recognized and to the extent allowed as such for the purpose of determining Federal Income Tax will be recognized and allowed for in determining Mansfield Income Tax under the provisions of the Ordinance. However, all expenses connected with the acquisition or carrying of securities, the income from which is not recognized as taxable under this Ordinance and previous year business losses may not be deducted in determining taxable net profits hereunder.

(m) Unearned income is not to be included in computing the tax levied hereunder. Gain or loss from the sale, exchange or other disposition of capital assets, including depreciable property and real estate used in business, shall not be included in determining net profits. Income from intangibles by way of dividends, interest and the like, should not be included.

(n) Rentals received by the taxpayer are to be included 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 taxpayer individually or through agents or other representatives) constitutes a business activity of the taxpayer in whole or in part. Landlords shall provide a list of tenants during the taxable year.

Following are the circumstances under which, in any instance, the rental of any real property shall or shall not be deemed to be a "Business Activity":

1. Gross monthly rental of any and all real properties, regardless of number and value, 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 property shall be subject to tax; provided that in case of commercial property, the owner 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, 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 farms, and provided further that the person who operates a licensed rooming house shall be considered in business.

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

3. Rentals received by a taxpayer engaged in the business of buying and selling real estate shall be considered as part of business income.

4. Real property, as the term is used in this Regulation, shall include commercial property, residential property, farm property, and any and all other types of real estate.

5. In determining the taxable net income from rentals, the deductible expenses shall be of the same nature, extent and amount as are allowed by the Department of Internal Revenue for Federal Income Tax purposes.

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

Non-residents of Mansfield are subject to such taxation only if the real property is situated within the City of Mansfield.

Non-residents, shall take into consideration only real estate situated within Mansfield.

(o) Income from royalties or copyrights is not to be included.

ARTICLE II - 10.

## RECONCILIATION WITH FEDERAL RETURN

In a form satisfactory to the Finance Director, there shall be submitted with each return filed by a

taxpayer subject to Federal Income Tax, a reconciliation between the amount shown in the return filed with the Finance Director and the business income reported to the Internal Revenue Service.

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

### ARTICLE III

#### RETURN AND PAYMENT OF TAX

(a) On or before April 15, 1989, every resident of the City of Mansfield, being eighteen years of age or older, shall make and file with the Finance Director an annual return, on a form furnished by or obtainable from the Finance Director. Thereafter, each such resident shall, on or before April 15 of each subsequent year, make and file an annual return with the Finance Director. If said resident is retired and has no earned income, he shall register with the Finance Director as a retired resident; and further annual returns will not be expected. Thereafter, a resident registered as retired must update his status if he receives taxable income per this ordinance.

On or before April 15, 1989 every non-resident receiving income subject to the City Income Tax shall make and file with the Finance Director an annual return, on a form furnished by or obtainable from the Finance Director. Thereafter, the non-resident shall make and file such an annual return on or before April 15, of each subsequent year income subject to the City Income Tax is received.

However, where such non-resident's sole income subject to the City Income Tax is salary or wages and said tax is deducted by the employer and paid to the Finance Director then the non-resident is not required to file a return for that year.

Any person who receives both compensation for services performed for an employer, in whatsoever form, and in addition receives income from any business activity or occupation not subject to withholding under the Ordinance, must file a declaration and an annual return. Provided that a business loss or activity may not be credited against tax credits accrued through withholding by an Employer.

(b) In all returns filed hereunder there shall be set forth the aggregate amount of salaries, wages, third party sick pay, commissions, bonuses, incentive payments, fees and other compensation received and/or net profits earned (all as hereinbefore defined) by and during the preceding year and subject to said tax, together with such pertinent information as the Finance Director may require.

(c) If the return is made for a fiscal year or for any period other than a calendar year, the said return shall be made within one hundred five (105) days from the end of said fiscal year or other period.

(d) The return shall also show the amount of the tax imposed by the Ordinance on such earnings, or net profits, or both.

(e) The taxpayer making the return shall at the time of filing thereof, pay to the Finance Director the amount of the tax shown to be due and unpaid by the return. If, pursuant to the provisions of Article V-2, and subject to the provisions of Section 191.04 sub-section (e) of the Ordinance, the taxpayer has at the time of making such annual return overpaid his tax, such taxpayer shall show the amount of overpayment and may in said return either (a) request a refund thereof, or (b) request that the amount thereof be credited against

the amount which will be required to be paid by taxpayer on the succeeding installment(s) of tax which may become due. Also see Article VI-3.

For payments in Installments see Article V-2.

(f) Where any portion of the tax otherwise due shall have been deducted at the source and shall have been paid to the Finance Director by the person making the said deduction, a credit equal to the amount so paid shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of the filing of the said return.

(g) Upon written request of the taxpayer, the Finance Director may extend the time for filing the annual return for a period of not more than six months or not more than thirty days beyond any extension requested of and granted by the Bureau of Internal Revenue for filing of the Federal Income Tax Return. The Finance Director shall construe this regulation as to extensions liberally in favor of the taxpayer.

#### ARTICLE IV - 1.

#### COLLECTION AT SOURCE

(a) It is the duty of each employer (as hereinbefore defined) who employs one or more persons on a salary, wage, third party sick pay, commission, or other compensation basis, to deduct from compensation paid to any employee subject to the Ordinance, the tax of such salary, wage, third party sick pay, bonus, incentive payment, commission or other compensation due by said employer to said employee. The tax shall be deducted by the employer from:

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

2. From the gross amount of all salaries, wages, third party sick pay, commissions, bonuses, incentive payments, or other form of compensation paid to employees who are residents of the City of Mansfield, regardless of the place where the services are rendered.

(b) All employers who or which maintain an office or other place of business in Mansfield are required to make the collections and deductions in this Article specified, regardless of the fact that the services on account of which any particular deduction is required as to the residents of the City of Mansfield, where performed at a place of business of any such employer situated outside the City of Mansfield.

(c) Every employer who employs within the City one or more persons is required to make the collections and deductions in this Article specified.

(d) The 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.

(e) Commissions and fees paid to professionals, 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. Taxpayers receiving such income must in all instances file returns and pay the tax pursuant to the provisions of Section 191.02 or of Section 191.03 of the Ordinance. (See Article II-3 and II-4).

(f) In the case of employees who are non-residents of Mansfield the amount to be deducted is the

current tax rate of compensation paid with respect to personal services rendered in Mansfield.

Where a non-resident receives compensation for personal services rendered or performed partly within and partly outside Mansfield, the withholding employer shall deduct, withhold and remit that portion of the compensation which is earned within Mansfield 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 Mansfield bears to the volume of business transacted by him within and outside the City of Mansfield.
2. The deducting and withholding of personal service compensation of all other employees (including officers of corporations) shall attach to the portion of the personal service compensation of such employee which the total number of working days employed within the City of Mansfield bears to the total number of working days employed within and outside of the City of Mansfield.
3. If it is impossible to apportion the earnings as provided above, because of (1) the peculiar nature of the service of the employee, or (2) the unusual basis of compensation, apportionment shall be made in accordance with the facts and the tax deducted and withheld accordingly.
4. The occasional entry into the City of Mansfield of a non-resident employee who performs the duties for which he is employed entirely outside the City, but enters the City for the purpose of reporting, receiving instructions, accounting, etc., incidental to his duties outside the City, shall not be deemed to take such employee out of the class of those rendering their services entirely outside the City.

(g) An employer shall withhold the tax on the full amount of any advances made to an employee on account of commissions (whether by way of drawing account or otherwise - but see paragraph (h) below) where such advances are in excess of commissions earned.

(h) An employer required to withhold the tax on compensation paid to an employee shall, in determining the amount on which the tax is to be withheld, ignore any amount allowed and paid by the employer to the employee for expenses necessarily and actually incurred by the employee in the actual performance of his services. Provided, that such expenses must be the kind and in the amount recognized and allowed as deductible expenses for Federal Income Tax purposes.

(i) Salaries, wages, third party sick pay, commissions, compensation and profits otherwise taxable under the Ordinance shall be taxable in their entirety even though payment or distribution of the same to a taxpayer are made over a period of time greater than the period of time during which the same were earned.

(j) The Bureau of Buildings, Inspection, Licenses and Permits, prior to the issuance of any license or permit under its authority to a non-resident shall require such non-resident to register with the Income Tax Department of the City and shall notify the Income Tax Department of the issuance of such permit or license.

(k) Every contract on behalf of the City for works or improvements of the City shall contain the following provisions:

“Said contractor hereby further agrees to withhold and pay all City income taxes due or payable under the provisions of the Income Tax Ordinance, for wages, salaries, third party sick pay, and commissions paid to its employees and further agrees that any of its sub-contractors shall be required to agree to withhold and pay any

City income taxes due for services performed under this contract.”

(l) A taxpayer who has erroneously withheld and paid a tax for an employee who is under 18 years of age shall not receive a refund or credit therefor unless claimed within three years of the due date of the annual return.

#### ARTICLE IV- 2.

##### RETURNS OF TAX WITHHELD AND PAYMENT

The deduction from salaries, wages, third party sick pay, commissions and other compensation required to be made by employers are to begin with compensation earned on and after January 1, 1971. Each employer who employs within the City one or more persons on a salary, wage, third party sick pay, commission or other compensation basis, excluding exempted incomes set forth in Section 191.14 of the Ordinance, shall deduct at the time of payment of such salary, wage, third party sick pay, commission or other compensation, the tax due from said employee and shall make a return and pay to the Finance Director the amount of taxes so deducted as follows:

(a) In monthly payments to be made not later than ten (10) days following the last day of each month during which tax has been withheld or required to be withheld.

(b) Upon determination and finding by the Finance Director that monthly payments would result in a delay that might jeopardize collection of tax withheld, he may order that payment of the tax be made weekly, and such payment shall be made within seven (7) days following the close of the period for which the jeopardy payment is made. Such an order shall be delivered to the taxpayer personally or by certified mail and remains in effect until the Finance Director notifies the employer to the contrary.

Said return shall be on a form prescribed furnished by the Finance Director. Such employer, in collecting said tax, shall be deemed to hold the same as trustee for the benefit of the City of Mansfield until payment is made by such employer to the City of Mansfield, and any such tax collected by such employer from his employees shall, until the same is paid to the City of Mansfield, be deemed a trust fund in the hands of such employer.

The officer or employee having control or supervision of or charged with the responsibility of filing the report and making payment, is personally liable for failure to file the report or pay the tax due as required by this ordinance. The dissolution of a corporation does not discharge an officer's or employee's liability for a prior failure of the corporation to file returns or pay tax due.

(Ord. #99-030. Passed 3/2/99.)

#### ARTICLE IV - 3.

##### LIMITATION ON CREDIT FOR TAX PAID AT SOURCE

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

#### ARTICLE IV - 4.

##### STATUS AND LIABILITY OF EMPLOYEES

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

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

#### ARTICLE IV - 5.

#### MISCELLANEOUS

Requests for additional forms, payment receipts, verification of the extension of filing date, etc. shall be accompanied by self-addressed, stamped return envelopes.

All returns and information requested must be legible.

#### ARTICLE V - 1.

#### DECLARATIONS

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

(b) All other taxpayers (as defined in the Ordinance and in these Regulations) subject to the taxes imposed in Section 191.02 of the Ordinance, and every taxpayer who anticipates any income or net profits not subject to total withholding as provided in the next preceding paragraph, shall file with the Finance Director a declaration of his estimated tax as follows:

(c) A declaration shall be filed by each such taxpayer on or before the 15th day of April of each subsequent year and each such declaration shall contain a statement of the taxpayer's estimated tax for the full taxable year in which such declaration is filed.

(d) Taxpayers who or which are permitted, pursuant to the provisions of Article II-8, to return and pay their tax upon a fiscal year basis, shall file their declaration within one hundred five (105) days after the beginning of the first fiscal year beginning after January 1, 1971, and the subsequent declaration for each year thereafter on or before the 15th day of the fourth month following the beginning of each such fiscal year.

(e) The estimated tax shall be paid in full with the declaration or in equal installments on or before April 15, June 30, September 30 and December 31. Those taxpayers on a fiscal year basis shall make quarterly payments on or before the 15th day of the fourth month and on or before the last day of the sixth, ninth, and twelfth months following the beginning of such fiscal year. The first installment, equal to at least one-fourth of the estimated tax, must accompany the declaration.

(f) The declaration so required shall be filed upon a form furnished by or obtainable from the Finance Director. Any taxpayer who has filed an estimate for Federal Income Tax purposes may, in making the declaration, required hereunder, simply state therein that the figures therein contained are the same figures used by the taxpayer in making the declaration of his estimate for the Federal Income Tax. However, in addition to

such statement, any such taxpayer may, in such declaration, modify and adjust such declared income so as to exclude therefrom income which is not subject to tax under the Ordinance, in which case the taxpayer shall indicate that such income has been excluded.

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

## ARTICLE V - 2.

### PAYMENT OF TAX INSTALLMENT

(a) At the time of filing each declaration (required by Article V-1) each taxpayer shall pay to the Finance Director one-fourth (1/4) of the amount of his estimated annual tax. Thereafter, on or before the 30th day of June, September and December 31 of each year, such taxpayer shall pay at least a similar amount. However, if any such taxpayer shall, on or before any such payment date, file an amended declaration showing an increase or decrease of the estimated tax, the installments then and thereafter due shall be increased or diminished (as the case may be) in such manner that the balance of the estimated tax shall be fully paid on or before December 31st of the taxable year involved through the payment of quarterly installments in equal amounts during the quarterly periods remaining from and after the filing of any such amended declaration.

(b) Taxpayers who or which are permitted to make returns and pay their tax on a fiscal year basis (see Article II-8), shall make the quarterly payments on their declaration of estimated tax pursuant to Article V-1 (d) (e) of these Regulations.

(c) For Annual Returns and final adjustments of tax due, see Article III.

## ARTICLE V - 3.

### CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES

Every individual taxpayer who resides in the City of Mansfield but receives net profits, salaries, wages, third party sick pay, commissions or other personal service compensation for work done or services performed or rendered outside of said City, if it be made to appear that he has paid a municipal city income tax on such net profits, salary, wages, commission, third party sick pay or other compensation to another municipality, shall be allowed a credit on the tax imposed by this Ordinance of the amount so paid by him or in his behalf to such other municipality. The credit shall not exceed the credit as stated in Section 191.07 of this Ordinance, on such net profit, salary, wages, commission, third party sick pay or compensation earned in such other municipality or municipalities where such city income tax is paid. Provided: The credits established by the section shall be allowable to a taxpayer only to the same extent that such other municipality or municipalities grant reciprocal credits to their residents who receive net profits, salaries, wages, third party sick pay, commissions or other personal service compensation, for work done or services performed or rendered outside of such other municipality or municipalities.

## ARTICLE VI - 1.

### INQUISITORIAL POWERS OF THE FINANCE DIRECTOR

The Finance Director personally, and his agents or employees, are authorized and empowered to examine the books, papers and records (including all data used in the development of profits within and without the corporation limits) of any employer, or supposed employer, or of any taxpayer, or supposed taxpayer, in order to verify the accuracy on any return made or, if no return was made, to ascertain the tax imposed by

the Ordinance.

Every employer or supposed employer, and every taxpayer or supposed taxpayer, is required to furnish to the Finance Director or his duly authorized agents and employees, the means, facilities and opportunity for such examination, investigations and audits as are authorized in and by the Ordinance.

The Finance Director or his duly authorized agent or employee is further authorized and empowered to examine under oath any person concerning any income which was or should have been returned for taxation, and to this end the Finance Director has the right and power to compel the production of books, papers and records and the attendance of all persons before him, whether as parties or witnesses, whom he believes to have knowledge of such income.

Refusal of any examination by any employer or person subject to the tax, or presumed to be such employer or person so subject, constitutes a misdemeanor punishable by fine or imprisonment, or both.

See Article IX, Penalties.

#### ARTICLE VI -2.

#### RECORDS TO BE KEPT BY EMPLOYERS AND TAXPAYERS

Employers and others subject to the tax under the Ordinance are required to keep such records as will enable the filing of true and accurate returns, whether of taxes withheld at source or of taxes payable upon earnings or net profits, or both, and such records are to be preserved to enable the Finance Director, or any agent or employee of the Finance Director, to verify the correctness of the returns filed.

#### ARTICLE VI - 3.

#### COLLECTION OF DEFICIENCIES ALLOWANCE OF CREDIT FOR OVERPAYMENT

Subject to the provisions of Section 191.04 sub-section (e) of the Ordinance, if as a result of investigation conducted by the Finance Director, a return is found to be incorrect, the Finance Director is authorized to assess and collect any underpayment of tax withheld at source or any underpayment of tax owing by any taxpayer with respect to earnings or net profits, or both. If no return has been filed and a tax is found to be owing, the tax actually owing may be assessed and collected with or without the formality of obtaining a delinquent return from the employer or taxpayer.

Should it be disclosed, either as a result of an investigation by the Finance Director or through the medium of the filing of a claim or petition for refund or credit, that an overpayment has been made, the Finance Director will refund such overpayment.

The employer will in every instance be required to pay the full tax which should have been withheld, even though he may fail to withhold from the employee. If too much has been withheld the employee must file a return directly with the City requesting a refund of the excess withheld.

#### ARTICLE VI - 4.

#### PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION

Tax returns, and all audits connected therewith, are confidential. Any information gained by the Finance Director, by his agents or employees, or by any other official or agent of the City, as a result of any returns, investigations, hearings, or verifications required or authorized by the Ordinance, shall be held confidential, except for official tax purposes and except in accordance with proper judicial order, or as otherwise provided by Law. Violation of this provision in the Ordinance constitutes a misdemeanor of the Third Degree.

## ARTICLE VII

### INTEREST AND PENALTIES

(a) All taxes imposed by this chapter, including taxes withheld from wages by an employer, remaining unpaid after they have become due, shall bear interest in addition to the amount of the unpaid tax, at the rate of one percent (1%) per month, and the taxpayers upon whom such taxes are imposed, and the employers required by this chapter to deduct, withhold and pay taxes imposed by the chapter shall be liable, in addition to the tax and interest to a penalty of twenty-five dollars (\$25.00) plus one percent (1%) of the amount of the unpaid balance (tax, penalty, and interest) for each month or fraction of a month, provided however that in the case of late payment of wage withholding taxes the penalty shall be twenty-five dollars (\$25.00) plus three percent (3%) of the amount of such unpaid payroll taxes (tax, penalty, and interest) for each month or fraction of a month.

(b) Each year, during the month of January, the director may choose to publish in a newspaper of general circulation within the City, a list of persons who are delinquent in the payment of their City Income Tax or who have otherwise failed to comply with the income tax regulations; provided that such persons have been notified by certified mail of the date of publication within thirty days prior to publication.

## ARTICLE VIII - 1.

### COLLECTION OF UNPAID TAXES

All taxes imposed by the Ordinance remaining unpaid when the same have become due, together with all interest and penalties thereon, become a debt due the City from the taxpayer and are recoverable as other debts by suit instituted by the City Law Director.

Employers who or which, although obliged under the Ordinance to withhold and remit to the Finance Director the taxes required to be withheld at the source (Article IV), shall fail to so withhold and/or remit, become liable to the City in a civil/criminal action to enforce the payment of the debt created by such failure.

When an annual return is filed as prescribed in Section 191.04 hereof and a deficiency is determined to be due to the City of Mansfield, action to collect the same with penalties and interest shall not be commenced after three (3) years from the due date of said return; Provided that in case of fraud, failure to file a return, or the omission of twenty-five percent or more of income required to be reported, prosecutions may be commenced within six (6) years after the commission of the offense.

All applications for refund shall be made within three (3) years of the due date of an annual return or shall be forever barred thereafter.

## ARTICLE VIII - 2.

## PUBLICATION OF LIST OF DELINQUENT TAXPAYERS

Each year, during the month of January, the Finance Director may cause to be published in a newspaper of general circulation within the City of Mansfield a list of persons who are delinquent in payment of their City Income Tax or who have otherwise failed to comply with city income tax regulations; provided that said persons have been notified by certified mail of the date of publication within thirty (30) days prior to publication.

## ARTICLE IX

### VIOLATIONS - PENALTIES

(a) Any person, firm or corporation who shall fail, neglect or refuse to make any return, questionnaire, declaration or make any return required by this Ordinance; or any taxpayer who shall refuse, neglect or fail to pay the tax, penalties and interest imposed by this Ordinance; or any person, firm or corporation who shall refuse to permit the Finance Director, or any duly authorized agent or employee, to examine his books, records and papers, or who, after having been duly served with process by the Finance Director, shall fail to appear and/or be examined in accordance with such process; or who shall knowingly make any incomplete, false or fraudulent return, or who shall attempt to do anything whatever to evade the payment of the whole or any part of the tax, shall be guilty of a misdemeanor of the Third Degree. Each offense shall be deemed a separate violation. The failure of any employer or taxpayer to receive or procure a return, questionnaire or declaration form shall not excuse him from making a return, questionnaire or declaration or from paying the tax.

(b) No person, firm or corporation who has withheld income tax from its employee shall fail to remit said withholding tax to the City within the guidelines set forth in Article IV - 2. Whoever violates this section shall be guilty of a misdemeanor of the third degree.

(c) Each year, during the month of January, the Finance Director may cause to be published in a newspaper of general circulation within the City of Mansfield a list of persons who are delinquent in payment of their City Income Tax or who have otherwise failed to comply with City Income Tax Regulations; provided that said persons have been notified by certified mail of the date of publication within thirty (30) days prior to the date of publication.

The penalties provided in the section are in addition to and not exclusive of penalties provided by all pertinent criminal statutes of the State of Ohio, and to the civil remedies provided in the Ordinance.

## ARTICLE X

### APPLICABILITY

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

## ARTICLE XI

### CONSTRUCTION - SEPARABILITY OF PROVISIONS

If any sentence, clause, section or part of the Ordinance, or any tax against any individual or any of

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

## ARTICLE XII

### WITHHOLDING STATEMENTS AND OTHER INCOME STATEMENTS

(a) The Mansfield Income Tax Department, requires the filing of employee earning reports, resembling Federal Form W-2, as of December 31, 1971, or at any subsequent date, moreover, the Department may, as of December 31, 1971, or at any subsequent date, require a reconciliation of total payrolls, reconciled with payroll amounts reported subject to Mansfield, Ohio, City Income Tax.

(b) The Mansfield Income Tax Department requires the filing of earning reports, resembling Federal Form 1099.

(c) Employers having 100 or more employee records, as mentioned in Section (a) above, are required to submit the required information on magnetic media. Such filing must be done on a format provided by the City of Mansfield. A penalty of \$50 per day, after the due date, will be assessed for noncompliance. (Ord. #98-271. Passed 11/3/98)

## ARTICLE XIII

### VACATION PAY

Vacation pay paid in 1971, and in all subsequent years, will be subject to withholding deductions under this Ordinance.

## ARTICLE XIV

### WORKING AGGRESSIVELY GENERATING EMPLOYMENT (W.A.G.E.) TAX CREDIT

(a) From and after January 1, 1988, each taxpayer that has earnings or profits which are subject to the tax imposed by Section 191.02 and employs within the City one or more persons on a salary, wage, commission or other compensation basis, excluding exempt incomes set forth in Section 191.14, shall be eligible for a credit against that taxpayer's city income tax liability as set forth herein.

(b) Each eligible taxpayer shall be entitled to a credit equal to fifty percent (50%) of the personal city income tax liability attributable to new employment or increased employee payroll hours generated by the taxpayer in years following the taxpayer's base year.

(c) The base year for any eligible taxpayer in existence as of December 31, 1987, operating on a calendar year basis shall be calendar year 1987 and every third calendar year thereafter. Eligible taxpayers in existence as of December 31, 1987, operating on a fiscal year basis shall have as a base year their last fiscal year ending prior to December 31, 1987, and every third fiscal year thereafter. Eligible taxpayers not in existence as of December 31, 1987, shall have as a base year their first fiscal or calendar year of operation as the case may be, and every third fiscal or calendar year thereafter.

The base year provides for any eligible taxpayer annexed into the corporate limits of the City of Mansfield after January 1, 1988, shall be the fiscal or calendar year in which annexation procedures are completed and every third fiscal or calendar year thereafter, as the case may be and any such taxpayer shall not be considered a "new eligible taxpayer" as that term is used in subsection (d).

(d) To be eligible to receive the employment tax credit each taxpayer shall, at the time of filing its base year city income tax return as required by Section 191.04, provide the Finance Director with the total number of employee payroll hours divided by 2080 which shall establish for the purpose of administering the credit, the total number of employees employed by the taxpayer during its base year. Notwithstanding the foregoing, the total number of employees for new eligible taxpayers, i.e., those eligible taxpayers not in existence as of December 31, 1987, shall be established, for the purpose of administering the credit, at zero (0) employees for the first base year of operation only and any such taxpayer shall be entitled to the credit for that year. Thereafter, the employment level of the first base year shall be recalculated without regard to the rule in the immediately preceding sentence.

(e) For each tax year following a taxpayer's base year the taxpayer shall calculate total number of employees in the same manner as in subsection (d). In any tax year in which the taxpayer's total number of employees exceed the base year level, the taxpayer shall be entitled to an income tax credit for such increased employment levels as set forth in subsection (b). In any tax year in which a taxpayer claims an employment tax credit, the taxpayer shall furnish, to the City Income Tax Division on forms provided by the Finance Director, calculations substantiating entitlement to the credit.

SECTION 2. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, welfare and safety; the emergency being the necessity of immediately establishing the Regulations necessary for the administration, raising and collecting of Income Taxes imposed for the operation of necessary governmental functions imposed by law, including proper police and fire protection, street and road maintenance, but not limited thereto, for, without said funds, said governmental functions would have to be curtailed to such an extent that the public safety and welfare would be greatly jeopardized, and, providing it receives the affirmative vote of two-thirds of all members elected to Council it shall take force and be in effect immediately upon its passage, otherwise from and after the earliest time allowed by law after its passage and approval by the Mayor.

PASSED 19 December, 1995

SIGNED /s/ Virginia M. Imhoff  
President of Council

ATTEST /s/ Lisa Kovinchick-Grove  
Clerk of Council

APPROVED /s/ Lydia J. Reid  
Mayor

APPROVED AS TO FORM: Robert L. Konstam  
Law Director  
City of Mansfield, Ohio

\* Publication required.