

**MCCOMB VILLAGE INCOME TAX
RULES & REGULATIONS**

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Article I: Definitions

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

A. Administrator means the individual designated by the Ordinance to administer and enforce the provisions of the Ordinance, regardless of the particular title assigned such individual.

B. Association means a partnership, general partnership, limited partnership, limited liability company (recognized or taxed as a partnership by the Federal Internal Revenue Service), limited liability partnership, or cooperative; or a form of unincorporated entity owned by two or more persons. Association also means a limited liability company owned by only one entity that is not an individual. A limited liability company owned by one individual is not an association.

C. The Committee means the Government Committee provided for by Section 12 of the Ordinance.

D. 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. The ordinary administration of a decedent's estate by the executor or administrator, and the mere custody, supervision and management of trust property under passive trust, whether *intervivos* or testamentary, unaccompanied by the actual operation of a business as herein defined shall not be construed as the operation of a business.

An activity or undertaking is considered a business if the deductions are allowable for federal income tax purposes under Internal Revenue Code sections 162, 212(1), and 212(2); and if it is determined that the taxpayer entered into and/or continued the activity with the objective of making a profit. In determining the taxpayer's objective, the factors that shall be taken into consideration include, but are not limited to: (1) the manner in which the taxpayer carries on the activity, (2) the expertise of the taxpayer or his advisors, (3) the time and effort expended by the taxpayer in carrying on the activity, (4) expectation that assets used in the activity may appreciate in value, (5) the success of the taxpayer in carrying on other similar or dissimilar activities, (6) the taxpayer's history of income or losses with respect to the activity, (7) the amount of occasional profits, if any, which are earned, (8) the financial status of the taxpayer, and (9) elements of personal pleasure, personal use, or recreation.

If, in the case of an audit, the Federal Internal Revenue Service determines or accepts that the taxpayer's activity or undertaking is a business, the activity or undertaking shall be considered a business by the Village of McComb, subject to the provisions of these Rules and Regulations. Except in the case of an audit, the mere fact that the Federal Internal Revenue Service has not disputed a taxpayer's claim that an activity or undertaking is a business does not obligate the Village of McComb to conclude that the activity or undertaking is a business. Subject to the provisions set forth in Articles V and XI of these Rules and Regulations, the Village shall use comparable guidelines as specified in U. S. Treasury Department Final Regulation §1.183-1(c)

regarding the presumption that the taxpayer is engaged in an activity with the objective of making a profit.

E. Business Allocation as used in these regulations, means the portion of net profits to be allocated to the Village of McComb as having been made in the Village of McComb, either under separate accounting method, or under the three factor formula of property, payroll, and sales, provided for in Section 3 of the Ordinance.

F. Village means Village of McComb.

G. Corporation means an Internal Revenue Code Subchapter C corporation, an Internal Revenue Code Subchapter S corporation, a limited liability company (recognized or taxed as a corporation by the Federal Internal Revenue Service), a corporation, or other incorporated entity organized under the laws of the United States, the State of Ohio, or any other state, territory, or foreign country or dependency. A limited liability company owned by one individual is not a corporation.

H. Employee means one who works for wages, salary, commission or other types of compensation in the service of an employer. Any person upon whom an employer is required to withhold for either federal income or Social Security or on whose account payments are made under the Ohio Workers' Compensation law shall prima facie be an employee.

I. Employer means an individual, partnership, association, corporation (including a corporation not for profit), governmental agency, body, bureau, department, sub-division, or unit or any other entity, who or that employs one or more persons on a salary, wage, commission or other compensation basis whether or not such employer is engaged in business. It does not include a person who employs only domestic help for such person's private residence.

J. Fiscal Year means an accounting period of twelve (12) months or less ending on any day other than December 31. Only fiscal years accepted by the Internal Revenue Service for federal income tax purposes may be used for Village of McComb income tax purposes.

K. Gross Receipts means total income from any source whatsoever. In the case of S corporations, general partnerships, limited partnerships, limited liability companies, limited liability partnerships, and other associations, gross receipts shall include income from rentals and leases of real and tangible personal property.

L. Net Profits means a net gain from the operation of a business, profession, enterprise or other activity carried on with a profit objective or ordinarily carried on with a profit objective after provision for all ordinary, reasonable, and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for federal income tax purposes, without deduction of taxes imposed by this Ordinance, federal, state, and other taxes based on income exclusive of the amount of Ohio franchise taxes computed on the net worth basis; and in the case of an association, without deduction of salaries paid and guaranteed payments issued to partners, members, and other owners; and otherwise adjusted to the requirements of this Ordinance. See also definition of "Business" and Article III(A)(7).

M. Non-resident means an individual domiciled outside the Village of McComb and does not meet the definition of “resident” under this Article of the Rules and Regulations.

N. Non-resident Unincorporated Business Entity means one not having an office or place of business within the Village of McComb.

O. Persons means every natural person, partnership, 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 not having any partner, member or officer within this village, or any employee or agent of such unincorporated entity or within this village, any employee or agent of such unincorporated entity or corporation who can be found within the village limits of McComb. A monetary penalty can be imposed on an entity that is not an individual.

P. 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.

Q. Resident means an individual domiciled in McComb.

The following criteria shall be used in determining residence or domicile: (1) mailing address, (2) voter registration, (3) location of school attended by children, (4) driver’s license address, (5) automobile registration, (6) residence specified on Ohio Income Tax Return by school district, (7) county in which personal property tax return is filed, if any, and (8) other evidence which is related to residency/domicile.

R. Resident Unincorporated Business Entity means an unincorporated business entity having an office or place of business within McComb.

S. Taxable Income means wages, salaries and other compensation paid by an employer or employers before deductions of any kind except of qualified cafeteria plans, 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 and these regulations.

T. 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 return is required to be made.

U. Taxpayer means an individual, association, corporation or other entity required by the Ordinance to file a return and/or to pay a tax.

In all definitions in these regulations the singular shall include the plural and the masculine shall include the feminine and the neuter.

Article II: Purpose

To provide funds for the purposes of providing general funds for the operation of the Village; construction, repairing, improving street and thoroughfares and acquiring rights of way for streets and thoroughfares, construction, repairing, improving storm sewers, acquiring rights of way for storm sewers and for the elimination, correction and relief of combination sewers of the Village of McComb, there be, and hereby is levied a tax on salaries, wages, commissions and other compensation, and on net profits as hereinafter provided.

Article III: Imposition of Tax

A. Bases

1. Resident employee

a. In the case of residents of the Village of McComb an annual tax of 1% is imposed on all salaries, wages, commissions, and other compensation earned during the effective period of the Ordinance. For the purpose of determining the tax on the earnings of resident taxpayers taxed under Section 3, paragraph A of the 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.

b. The following are items that are subject to the tax imposed by Section 3, paragraph A of the 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:

.01 An officer, director or employee of a corporation (including charitable and other non-profit organizations), joint stock association, or joint stock company;

.02 An employee (as distinguished from a partner or member) of a partnership, limited partnership, or association;

.03 An employee (as distinguished from a proprietor) of a business, trade or profession conducted by an individual owner;

.04 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 of the State of Ohio or any of its political subdivisions or agencies thereof; or any foreign country or dependency except as provided in Section 3 of the Ordinance.

.05 An employee of any other entity or person, whether based on hourly, daily, weekly, semi-monthly, monthly, annual, unit of production or piece work rates; whether paid by an individual, partnership, association, corporation (including charitable and other non-profit corporations), governmental administration, agency, authority, board, body, branch, bureau, department, division, sub-division, section or unit, or any other entity.

.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.

.01 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.

.02 Amounts received from an employer for expenses and used as such by the individual receiving them are not deemed to be compensation if the employee deducts such expenses of advances as such from his gross income for the purpose of determining his net profits taxable under federal law, and the employee is not required to include such receipts as income on his federal income tax return.

.3 Fees, unless such fees are properly includable as part of the net profits of a trade, business, profession, or enterprise regularly carried on by an unincorporated entity owned or partly owned by said individual and such net profits are subject to the tax under Section 3, paragraph C of the Ordinance.

.4 Other compensation, including tips, bonuses or gifts of any type, and including compensation paid to domestic servants, casual employees and other types of employees.

.5 Payments made to employees by an employer as vacation pay, accumulated sick leave pay, severance pay, back pay, retroactive pay increases, or other supplemental wages are taxable. Payments made to an employee by an employer under a wage continuation plan during periods of disability or sickness are taxable as in third party sick pay and third party disability where the premium is paid by the employer.

c. Where compensation is paid or received in property, its fair market value at the time of payment or receipt, shall be subject to the tax imposed by this Ordinance and Article VI of these Rules and Regulations. Except in the case of a home or parsonage furnished by a church or an integral agency of a church to a duly ordained, commissioned, licensed, or designated minister, board, lodging, utilities, and similar items received by an employee in lieu of additional cash compensation shall be subject to the tax.

.1 The gross parsonage or housing allowance paid by a church or an integral agency of a church to a duly ordained, commissioned, licensed, or designated minister shall be subject to the tax. A deduction or exclusion shall be allowed to the minister for personal home expenses and utilities

as reported for federal income tax purposes and properly allocable to the income and expenses subject to these Rules and Regulations.

.2 Board and lodging provided by the employer on the employer's premises shall not be considered wages or compensation if the employee is required to accept the board and lodging as a condition of employment.

.3 Meals provided by the employer on the employer's premises for the convenience of the employer shall not be considered wages or compensation to the employee.

2. Non-resident Employee:

a. In the case of individuals who are not residents of McComb, there is imposed under Section 3, paragraph B of the Ordinance, a tax of 1% on all salaries, wages, commissions, and other compensation earned during the effective period of the Ordinance for work done or services performed or rendered within McComb 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 for which payment is made is immaterial.

b. The items subject to tax under Section 3, paragraph B of the Ordinance are the same as those listed and defined in Article III(A)(1). For the methods of computing the extent of such work or services performed within McComb, in cases involving compensation for personal services partly within and partly without McComb, see Article VI(A)(6).

3. Imposition of Tax on Net Profits of Associations, General Partnerships, Limited Partnerships, Limited Liability Companies (recognized or taxed as partnerships by the Federal Internal Revenue Service), Limited Liability Partnerships and other unincorporated entities:

a. In the case of associations, general partnerships, limited partnerships, limited liability companies (recognized or taxed as partnerships by the Federal Internal Revenue Service), limited liability partnerships, and other unincorporated entities that conduct business in, operate in, engage in, prosecute in, or carry on activities in McComb, irrespective of whether such association has an office or place of business in McComb, there is imposed an annual tax of 1% on the net profits earned, accrued, or received during the effective period of the Ordinance. The income attributable to McComb shall be determined using the formula or separate accounting method provided for in Section 3 of the Ordinance and Article III(B) of the Rules and Regulations derived from sales made, work done, or services performed or rendered and business or other activities conducted in McComb.

b. In the case of a non-resident individual who is the sole owner of a limited liability company, sole proprietorship, or other unincorporated entity that conducts business in, operates in, engages in, prosecutes in, or carries on activities in McComb, irrespective of whether such individual maintains an office or place of business in McComb, there is imposed an annual tax of 1% on the net profits earned, accrued, or received during the effective period of the Ordinance. The income attributable to McComb shall be determined using the formula or separate accounting method provided for in Section 3 of the Ordinance and Article III(B) of the Rules and Regulations

derived from sales made, work done, or services performed or rendered and business or other activities conducted in McComb.

.1 A net loss sustained by an association, a non-resident individual, or other unincorporated entity shall be allocated to McComb in the same manner as provided in Article III(A)(3)(a) or (b) for allocating net profits to McComb.

.2 In such case where the entire net profits of an association or other unincorporated entity are fully attributable to McComb, the tax imposed on the entity shall constitute all the tax due from the entity's owners, partners, or members for their distributive shares of the net profits. Provided, however, the tax due must be paid by the association or other unincorporated entity and received by the Administrator. A tax return and payment of tax shall be required from any individual, owner, partner, or member having income subject to McComb tax, other than their distributive share of the net profits from the association. [For tax on that part of a resident owner's distributive share of net profits not taxed against the entity by McComb, see Article III(A)(4)].

4. Imposition of Tax on Resident Individual's Distributive Share of Profits of an Association, General Partnership, Limited Partnership, Limited Liability Company (recognized or taxed as a partnership by the Federal Internal Revenue Service), Limited Liability Partnership, or Other Form of Unincorporated Entity, Not Attributable to McComb: (See Article XVII for Credits)

a. A resident individual who is the sole owner of a limited liability company, sole proprietorship, or other unincorporated entity shall disregard the business allocation formula and pay the tax on the entire net profits of the business entity irrespective of whether such entity has an office or place of business in McComb or conducts business, derives sales, performs services, or performs work in McComb.

b. In the case of a resident individual who is a partner in a general partnership or limited liability partnership, a general partner in a limited partnership, a member in a limited liability company (recognized or taxed as a partnership by the Federal Internal Revenue Service) or part owner of an association, or other form of unincorporated entity, there is imposed an annual tax of 1% on such individual's distributive share of net profits earned, accrued or received during the effective period of the Ordinance that is not attributable to McComb under the method of allocation provided for in Section 3 of the Ordinance and Article III(B) of the Rules and Regulations, and not otherwise taxed against the entity by McComb.

.1 The distributive share of a net loss sustained by an association or other unincorporated entity shall be reported by the resident individual owner, partner, general partner, or member in the same manner prescribed in Article III(A)(4)(b).

.2 If an association has an office or place of business in McComb or conducts business, derives sales, performs services, or performs work in McComb or is otherwise required to report income under the Ordinance, no tax is imposed on the distributive shares of the association's income to partners, general partners, and/or members that are not individuals and the losses may not offset qualifying wages.

.3 No tax is imposed on a limited partner's share of a limited partnership's profit. A limited partner of a limited partnership is not permitted to report his share of a limited partnership's loss.

5. Imposition of Tax on Net Profits of Corporations and S Corporations.

a. In the case of corporations, whether domestic or foreign and whether or not such corporations have an office or place of business in McComb, there is imposed an annual tax of 1% on the net profits earned, received or accrued during the effective period of the Ordinance attributable to McComb under the formula or separate accounting method provided for in the Ordinance.

.1 No tax is imposed on a shareholder's share of an S corporation's profit. A shareholder of an S corporation is not permitted to report his share of an S corporation's loss.

b. In determining whether a corporation is conducting a business or other activity in McComb the provision of Article III(B) of these regulations shall be applicable.

c. Corporations which are required by the provision of Section 5727.38 to 5727.41, inclusive, of the Revised Code of Ohio, to pay an excise tax in any taxable year as defined by the Ordinance, may exclude that part of their gross receipts upon which the excise tax is paid. In such case, expenses incurred in the production of such gross receipts shall not be deducted in computing net profits subject to the tax imposed by the Ordinance.

6. Amplification:

In amplification of the definitions contained in Article I of these regulations but not limitation thereof, the following additional information respecting net business profits is furnished:

a. NET PROFITS

.1 Net profits as used in the Ordinance and these regulations means net profits derived from any business, profession or other activity or undertaking carried on for profit or normally carried on for profit. See also Article I.

.2 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). Net profits, shown on returns filed pursuant to the Ordinance must be reconciled with the income reported to the Federal Internal Revenue Service.

b. GROSS RECEIPTS

.1 Gross receipts shall include but not be limited to income in the form of commissions, fees, and rentals from 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.

.2 From gross receipts there shall be deducted allowable expenses to arrive at the net profit subject to tax.

c. EXPENSES

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

.01 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 the trade or business, but the amount may not exceed that recognized for the purpose of the federal income tax return.

.02 Current amortization of emergency facilities 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.

.03 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.

.04 Bad debts in a reasonable amount may be allowed in the year ascertained worthless and charged off, or at the discretion of the Administrator (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.

.05 Only taxes directly connected with the business may be claimed as a business deduction. The following taxes are not deductible from income: (1) the tax under the Ordinance; (2) federal or other taxes based on income exclusive of the amount of Ohio franchise tax computed on the net worth basis; (3) gift, estate, or inheritance taxes; and (4) taxes for local benefits or improvements to property which tend to appreciate the value thereof.

.06 In general, non-taxable income and expenses incurred in connection therewith are not to be considered in determining net profits. Income from intangibles, by way of dividends, interest and the like, shall not be included if such income is subject to taxation under the intangible personal property laws of the State of Ohio or is specifically exempt from taxation under said law.

.07 If the taxpayer reports income that is non-taxable under the Ordinance and such amounts are deducted in order to reconcile the return with the taxpayer's federal income tax return, expenses attributable to this non-taxable income shall not be allowed. In the absence of records showing the actual expenses attributable to such non-taxable income and upon approval of the Administrator, such amount shall be deemed to equal five percent of non-taxable income.

.08 Capital gains and capital losses from the sale, exchange or other disposition of property shall not be taken into consideration in arriving at net profits earned unless said gains or losses are derived as a normal part of a business operation such as, but not limited to a licensed real estate broker or real estate salesman. Any amount received on a sale or other disposition of tangible personal and real property used in business, in excess of book value, shall be treated as taxable income under the Ordinance to the extent of depreciation allowable under the Ordinance. The balance shall be treated as capital gain.

7. Rentals from Real Property

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

c. 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.

d. 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.

e. Residents of this municipality are subject to such taxation on the net income from rentals (to the extent above specified), regardless of the location of the real property owned.

f. Non-residents of the municipality are subject to such taxation only if the real property is situated within this village.

g. S corporations, general partnerships, limited partnerships, limited liability companies, limited liability partnerships, and other associations, subject to provisions of Article III(A) and Article III(B), must include in gross receipts income from rentals and leases of real and tangible personal property.

8. Patents and Copyrights

a. Income from patents or copyrights is not to be included in net profits subject to the tax if the income from such patents or copyrights is subject to the State intangible tax. Conversely, such a state intangible tax is not deductible in determining City tax. Such items shall be clearly disclosed on the attachment to be filed with the city tax return.

B. Allocation of Business Profits

A request to change the method of allocation must be made in writing before the end of the taxable year.

1. Separate Accounting Method

a. The net profits allocable to McComb from business, professional or other activities conducted in McComb by a non-resident individual, corporation, association, or other unincorporated entity may be determined from the records of the taxpayer, upon approval of the Administrator, if the taxpayer has bona fide records which disclose with reasonable accuracy what portion of his net profits is attributable to that part of his activities conducted within McComb.

b. If the books and records of the taxpayer are used as the basis for apportioning net profits rather than the business allocation formula, a statement must accompany the return explaining the manner in which such apportionment is made in sufficient detail to enable the Administrator to determine whether the net profits attributable to McComb are apportioned with reasonable accuracy.

c. In determining the income allocable to McComb from the books and records of a taxpayer an adjustment may be made for the contribution made to the production of such income by headquarters activities of the taxpayer, whether such headquarters is within or without McComb.

2. Business Allocation Percentage Method

a. 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 McComb 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.

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

.01 The net book value of real and tangible personal property rented by taxpayer shall be determined by multiplying gross annual rents payable by eight (8).

.02 Gross rents means the actual sum of money or other consideration payable, directly or indirectly, by the taxpayer for the use or possession of property and includes:

.001 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;

.002 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.

b. STEP 2. Ascertain the percentage which the total wages, salaries, commissions and other compensation of employees within McComb is of the total wages, salaries, commissions, and other compensation of all the taxpayer's employees within and without McComb during the period covered by the return.

.1 Salaries and reasonable compensation paid to owners or credited to the account of owners, members, or partners during the period covered by the return are considered wages for the purpose of this computation.

.2 Wages, salaries, and other compensation shall be 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.

.3 In the case of an employee who performs services both within and without McComb the amount treated as compensation for services performed within the Village shall be deemed to be:

.01 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 McComb.

.02 In the case of an employee whose compensation depends on other results achieved, the proportion of the total compensation received which the value of his services within McComb bears to the value of all his services; and

.03 In the case of an employee compensated on a time basis, the proportion of the total amount received by him which his working time within McComb is of his total working time.

c. STEP 3. Ascertain the percentage which the gross receipts of the taxpayer derived from sales made and services rendered in McComb is of the total gross receipts wherever derived during the period covered by the return.

.1 The following sales shall be considered McComb's sales:

.01 All sales made through retail stores located within McComb to purchasers within or without McComb except such of said sales to purchasers outside McComb that are directly attributable to regular solicitations made outside McComb personally by taxpayer's employees.

.02 All sales of tangible personal property delivered to purchasers within McComb if shipped or delivered from an office, store, warehouse, factory, or place of storage located within McComb.

.03 All sales of tangible personal property delivered to purchasers within McComb even though transported from a point outside McComb if the taxpayer is regularly engaged through its own

employees in the solicitation or promotion of sales within McComb and the sale is directly or indirectly the result of such solicitation.

.04 All sales of tangible personal property shipped from an office, store, warehouse, factory or place of storage within McComb to purchasers outside McComb if the taxpayer is not, through its own employees regularly engaged in the solicitation or promotion of sales at the places of delivery.

.05 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.

.2 In the application of the foregoing subparagraphs, a carrier shall be considered the agent of the seller regardless of the FOB point or other conditions of the sale; and the place at which orders are accepted or contract legally consummated shall be immaterial. Solicitation of customers outside McComb by mail or phone from an office, or place of business within McComb shall not be considered a solicitation of sales outside McComb.

d. 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 the computation merely because said factor is found to be allocable entirely outside McComb. A factor is excluded only when it does not exist anywhere.

e. 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 McComb.

3. Substitute Method

a. In the event a just and equitable result cannot be obtained under the formula, the Administrator, 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 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 before the end of the taxable year 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. A copy thereof shall be served at the time of filing upon the taxpayer. No specific form need be followed in making such application. Once the taxpayer has filed under a substitute method, he must continue to so file until given permission to change by the Administrator.

C. Operating Loss Carry Forward:

1. The portion of a net operating loss, based on income taxable under the Ordinance, sustained in any taxable year allocable to McComb may be applied against the portion of the profit of

succeeding year(s) allocable to McComb 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 and no losses may be offset against qualifying wages.

2. In the event net profits are allocated both within and without McComb, the portion of a net operating loss sustained shall be allocated to McComb in the same manner as provided herein for allocating net profits to McComb. 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. The same method of accounting and allocation must be used in the year to which an operating loss is carried as was used in the year in which the operating loss was sustained.

3. A short fiscal year (a fiscal year of less than twelve months) in cases where there has been a change in the accounting period, where a new taxpayer selects a short fiscal year, or where a new taxpayer operates in McComb for less than his full accounting period, shall be considered as a full taxable year.

4. In any return in which a net operating loss deduction is claimed, a schedule must be attached showing:

a. Year in which operating loss was sustained.

b. Method of accounting and allocation used to determine portion of net operating loss allocable to McComb.

c. Amount of net operating loss used as a deduction in prior years.

d. Amount of net operating loss claimed as a deduction in current year.

5. The net operating loss of a business which loses its identity through merger, consolidation, etc., shall not be allowed as a carry-forward loss deduction by the surviving business entity.

6. In the case of a net operating loss in the filing of consolidated returns, see Article III(D).

D. Consolidated Returns

1. Consolidated returns may be filed by a group of corporations who are affiliated through stock ownership. For a subsidiary corporation to be included in a consolidated return 80% of its stock must be owned by the other members of the affiliated group. A consolidated return must include all companies which are so affiliated.

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

a. Permission in writing is granted by the Administrator to file separate returns.

b. A new corporation other than a corporation created or organized by a member of the group during the taxable year.

c. A corporation member of the group is sold or exchanged. Liquidating a corporation or merging one of the corporations of the group into another will not qualify the group for filing separate returns.

3. If a corporation becomes a member of the group during the taxable year the consolidated return must include the income for the entire taxable year of the common parent corporation and any subsidiaries which were members of the group for the entire year, plus the income of each subsidiary which becomes a member of the group during the year for the period beginning with the date it became a member of the group, separate returns must be filed for that subsidiary. When a subsidiary ceases to be a member of the affiliated group, the consolidated return must include the income of such subsidiary for the period during which it was a member of the group, but for the period after it ceases to be a member of the group, separate returns must be filed. If a corporation has been a member of the affiliated group for less than one month of the taxable year, it may be considered as not being part of the group. Similarly, a subsidiary may be considered as being a member of the group during the entire taxable year of the group if period during which it was not a member of the group does not exceed one month.

If a subsidiary is a member of the consolidated group for only part of a taxable year, the income considered to be earned in such fractional part of the year shall be that portion of the net income for the entire year which the number of days it was a member of the group bears to the total number of days in the taxable year.

4. 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 (Step 1 of the formula) 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 8 times the annual rent. The gross receipts and wage fraction shall be based on the actual figures.

5. All subsidiary corporations must agree in writing to the filing of the consolidated return as they will be liable for the tax as well as will the parent corporation.

6. The net operating loss carryover of a corporation that filed a separate return in a prior year may be carried over to the consolidated return but will be limited in amount to the amount of that same corporation's net income included in the consolidation. The net operating loss carryover from a separate year shall be deducted first before application of the allocation fraction. After application of the allocation fraction the consolidated net operating loss carryover allocated to McComb shall be allowed.

7. In consolidating the net income, the taxable income of each corporation shall be computed in accordance with provisions governing the taxable income of separate corporations except that there shall be eliminated unrealized profits and losses in transactions between members of the affiliated group.

8. 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. As an example, inter-company dividends which are eliminated in the consolidation will not be taken into consideration in determining non-taxable income.

Article IV: Effective Period of Tax

A. The tax imposed by Section 3, paragraphs A & B of the Ordinance shall be levied, collected and paid with respect to salaries, wages, bonuses, incentive payments, commissions, fees, and other compensation earned on and after July 1, 1986.

B. The tax imposed by Section 3, paragraphs C, D, E, and F of the Ordinance, with respect to net profits of trades, businesses, professions, enterprises, undertakings and other activities is on the net profits earned on and after July 1, 1986.

Article V: Return and Payment of the Tax

A. Date Requirement for Filing:

1. On or before April 15th of the year following the effective date of the Ordinance and each year thereafter, every person or taxpayer subject to the provisions of Section 3, paragraphs A to G, inclusive, of the Ordinance shall, except as hereinafter provided, 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 be due.

2. However, when the final return is made for a fiscal year or other period different from the calendar year, the return shall be made within 105 days.

3. Every person subject to the provisions of Section 3 of the Ordinance shall, except as hereinafter provided, file a return setting forth the aggregate amount of salaries, wages, commissions and other personal service compensation, net profits from business or their activities, including the rental from use of real and personal property, and other taxable income under the Ordinance, received for the period covered by the return and such other pertinent facts and information in detail as the Administrator may require.

4. Where a nonresident employee's entire earnings for the tax period are paid by an employer or employers, and the one percent (1%) tax thereon has in each instance been withheld and deducted by the employer or employers from the gross amount of the entire earnings of such employee-taxpayer, and where the employer of such employee has filed a return or returns in which such employee's entire and only earnings are reported to the Administrator, and where such employee has no village taxable income other than such earnings and the tax so withheld has been paid to the Administrator, the Administrator is hereby authorized to accept such report

or returns provided by the employer, unless otherwise specified, as the return required of any such employee.

5. An employee who itemizes his deductions on Schedule A for federal income tax purposes and who claims business and professional expenses on Form 2106 or 2106-EZ that have not been reimbursed by his employer is permitted to deduct such expenses without regard to the limitation specified under provisions of Internal Revenue Code section 67. Only those expenses which are incurred to produce income that is subject to the tax imposed by this Ordinance shall be deductible. In the case of a duly ordained, commissioned, licensed, or designated minister, only expenses that are incurred to earn wages, income, or parsonage allowances that are subject to the tax imposed by this Ordinance are deductible. The employee must file a return to claim the expenses and provide supporting documentation as requested by the Administrator or his duly authorized agent.

6. Any taxpayer who received taxable income not subject to withholding under the Ordinance must file a return.

7. Any taxpayer having income, wages, or other compensation for which a return must be filed, and also having net profits from a business covering the same or a different period, is required to file only one return.

8. Trustees of active trusts are required to file returns and pay the tax on the taxable income thereof.

B. Information Required and Reconciliation with Federal Returns.

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

2. All individuals, businesses, employers, brokers or others doing business who engage persons, either on a commissions basis or as independent contractors, and are required to file a Federal Form 1099 shall file with the Village of McComb a copy thereof on or before the 28th day of February following any calendar year in which deductions are taken.

3. Where figures of total income, total deductions, and net profits are included, as shown by a federal return, any items of income as are not subject to McComb's tax and unallowable expenses shall be eliminated in determining net income subject to McComb's tax. In the absence of records showing the actual unallowable expenses, such expenses shall be determined in accordance with Article III(A)(6)(c)(.1)(.07) of these regulations. The fact that any taxpayer is not required to file a federal or state tax return does not relieve him from filing McComb's return.

4. In a change in federal income tax liability, made by the Federal Internal Revenue Service, or by a judicial decision, results in an additional amount of tax payable to McComb, a report of

such change shall be filed by the taxpayer within three (3) months after receipt of the final notice from the Federal Internal Revenue Service or final court decision. See Article XI(B)(1) and B(2).

5. If a change in federal income tax liability results in a reduction of taxes owed and paid to McComb a claim for refund shall be filed with the Administrator as prescribed in Section 11 of the Ordinance and Article XI(C) of these regulations.

C. Extensions

1. Upon written request of the taxpayer, or upon receipt of a copy of the Federal Internal Revenue Service extension request, made on or before the date for filing the return, and for good cause shown, the Administrator will extend the time for filing such return for a period not to exceed six (6) months, or to one (1) month beyond any extension requested of or granted by the Federal Internal Revenue Service. The extension granted will not extend the time for payment of tax due.

2. 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.

D. Payment with Return

1. The taxpayer making a return shall, at the time of the filing thereof, pay to the Administrator the amount of taxes shown to be due thereon; provided, however, that where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of Section 6 of the Ordinance, or where any portion of said tax shall have been paid by the taxpayer pursuant to the provisions of Section 7 of the Ordinance, or where an income tax has been paid to another municipality, credit for the amount paid in accordance with Section 16, thereof, shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing of said return.

2. A taxpayer who has overpaid the amount of tax to which McComb is entitled under the provisions of the Ordinance may have such overpayment applied against any subsequent liability hereunder, or at his election indicate on the return, such overpayment (or part thereof) shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$10.00) shall be collected or refunded.

E. Amended Returns

1. Where necessary an amended return must be filed in order to report additional income and pay and additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Sections 11 and 99. Such amended return shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

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

Article VI: Collection of Tax at the Source

A. Duty of Withholding

1. Except as otherwise provided herein, it is the duty of each employer within or doing business within McComb, who employs one or more persons whether as an employee, officer, or director or otherwise, to deduct each time any compensation is paid the tax of one percent (1%) from:

a. The gross amount (less qualified cafeteria plans) of all salaries, wages, bonuses, incentive payments, fees, commissions or other forms of compensation paid to residents of McComb, regardless of the place where the services are rendered; and

b. All compensation paid non-residents for services in excess of twenty days rendered within the Village of McComb.

.1 For the purposes of the Article, other compensation shall include the premiums paid by an employer for group term life insurance for protection in excess of the amount specified under provisions of Internal Revenue Code section 79.

2. All employers within or doing business within McComb are required to make the collections and deductions specified in this Article, regardless of the fact that the services on account of which any particular deduction is required, as to residents of McComb, were performed outside McComb.

3. Employers who do not maintain a permanent office or place of business of McComb, but who are subject to tax on net profits attributable to McComb, under the method of allocation provided for in the Ordinance, are considered to be employers within McComb and subject to the requirement of withholding (except small business owners with less than \$500 of gross receipts need only to do so at there Fixed Locality municipality).

4. 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 paid. If the employer has withheld the tax and failed to pay the tax withheld to the Administrator, the employee is not liable for the tax so withheld.

5. 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 a declaration and a return and pay the tax pursuant to the provisions of the Ordinance and Articles V and VII of the regulations.

6. Where a non-resident receives compensation for personal services rendered or performed partly within and partly without McComb, the withholding employer shall deduct, withhold and remit the tax on that portion of the compensation which is earned within McComb in accordance with the following rules of apportionment.

a. If the non-resident is a salesman, agent or other employee whose compensation depends directly on the volume of business transacted or chiefly effected by him, the deducting and withholding shall attach to the portion of the entire compensation which the volume of business transacted or chiefly effected by the employee within McComb bears to the total volume of business transacted by him within and outside McComb.

b. The deducting and withholding of personal service compensation of other non-resident employees, including officers of corporations, shall attach to the proportion of the personal service compensation of such employee which the total number of his working hours within McComb is the total number of working hours.

c. The fact that non-resident employees are subject to call at any time does not permit the allocation of pay for time worked within McComb on a seven-day per week basis. Their percentage of time worked in McComb will be computed on the basis of a forty-hour week unless the employer notifies the Administrator that a greater or lessor number of hours per week are worked.

d. The occasional entry into McComb of a non-resident employee who performs the duties, for which he is employed primarily outside McComb, shall not be deemed to take such employee out of the class of those rendering their services entirely outside McComb (twenty day rule).

7. An employer shall withhold the tax on the full amount of any advances made to an employee on account of commissions.

8. An employer required to withhold the tax on compensation paid to an employee shall, in determining the amount of which the tax is to be withheld, ignore any amount allowed and paid to the employee for expenses 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 under Article III of these regulations.

9. An employer whose records show that an employee is a non-resident of McComb and 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 McComb by such employee, provided, however, that such employer must withhold the tax on all personal service compensation paid such employee after the Administrator notifies said employer in writing that such employee is a resident of this municipality. All employees are required to notify the employer of any change of residence and the date thereof.

10. A McComb employer required to withhold the tax from a McComb resident for work done or services performed in another municipality, and who does so withhold and remit to such other

municipality, shall be relieved from the requirement of withholding the McComb tax from such McComb resident, except where the rate of tax for such other municipality is less than the rate of tax imposed by this Ordinance. In such case the employer shall withhold and remit the difference to this village.

11. 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.

B. Return and Payment of Tax Withheld and Status of Employers

1. The deductions from salaries, wages, and other compensation required to be made by employers are to begin with the compensation earned on or after the effective date of the Ordinance.

Taxes must be remitted monthly if the collected taxes exceeded \$2,399 in the previous calendar year or if the collected taxes in any month during the previous calendar quarter exceeded \$200. If these thresholds are not met then the tax must be remitted quarterly (last day of the following month).

The return required to be filed under this Article shall be made on a form furnished by or obtainable from the Administrator.

2. 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 on the circumstances and the time when the over-withholding is determined as follows:

a. Current Employees:

.1 If the over-withholding is discovered in the same period the employer shall make the necessary adjustment directly with the employee and the amount to be reported on the return as withheld shall be the corrected amount;

.2 If the over-withholding is discovered in a subsequent period of the same calendar year the employer may make proper adjustment with the employee. In such case the return for the period in which the adjustment is made shall indicate the total amount actually withheld, the amount of the adjustment deducted there from, and the corrected amount reported on the return;

.3 If the over-withholding is discovered in the following year, the employer should notify the Administrator of such over-withholding and the circumstances thereof. Upon proper verification the Administrator shall refund to the employee the amount such excess withholding.

b. Former Employees:

.1 In case too much has been withheld from an employee, 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 to the employee the amount of such excess withholding.

c. Non-residents Employed Outside the Village:

.1 Where an employer has withheld the tax from all wages of a non-resident of McComb and such non-resident has been employed outside of McComb for all or part of the time, such employee shall file a claim with the Administrator covering such erroneous withholding and the Administrator shall, upon verification thereof by the employer, refund to the employee the amount of such excess withholding.

d. Insufficient Withholding:

.1 If less than the amount of tax required to be deducted is withheld from an employee, such deficiency shall be withheld from subsequent wages. However, if the employee-employer relationship has terminated, the employer shall notify the Administrator of such deficiency and the reason therefore.

3. Every employer is deemed to be a trustee for McComb 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.

4. Every such employer required to deduct and withhold the tax at the source is liable directly to this village for payment of such tax whether actually collected from such employee or not.

5. The officer or employee having control or supervision or charged with the responsibility of filing the return and making the payment, shall be personally liable for failure to file the return or pay the tax due as required herein.

6. On or before the 31st day of January, 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 McComb income tax has been withheld, showing the name, address and Social Security number of the employee, the total amount of compensation paid during the year and the amount of McComb income tax withheld from such employee. Computer printouts are accepted (and preferred) in lieu of individual forms provided all data is present.

7. The gross compensation to be reported for each employee shall be for the full twelve (12) calendar months of the year or such portion thereof as the employee reported on was employed.

8. All payments not subject to withholding shall be reported on forms as required by the Administrator (copies of Federal Form 1099MISC).

9. In addition to such information returns, and at the time the same are filed, such employer shall file with the Administrator a form to enable the Administrator to reconcile the sum total of compensation paid and taxes withheld as disclosed by information return, W-2, or list of employees, and prior returns and remittances made pursuant to the Ordinance.

10. Any money withheld from employees' wages by a non-profit organization on a voluntary basis for the purchase of "Tax Shelter Annuities" under the provisions of Internal Revenue Code Sec. 401 shall be considered as income for the determination of wages subject to McComb Income Tax.

11. Contributions by employees from their gross wages into employer or third party trusts or pension plans as permitted by any provisions of the Internal Revenue Code and which are excludable from gross wages for federal tax purposes are not excludable from gross wages subject to Village of McComb tax.

C. Fractional Parts of Cent: In deducting and withholding the tax at the source and in payment of any tax due under the Ordinance, a fractional part of a cent shall be disregarded unless it amounts to one-half cent ($1/2\text{¢}$) or more in which case it shall be increased to one cent (1¢).

Article VII: Declarations

A. Requirement for Filing:

1. A declaration of estimated tax may be filed by any taxpayer who anticipates taxable income which is not subject to Section 6 of the Ordinance or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 3 of the Ordinance.

B. Date of Filing:

1. A person or other entity conducting a business not previously subject to the tax, or whose employer does not withhold the tax, may file a declaration within four (4) months after the date he becomes subject to the tax.

C. Form for Filing:

1. Such declaration shall be filed on a form approved by or obtainable from the Tax Administrator. Credit shall be taken in accordance with the provisions set forth in Section 17 of the Ordinance and Article XVII of the Rules and Regulations.

2. The original estimate of tax liability or any subsequent amendment thereof may be increased or decreased by filing an amended declaration on or before any quarterly payment date as set forth in Article VII(D)(1).

D. Date of Payments:

1. The estimated tax may be paid in full with the declaration or in equal installments on or before the fifteenth day of the fourth, sixth, and ninth months of the tax year and the fifteenth day of the first month of the subsequent tax year.

3. In the event an amended declaration has been filed, the unpaid balance shown thereon may be paid in equal installments over the remaining payment dates.

E. Final Returns Required:

1. The filing of a declaration does not relieve the taxpayer of the necessity 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 an overpayment.

2. The fourth estimated payment may be deferred to the last day of the fourth month of the subsequent tax year if the payment represents the balance of tax due and is accompanied by the final return.

Article VIII: Duties of the Administrator

A. Collection of Tax and Retention of Records:

1. It shall be the duty of the Tax Administrator to collect the tax imposed by the Ordinance from the taxpayers, to keep an accurate record thereof, and to report all monies so received.

2. It shall be the duty of the Administrator to enforce payment of all taxes owing McComb, to keep accurate records of a minimum of three (3) years showing the amount due from each taxpayer required to file any return, including taxes withheld, and to show the dates and amounts of payments thereof.

B. Enforcement Provisions:

1. The Administrator is charged with the administration and enforcement of the provisions of the Ordinance and is, subject to the approval of the Government Committee, empowered to adopt, promulgate, and enforce rules and regulations or any amendment thereof 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.

2. 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.

3. These regulations together with all amendments and supplements hereto and all changes herein, will be on file at the office of the Administrator.

4. 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 proved to the Administrator 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.

5. 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 Sections 11 and 99 of the Ordinance shall apply.

6. The Administrator is hereby empowered and authorized to file small claims cases in Findlay Municipal Court against all taxpayers who owe the Village either delinquent or unpaid taxes or interest and penalties on said delinquent or unpaid taxes and said amounts falling within the statutory limit of the small claims court.

C. Estimation of Tax by the Administrator:

1. Whenever the Administrator has been unable to secure information from the taxpayer as to his taxable income for any year, he may determine the amount of tax appearing to be due and assess the taxpayer on the basis of such determination, together with the interest and penalties as prescribed in Section 10 of the Ordinance.

2. Such determination of tax may be adjusted upon submission by the taxpayer of actual records from which his tax may be computed.

D. Subject to the consent of the Government Committee or pursuant to a regulation approved by said Committee, the Administrator shall have the power to compromise any interest or penalty or both, imposed by Section 10 of the Ordinance.

Article IX: Examination of Books and Records, Information So Obtained Confidential: Penalty

A. Investigations by Administrator:

1. 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, 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 the tax due under the Ordinance.

2. An employer or taxpayer shall furnish, within ten (10) 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.

B. Subpoena of Records and Persons:

1. The Administrator is authorized to examine any 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.
2. 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.
3. The Administrator may order the appearance before him, or his duly authorized agent, or any party 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 or representative of any taxpayer.
4. Persons required to attend any hearings shall be notified not less than ten (10) 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.
5. The notice shall be served by the Administrator 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 registered mail, return receipt requested, addressed to his usual place of business or residence.

C. Penalty for Non-compliance:

Refusal by any 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 and to produce the records requested constitutes a misdemeanor punishable by fine of not more than \$500 or imprisoned not more than six months or both for each offense.

D. Confidential Nature of Examinations:

Any information gained as a result of any returns, investigations, verifications or hearings before the Administrator, required by the Ordinance 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.

In addition to the above penalty, any employee of McComb who violates the provisions of this section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

E. Retention of Records:

All employers 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 six (6) years from the date the final return is filed and paid or the withholding taxes are paid.

Article X: Interest & Penalties

A. Interest: Except as provided in paragraph C of this Article, all taxes imposed and all monies withheld, or required to be withheld, by employers under provisions of the Ordinance and remaining unpaid after they have become due shall bear interest, in addition to the amount of the unpaid tax or withholdings, at the Federal short-term interest rate plus 3% per annum or fraction thereof.

B. Penalties: In addition to interest as provided in paragraph A hereof, penalties based on the unpaid tax are hereby imposed as follows:

1. For failure to pay taxes due, one percent (1 %) per month or fraction thereof; or twenty-five dollars (\$25.00), whichever is greater. In addition to any other interest or penalties, there shall be a penalty of \$100.00 imposed for failure to file a return when due, whether or not tax is due.

C. Exceptions:

1. 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.

2. In the absence of fraud neither penalty nor interest shall 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 is paid within three (3) months after final determination of the federal tax liability.

3. 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. Upon filing of a written protest or explanation, the Administrator shall withdraw the assessment or he shall adjust or reaffirm the assessment.

D. Appeal from Assessment

1. Upon appeal, the Local Board of Tax Review may abate penalty, interest, or both.

Article XI: Collection of Unpaid Taxes and Refund of Overpayments

A. Unpaid Sums – Civil Suit:

1. In addition to any criminal penalties which may be imposed pursuant to Section 99 of the Ordinance, all taxes imposed by Section 3 of the Ordinance and not paid when due, shall be collectible, together with any interest and penalties thereon, by civil suit. Employers who are required, under Section 6 of the Ordinance, to withhold and remit the taxes required to be withheld at the source, and who fail to withhold and/or remit, become liable to McComb in a civil suit to enforce the payment of the deficiency created by such failure.
2. No additional assessment shall be made by the Administrator after three (3) years from the time the return was due or filed, whichever is later. Provided, however, there shall be a period of six years on such additional assessments in the case of a return that omits a substantial portion of income, or filing a false or fraudulent return to evade payment of the tax, or failure to file a return. Failure to report 25% or more of income required to be reported shall be considered to be a substantial omission.
3. In those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitations, the period within which an assessment may be made by the Administrator is extended to one (1) year from the time of final determination of federal tax liability.

B. Refund and Overpayments:

1. Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date the tax was due or the return was filed, or three (3) months after the determination of the federal income tax liability, whichever is later.
2. No refund shall be made to any taxpayer until he has complied with all provisions of the Ordinance and has furnished all information required by the Administrator.
3. Overpayments will be either refunded or credited to the taxpayer's current year's liability at his option. Where no election has been made by the taxpayer, overpayments of any year's taxes shall be applied as follows:
 - a. To taxes owed for any previous years in the order in which such taxes became due.
 - b. To his current tax liability.

C. Limitation:

Where the total amount due or refund claimed for a tax year is less than ten dollars (\$10.00) such amount shall not be collected or refunded.

Article XIV: Exemptions

A. The following shall not be considered taxable.

1. Poor relief, unemployment insurance benefits, or similar payments received from local, state, or federal governments or charitable or religious organizations; proceeds of insurance other than third party sick pay; annuities; workers' compensation insurance; Social Security benefits; pension income including, but not limited to distributions from Internal Revenue Code (IRC) section 457 plans, IRC section 401(a) qualified pension and profit sharing plans, Individual Retirement Accounts (IRAs), Simplified Employee Pensions (SEPs), IRC section 403(b) plans, governmental plans, and non-qualified deferred compensation plans; compensation for damages for personal injuries and like reimbursement, not including damages for loss of profits or wages; alimony (payments not deductible), patent and copyright income and royalties (if income derived from intangible property).
2. Compensation for damages to property by way of insurance or otherwise.
3. Interest and dividends from intangible property.
4. Military pay and allowances received as a member of the armed forces of the United States.
5. Any charitable, educational, fraternal or other type of non-profit association or organization enumerated in section 718.01 of the Revised Code of Ohio which is exempt from payment of real estate taxes is exempt from payment of the tax imposed by this Ordinance.
6. Any association or organization falling in the category listed in the preceding paragraph not exempt from the payment of real estate taxes is required to file returns and remit the taxes levied under this Ordinance on all business activities of a type ordinarily conducted for profit by taxpayers operating for a profit.
7. Mentally handicapped and developmentally disabled employees earning less than minimum hourly wage while employed at a government-sponsored sheltered workshop shall be exempt from the levy of the tax provided herein.
8. Where such non-profit association or organization conducts income-producing business both within and without the corporate limits, it shall calculate its profits allocable to McComb under the method or methods provided above.

Article XVI: Collection of Tax After Termination of Ordinance

A. Authority to collect after termination of Ordinance:

The tax imposition provisions of the Ordinance are effective until the Ordinance is repealed, subject however, to the provision of Section 11 of the Ordinance with respect to the limitation of time within which an additional assessment may be made.

B. Payment of Taxes:

1. Taxes due and unpaid on account of compensation paid or received and on account of profits earned in the last effective year of the Ordinance or any part thereof which remains unpaid on (date), are payable in full on or before the dates specified in Sections 5 and 6 of the Ordinance and Articles V and VI of these regulations, and all final returns and withholding reports must be filed on or before that date, unless extended by the Administrator.

2. For purposes of collection of delinquent or unpaid taxes, actions or proceedings for such collection and/or the collection of interest and penalties thereon, or enforcing any provisions of the Ordinance (including prosecutions under the criminal sections of the Ordinance and including appeals before the Local Board of Tax Review), the Ordinance remains in full force and effect until such time as all taxes accruing during the term of the Ordinance shall have been fully paid, and all actions, suits, prosecutions, appeals and other judicial or administrative proceedings relative to collection or payment of such taxes, have been finally terminated.

Article XVII: Credit Allowed for Tax Paid in Another Municipality

A. Credit to Residents, Limitation:

When the taxable income of a resident of the Village is subject to a municipal income tax in another municipality on the same income taxable under this chapter, the resident shall be allowed a non-refundable credit of the amount of income tax paid on the taxable income to the other municipality, equal to one hundred percent (100%) of the amount obtained by multiplying the lower of the tax rate of the other municipality or of this village by the taxable income earned in or attributable to the municipality of employment or business activity. For the purposes of this section, taxable income shall also include the distributive share of net profits of a resident partner or owner of an unincorporated business entity.

B. Method of Applying for Credit:

1. No credit will be given unless the taxpayer claims such on his final return or other form prescribed by the Administrator, and presents such evidence of the payment of a similar tax to another municipality, as the Administrator may require.

Article XCIX: Violations, Penalties

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. Willfully fail, neglect or refuse to pay the tax, penalties or interest imposed by this Ordinance;
or
4. Willfully 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 hereby; 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 addresses, total wages paid and this municipality's income tax withheld, or to knowingly give the Administrator false information; or
11. Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by the Ordinance.

Shall be guilty of a misdemeanor and may be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six (6) months or both, for each offense.

B. Prosecutions:

Prosecutions for an offense made punishable under this Section or any other provision of this 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 percent (25%) or more of income required to be reported, prosecution may be commence within six (6) years after the commission of the offense.

C. Failure to Receive Forms – Not a Defense:

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

Savings Clause

These Rules and Regulations shall not apply to any person, firm, corporation, or to any property as to whom or which it is beyond the power of Village Council of the Village of McComb to impose the tax herein provided for. If any sentence, clause, section, or part of these Rules and Regulations, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall affect only such sentence, clause, section or part of these Rules and Regulations and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of these Rules and Regulations. It is hereby declared to be the intention of the Council of the Village of McComb that these Rules and Regulations would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section, or part thereof not been included herein.

APPROVALS:

PASSED _____

ATTEST _____
CLERK OF COUNCIL

APPROVED _____

PRESIDENT OF COUNCIL

