

Rules and Regulations

NOTE: The Rules and Regulations have not been amended to reflect changes in the Income Tax Ordinance made after 1999. If the Rules and Regulations conflict with the Ordinance, the Ordinance controls.

RESOLUTION NO. 1971-58

ESTABLISHING REGULATIONS FOR THE ADMINISTRATION AND ENFORCEMENT OF THE MUNICIPAL INCOME TAX OF THE CITY OF MARION, PROVIDING PENALTIES, AND DECLARING AN EMERGENCY.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MARION, MARION COUNTY, OHIO:

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, co-partnership, limited partnership, corporation, association or other entity, required hereunder to file a return or to pay a 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, co-partnership, limited partnership, corporation, association or any other entity.

(D) "CORPORATION"--A corporation or joint stock association organized under the law of the United States, the State of Ohio, or any other state, territory, 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, co-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, commission, or other compensation basis.

(G) "NET PROFITS"--The net gain from the operation of a business, profession or enterprise, after provision for all cost and expense incurred in the conduct thereof, including reasonable allowance for depreciation, depletion, amortization and reasonable additions to reserve 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, and without deducting taxes imposed by this Ordinance.

(H) "NON-RESIDENT"--An individual, co-partnership, limited partnership, corporation, association or other entity outside the City of Marion.

(I) "PERSON"--Every natural person, co-partnership, limited partnership, corporation, fiduciary or association, whenever used in any clause prescribing and imposing a penalty. The term "person" as applied to association, shall mean the partners or members thereof, and as applied to corporation, the officers thereof.

(J) "RESIDENT"--An individual, co-partnership, limited partnership, corporation, association, or other entity domiciled in the City of Marion.

(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 Marion from business conducted within the City of Marion. The singular shall include the plural and the masculine shall include the feminine and the neuter.

(L) 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 taxpayer does not have a regular place of business outside Marion solely by consigning goods to an independent factor or contractor outside the City for sale.

(M) The term "Business Allocation Percentage," as used in these Regulations, means the average percentage arrived at by applying the formula set forth in **§193.04**, subsections (H)(a)(1), (2), (3), and (4) 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 Marion within the meaning of the provisions of said **§193.04**, subsections (C) and (D).

(N) The term "The Ordinance" means **Marion Codified Code Chapter 193**.

ARTICLE I - 2.

COMMENCEMENT AND RATE OF THE TAX

As used in this resolution the term "Municipal Income Tax" means the tax levied pursuant to **§193.03** of **the Marion Codified Code** upon those classes of earnings and income set forth in **§193.04** of **the Marion Codified Code**. **§193.03** of such **the Marion Codified Code** provides for a tax at the rate of one percent (1.00%) from and after January 1, 1972. The Municipal Income Tax at the rate of one percent (1.00%) is effective as to income and profits earned or accruing on and after January 1, 1972, and payroll deductions must be made

against all salaries, wages, commissions, bonuses and other compensation earned or accruing on and after that date.

In addition to the tax levied above, Ordinance No. 1988-58, levying an additional three-quarters of one percent (.75%) income tax, was passed by Marion City Council on August 22, 1988 and approved by the voters on November 8, 1988. The additional municipal income tax at the rate of three-quarters of one percent (.75%) is effective from and after January 1, 1989 on those classes of earnings and income as set forth in **§193.04** of **the Marion Codified Code**.

ARTICLE II - 1.
IMPOSITION OF TAX--RESIDENT EMPLOYEES

In the case of the residents of the City of Marion, the Municipal Income Tax is levied and imposed on all salaries, wages, commissions and other compensation earned or accrued on and after January 1, 1972. For the purpose of determining the tax on the earnings of the resident taxpayers, taxed under subsection A of **§193.04** 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.

The following are items which are subject to the tax:

- (a) Salaries, 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, 1972.
- (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, subdivisions thereof;
 - (5) As an officer or employee (whether elected, appointed or commissioned) of a governmental administration, agency, arm, authority, board, body, branch, bureau, department, division, subdivision, section or unit of the United States Government or of a corporation created and owned or controlled by the United States Government or any of its agencies;

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

(b) Wages, bonuses or incentive payments received by an individual, whether directly or through an agent and whether in cash or in property, for services rendered on and after January 1, 1972.

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

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

(c) Commissions received by a taxpayer whether directly or through an agent and whether in cash or in property, for services rendered on and after January 1, 1972, 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 expense 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 of 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 therefore subject to tax under subsection (C) of **\$193.04** 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 servants are subject to Marion tax under The Ordinance but are not subject to withholding provisions. That is to say, the domestic will report earnings and pay the tax directly to the Marion Income Tax Department.

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

1. Funds received from local, state or federal governments because of service in the Armed Forces of the United States by the person rendering such service, or as a result of another person rendering such service.

2. Poor relief, pensions, unemployment compensation or similar payments, including 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 of 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 education organizations and associations.
6. Any association, organization, corporation, club, or trust, which is exempt from federal taxes on income by reason of its charitable, religious, educational, literary, scientific, etc. purposes.
7. Gains from involuntary conversion, cancellation or indebtedness, interest on Federal obligations, items of income already taxed by the State of Ohio and income of a decedent's estate during the period of administration (except such income from the operation of a business).
8. Earnings and income of all persons under 16 years of age whether residents or non-residents.
9. Employment of duly enrolled full-time students by their school, college, university or any public library, and services performed by student nurses and hospital interns.

ARTICLE II--2.
IMPOSITION OF TAX--NON-RESIDENTS

In the case of individuals who are non-residents of Marion, the Municipal Income Tax is levied and imposed on all salaries, wages, commissions and other compensation, earned or accruing on and after January 1, 1972 for work done or services performed or rendered within the City of Marion, 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 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 Marion, and cases involving compensation for personal services partly within and partly outside the City of Marion, see Article IV-1.

ARTICLE II-3.

IMPOSITION OF TAX--NET BUSINESS PROFITS-RESIDENTS

1. In the case of trades, businesses, professions, other activities, enterprises or undertakings conducted, operated, engaged in, prosecuted or carried on by residents of Marion, the Municipal Income Tax is levied and imposed on the net profits earned or accruing on and after January 1, 1972.

2. For the purpose of construing subsection (C) and (D) of **§193.04** of The Ordinance, the term "residents" in the phrase "conducted by residents of the City of Marion" will ordinarily be construed to have reference to the business entity itself, as distinguished from the partners, co-partners, proprietors or other participants in its profits.

3. Generally, a co-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 Marion, or if only part of its earnings may be directly taxed, then in either such case, resident partners, co-owners, proprietors or other participants in the profits thereof must include in their declaration and tax return or returns their distributive shares of such profits, or portion thereof not taxed to the business enterprise as an entity, and must pay the tax thereon.

4. The Municipal Income Tax applicable to net profits identified in **§193.04(C)** is levied and imposed 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 Marion.

ARTICLE II-4

IMPOSITION OF TAX--NET BUSINESS PROFITS
NON-RESIDENTS

1. In the case of a non-resident individual, partnership, association, fiduciary or other entity (other than a corporation) engaged in the conduct, operation, or prosecution of any trade, business, profession, enterprise, undertaking, or other activity, the Municipal Income Tax is levied and imposed on the net profits (earned or accruing on and after January 1, 1972) of such trade, business, profession, enterprise, undertaking, or other activity if, and to the extent, conducted in or derived from activity in Marion.

2. A non-resident entity within the meaning of subsection (E) of **§193.04** 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 Marion, shall be considered to be conducting, operating, prosecuting, or carrying on a trade, business, profession, enterprise, undertaking or other activity to the full extent of the sum total of all transactions originating or consummated in, by

or through such Marion 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 their remuneration or payments earned.

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

4. In determining the proportion or amount of the taxable net profits of a non-resident business entity having a place or places of business within and outside Marion, such business entity may at its option use and apply the Business Allocation Percentage formula set forth in **§193.04**, subsection (H)(1), (2), (3) and (4) of The Ordinance. For explanation of Formula, see Article II-6.

ARTICLE II-5.

IMPOSITION OF TAX--NET BUSINESS PROFITS--CORPORATIONS

1. In the case of a corporation doing business in Marion, whether domestic or foreign, and whether domiciled in Marion or elsewhere, the Municipal Income Tax is levied and imposed on that part of the net profits (earned or accruing on and after January 1, 1972) of such corporations, which is earned by such corporations as a result of work done or services performed or rendered and business or other activities conducted in the City of Marion.

2. The provisions of Paragraph 2 of Article II-4 of these Regulations are applicable to such corporations.

3. A corporation doing business both within and outside the City of Marion may, in determining the part of the net profits which are taxable under The Ordinance, at its option:

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

(b) Use the Business Allocation Percentage formula set forth in **§193.04**, subsection (H)(1), (2), (3) and (4) of The Ordinance.

ARTICLE II-6.

BUSINESS ALLOCATION PERCENTAGE

1. At the option of a corporate taxpayer or of a non-resident business entity, such taxpayers may, but are not obliged to, use the formula set forth in **§193.04** of The Ordinance to compute the percentage of their entire net profits (derived from activities both within and outside the City of Marion) which is taxable under The Ordinance, and to determine the tax payable to the City of Marion thereunder.

If the taxpayer did not have a place of business outside Marion 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 100% of the Municipal Income Tax on the entire net profit of the business.

If the taxpayer had a place or places of business outside of Marion and was doing business in Marion during such period, the business allocation percentage shall be computed on the basis of such of the three following factors as may be applicable to the particular business activity:

- (a) Real and tangible personal property within and without Marion;
- (b) Business receipts within and without Marion; and
- (c) Payrolls within and without Marion.

"Business Receipts," as used in (b), means ascertaining the percentage which the gross sales of the taxpayer within the City of Marion, plus the gross credits or charges for work done and performed or services rendered in the City of Marion bears to the total gross sales wherever made, plus the total gross credits or charges for work done and performed or services rendered. "Within the City" sales shall be deemed to include:

- aa. All sales of tangible personal property delivered to purchasers within the City if shipped or delivered from an office, store, warehouse, factory, or place of storage, located within the City;
- bb. All sales of tangible personal property delivered to purchasers within the City, even though transported from a point outside the City, if both of the following conditions are present:

If the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City, and the sale is directly or indirectly the result of the taxpayer's activities within the City in soliciting or promoting sales.

- cc. All sales of tangible personal property shipped from an office, store, warehouse, factory, or place of storage within the City to purchasers in other cities, if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales

in such other cities, or even if it is so engaged, if the sales are not directly or indirectly attributable to such activities.

"Payrolls," as used in (c), means the total wages, salaries, and other personal service compensation exclusive of compensation of general executive officers.

The business allocation percentage is computed by determining the percentages (a) which Marion real and tangible personal property bears to all real and tangible personal property (including that situated in Marion) of taxpayer wheresoever situated; (b) which Marion business sales bear to taxpayer's entire business sales wheresoever derived (including those derived from Marion); and (c) which payroll paid by taxpayer within Marion bear to taxpayer's entire payroll wheresoever paid (including Marion 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, and if two of the factors are missing, the remaining percentage is the business allocation percentage.

EXAMPLE 1: Corporation having places of business in Marion, Detroit and Cleveland.

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

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

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

Business allocation percentage: 10% plus 20% plus 30% divided by three..... equals 20%.

EXAMPLE 2: Same corporation owning no real or tangible personal property anywhere. Marion sales \$15,000. All sales \$75,000. Percentage: 20%

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

Business allocation percentage: 20% plus 30% divided by two..... equals 25%.

EXAMPLE 3: Same corporation owning real and tangible personal property in Marion valued at \$10,000 and owning no real or tangible personal property outside Marion. Other factors as in Examples 1 and 2.

Business allocation percentage: 100% plus 20% plus 30% divided by three..... 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 100% of the Municipal Income Tax of the resultant taxable net profit.

In case it shall appear to the City Auditor 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 City Auditor 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 entire net income, so as equitably to determine the tax.

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

3. EXPLANATION OF BUSINESS RECEIPTS FACTOR. For sales applicable to Marion, refer to Article II-6-1-(b).

Receipts from the following are also allocable to Marion:

1. Work done and performed or services rendered in Marion.
2. Rentals from property situated in Marion, where the rental of such property is a usual or normal part of the taxpayer's business activity.
3. All other business receipts earned in Marion. For the purpose of determining business allocation percentage, no account shall be given to receipts, within or without Marion, of income derived from intangibles (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.

4. COMPENSATION FOR WORK DONE AND PERFORMED OR SERVICES RENDERED.

(a) Compensation and other receipts for work done or services performed within Marion are allocable to Marion 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.

(b) Commissions or fees received by the taxpayer are allocated to Marion if the services for which the commissions were paid were performed in Marion. 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 Marion place of business of the taxpayer, the taxpayer's services will be deemed to have been performed in Marion.

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

(c) 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 allocable to Marion if the real property was situated in Marion. 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 Marion if the sales were made in Marion or through a regular place of business of the taxpayer in Marion.

5. PAYROLL FACTOR. The percentage of the taxpayer's payroll allocable to Marion is determined by dividing the wages, salaries and other personal service compensation of the taxpayer's employees (except general executive officer, as defined below) within Marion during the period covered by the report, by the total amount of compensation of all taxpayer's employees (except general executive officers) during such period.

Wages, salaries 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 Marion include all employees regularly connected with or working out of a place of business maintained by the taxpayer in Marion, irrespective of where the services of such employee were performed. However, if the taxpayer establishes to the satisfaction of the City Auditor that because of the fact that a substantial part of its payroll was paid to employees attached to a Marion place of business who performed a substantial part of their services outside Marion, the computation of the payroll factor according to the general rule stated above would not produce an equitable result, then the City Auditor 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 Marion who performed a substantial part of their services within Marion, the computation of the payroll factor according to the general rule would not properly reflect the amount of the taxpayer's business done within Marion by its employees, the City Auditor 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 Marion, the amount treated as compensation for services performed

within Marion 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 Marion; (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 Marion bears 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 Marion bears to the total working time.

GENERAL EXECUTIVE OFFICERS. Personal service compensation paid to general executive officers of the taxpayer for acting as such should not be included in the computation of the payroll factor.

General executive officers include the chairman, president, vice president, secretary, assistant secretary, treasurer, assistant treasurer, comptroller, director and any other officer charged with and performing general executive duties of the corporation. An executive officer whose duties or services are primarily restricted to one place of business of the taxpayer, whether within or without Marion, is not a general executive officer.

In the case of unincorporated entities, an executive officer shall be deemed to be a partner, co-owner, proprietor or other active participant in the profit of the enterprise.

6. ADJUSTMENT OF BUSINESS ALLOCATION PERCENTAGE FORMULA. Generally, the formula will result in a fair apportionment of the taxpayer's net profits within and without Marion. However, due to the peculiar circumstances of certain businesses, the formula may work a hardship in some cases or result in a tax evasion in others, thus not do justice to the taxpayer or the City. Accordingly, in such cases, the City Auditor 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 Municipal Income Tax referred to in Article II-1 and II-2 shall first be levied, collected and paid with respect to the salaries, wages, bonuses, incentive payments, commissions, fees and/or other compensation earned on and after January 1, 1972.

The Municipal Income Tax referred to in Article II-3, II-4 and II-5 with respect to net profits of trades, businesses, professions, enterprises, undertakings, and other activities shall first be levied, collected and paid with respect to such net profits earned or accrued (in accordance with the regular accounting system of taxpayer as approved by the U.S. Internal Revenue Service) from and after January 1, 1972.

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 Municipal Income 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, 1972.

A fiscal year will be recognized only if it ends on the last day of some calendar month, and has been or may be recognized by the U.S. Internal Revenue Service for the purpose of Federal Income Tax.

ARTICLE II-9
NET BUSINESS PROFITS

In amplification of the definitions 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 or 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 profits 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 shall be claimed and allowed a reasonable deduction for depreciation, depletion, obsolescence, and losses resulting from theft or casualty not compensated for by insurance or otherwise, of property used in 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 that 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 taxes based upon income;
- (3) Gifts, estate or inheritances taxes; and
- (4) Taxes and special assessments for local benefits or improvements to property which tend to appreciate the value thereof.

(j) Capital gains and losses (including gains and 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 Marion shall be subjected to tax. If the non-resident taxpayer's records do not disclose the actual net profits for the Marion 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 City Auditor 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) In general, all business expense recognized and to the extent allowed as such for the purpose of determining Federal Income Tax will be recognized and allowed in determining the Municipal 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 The Ordinance, may not be deducted in determining taxable net profits hereunder.

(m) In general, 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 if the property from which such income is derived is subject to taxation under the Intangible Personal Property Tax Laws of the State of Ohio, or is specifically exempted from taxation under said laws.

(n) 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 taxpayer individually or through agents or other representatives) constitutes a business activity of the taxpayer in whole or in part.

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) Where the gross monthly rental of any and all real properties, regardless of number and value, aggregates in excess of \$100.00 per month, it shall be prima facie evidence that the rental ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental 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 on the lessee, whether or not such rental exceeds \$100.00 per month; 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, whether or not the gross income exceeds \$100.00 per month; and provided further that the person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds \$100.00 per month.

(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 Article II-9(a), 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 U.S. Internal Revenue Service for Federal Tax purposes.

(6) Residents of Marion 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 Marion are subject to such taxation only if the real property is situated within the City of Marion. Non-residents, in determining whether gross monthly rentals exceed one hundred dollars (\$100.00), shall take into consideration only real estate situated within Marion.

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

ARTICLE II-10.
RECONCILIATION WITH FEDERAL RETURN

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

If as a result of a change made in business income by the U.S. Internal Revenue Service, or by a judicial decision, an additional amount will result as owing to the City of Marion, 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

1. On or before April 15, 1972, every taxpayer engaged in any business, the net profits of which are subject in whole or in part to the tax imposed by The Ordinance, shall make and file with the City Auditor a final return on a form furnished by or obtainable from the City Auditor. Thereafter, each such taxpayer shall, on or before April 15th of each subsequent year, make and file a final return with the City Auditor. Like returns shall be filed at the same time and in the same manner by all persons whose wages, salaries, bonuses, incentive payments, commissions, fees and other compensation received during the preceding taxable year are subject to the tax imposed by The Ordinance. However, where an employee's entire earnings for the year are paid by an employer and the Municipal Income Tax thereon has in each instance been withheld and deducted by the employer from the gross amount of the entire earnings of such employee-taxpayer, and where the employer of such employee has filed a report or return in which such employee's entire and only earnings are reported to the City Auditor, and where such employee has no taxable

income other than such earnings, it shall not be necessary for such employee to file a return for any taxable year in which such conditions have prevailed.

Any person who received 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 a final return.

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

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

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

5. The taxpayer making the return shall at the time of filing thereof, pay to the City Treasurer the amount of tax shown to be due and unpaid by the return. If, pursuant to the provisions of Article V-2, the taxpayer has at the time of making such final return overpaid his tax, such taxpayer shall show the amount of overpayment and may in said return either (a) request a refund therefor, or (b) request that the amount thereof be credited against the amount which will be required to be paid by taxpayer on the next succeeding installment of tax which may become due.

For payments in Installments, see Article V-2.

6. Where any portion of the tax otherwise due shall have been deducted at the source and shall have been paid to the City Treasurer 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 said return.

7. Upon written request of the taxpayer, the City Auditor 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 U.S. Internal Revenue Service for filing of the Federal Income Tax Return.

ARTICLE IV-1.
COLLECTION AT SOURCE

1. It is the duty of each employer (as hereinbefore defined) who employs one or more persons on a salary, wage, commission or other compensation basis, to deduct from compensation paid to any employee subject

to The Ordinance, the Municipal Income Tax rate multiplied by such salary, wage, bonus, incentive payment, commission or other compensation due by said employer to said employee. The tax shall be deducted by the employer from:

- (a) All compensation paid to employees who are non-residents of the City of Marion for services rendered, work performed, or other activity engaged in to earn such compensation, within the City of Marion; and
- (b) From the gross amount of all salaries, wages, bonuses, incentive payments, commissions or other form of compensation paid to employees who are residents of the City of Marion, regardless of the place where the services are rendered.

2. All employers who or which maintain an office or other place of business in Marion 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 residents of the City of Marion, were performed at a place of business of any such employer situated outside the City of Marion.

3. The mere fact that the tax is not withheld will not relieve the employee of the responsibility of filing a return and paying the tax on the compensation received.

4. Commissions and fees paid to professional men, brokers, and others who are independent contractors and not employees of the payor, are not subject to withholding or collection of the tax at the source. Such taxpayers must in all instances file returns and pay the tax pursuant to the provisions of **§193.04** or **§193.05** of The Ordinance. (See Article II-3 and II-4.)

5. In the case of employees who are non-residents of Marion the amount to be deducted is the Municipal Income Tax rate multiplied by the compensation paid with respect to personal services rendered in Marion.

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

- (a) 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 Marion bears to the volume of business transacted by him within and outside the City of Marion.
- (b) The deducting and withholding of personal service compensation of all other employees (including officers of corporations) shall attach to

the portion of the personal service compensation of such employee which the total number of working days employed within the City of Marion bears to the total number of working days employed within and outside the City of Marion.

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

(d) The occasional entry into the City of Marion 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.

6. An employer shall withhold the tax on the full amount of any advances made to an employee on account of commissions (whether by way of drawing account or otherwise--but see paragraph 7 below) where such advances are in excess of commissions earned.

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

ARTICLE IV-2.
RETURNS OF TAX WITHHELD AND PAYMENT

The deduction from salaries, wages, and other compensation required to be made by employers are to begin with compensation earned on and after January 1, 1972.

Each employer within the City of Marion who employs one or more persons on a salary, wage, commission or other compensation basis shall deduct monthly, or more often than monthly, and at the time of the payment of such salary, wage, commission, or other compensation, the Municipal Income Tax rate multiplied by salaries, wages, commissions or other compensation due by the said employer to the said employee and shall make a return and pay to the City Treasurer the amount of taxes as follows:

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

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

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

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

The reporting periods referred to in the preceding paragraphs are elastic to this extent: The employer will use the same quarterly accounting period for reporting taxes withheld under the Marion Income Tax Ordinance as he uses in reporting quarterly taxes withheld to the U.S. Internal Revenue Service.

Said return shall be on a form prescribed by and obtainable from the City Auditor and shall be subject to the rules and regulations prescribed therefor by the City Auditor. Such employer in collecting said tax, shall be deemed to hold same until payment is made by such employer to the City of Marion as a Trustee for the benefit of the City of Marion and any such tax collected by such employer from his employees shall until the same is paid to the City of Marion, be deemed a trust fund in the hands of such employer.

For adjustments of errors in returns of tax withheld by employers see Article VII of these Regulations.

ARTICLE IV-3.
LIMITATION ON CREDIT FOR TAX PAID AT SOURCE

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

ARTICLE IV-4.
STATUS AND LIABILITY OF EMPLOYERS

Every employer is deemed to be a trustee of the City of Marion 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 Marion for the payment of such tax whether actually collected by such employer or not.

ARTICLE V-1.
DECLARATIONS

1. An employee whose entire wages, salaries, or other compensation for any taxable year will be subjected to the withholding provisions under

Article IV of these Regulations, whose tax will accordingly be withheld as to his entire earnings for such year by his employer, and who during each taxable year expects to derive no other compensation on other income which is subject to tax under The Ordinance, need not file a declaration as provided in this Article.

2. All other taxpayers (as defined in The Ordinance and in these Regulations) subject to the taxes imposed by The Ordinance and every taxpayer who anticipates any income or profits not subject to total withholding as provided in the next preceding paragraph, shall file with the City Auditor a declaration of his estimated tax as follows:

3. On or before April 15, 1972, every such taxpayer shall file a declaration of his estimated tax for the years beginning January 1, 1972.

4. A similar 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.

5. 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 first declaration within 105 days after the beginning of the first fiscal year beginning after January 1, 1972, and the subsequent declaration for each year thereafter or before the 15th day of the fourth month following the beginning of each such fiscal year.

6. The estimated tax may be paid in full with the declaration or in equal installments on or before April 15, June 30, September 30, and December 31, the first filing being as of April 15, 1972. 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 on the sixth, ninth and twelfth month following the beginning of such fiscal year. The first installment, equal to at least one-fourth of the estimated tax, must accompany the declaration.

7. The declaration so required shall be filed upon a form furnished by or obtainable from the City Auditor. 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 taxpayer shall indicate that such income has been excluded.

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

ARTICLE V-2.
PAYMENT OF TAX INSTALLMENTS

1. At the time of filing each declaration (required by Article V-1) each taxpayer shall pay to the City Treasurer one-fourth (1/4) of the amount of his estimated annual tax. Thereafter, on or before the 30th day of June, September and December 31st 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.

2. Taxpayers who or which are permitted to make returns and pay their tax on a fiscal year basis (see Article II-8), may make the quarterly payments on their declaration of estimated tax pursuant to Article V-1(5)(6) of these Regulations.

3. For Final Returns and Final Adjustment of tax due, see Article III.

ARTICLE V-3.
RECIPROCITY PROVISION CREDIT FOR TAX PAID
TO OTHER MUNICIPALITIES

Every individual taxpayer who resides in the City of Marion but received net profits, salaries, wages, 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, or other compensation to another municipality, shall be allowed a credit on the tax imposed by The Ordinance of the amount so paid by him or in his behalf to such other municipality. The credit shall not exceed the tax assessed by The Ordinance on such net profit, salary, wage, commission, or compensation earned in such other municipality or municipalities where such city income tax is paid.

ARTICLE VI-1.
INQUISITORIAL POWERS OF THE CITY AUDITOR

The City Auditor personally, or his agents or employees, is authorized and empowered to examine the books, papers and records of any employer or supposed employer, or of any taxpayer, or supposed taxpayer, in order to verify the accuracy of any return made; 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 City Auditor or his duly authorized agents and employees, the means, facilities and opportunity for such examinations, investigations and audits as are authorized in and by The Ordinance.

The City Auditor 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 City Auditor 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 persons 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 City Auditor, or any agent or employee of the City Auditor, to verify the correctness of the returns filed.

ARTICLE VI-3.
COLLECTION OF DEFICIENCIES
ALLOWANCE OF CREDIT FOR OVERPAYMENT

If, as a result of investigation conducted by the City Auditor, a return is found to be incorrect, the City Auditor 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 City Auditor or through the medium of the filing of a claim or petition for refund or credit, that an overpayment has been made, the City Treasurer 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 excess shall be refunded by the employer to the employee. While the withholding agent (employer) will be expected to maintain complete records of such adjustments with the employees, any such adjustment made during any month will not need to be reflected in the withholding return or disclosed by schedules or statements thereto attached.

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

ARTICLE VI-4.
PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION

Tax returns, and all audits connected therewith, are confidential. Any information gained by the City Auditor, or 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 or the Regulations provided for in this Resolution, shall be held confidential, except for official purposes and except in accordance with proper judicial order, or as otherwise provided by law. Violation of this provision in this Resolution constitutes a misdemeanor, punishable by fine not exceeding \$500.00 or imprisonment for not more than six months, or both. Every such breach of confidence constitutes a separate offense.

ARTICLE VII
INTEREST AND PENALTIES

All taxes imposed by The Ordinance remaining unpaid after they become due shall bear interest, in addition to the amount of the unpaid tax, at the rate of fifteen percent (15%) per annum. Initially, for interest not yet computed, partial years shall be prorated in whole month, with fractions thereof applied as another whole month. The taxpayers upon whom said taxes are imposed shall be liable, in addition to the tax and interest, to a penalty of Fifty Dollars (\$50.00). Taxpayers under the age of 18 shall be liable to a late filing penalty and interest of no more than Five Dollars (\$5.00).

ARTICLE VIII
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 Solicitor.

Employers who or which, although obliged under The Ordinance to withhold and remit to the City Treasurer 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 action to enforce the payment of the debt created by such failure.

When a final return is filed as prescribed in **§193.06** of The Ordinance and a deficiency is determined to be due the City of Marion, action to collect the same shall not be commenced after two (2) years from the due date of said return and when a taxpayer fails to file a return, action to collect the tax due to the City of Marion shall not be commenced after five (5) years from the due date of said return.

All applications for refund shall be made within six (6) months of the due date of a final return or shall be forever barred thereafter. Provided, however, an extension may be granted by the City Auditor on written application.

ARTICLE IX VIOLATIONS--PENALTIES

Any person, firm or corporation who fails, neglects or refuses to make any returns, questionnaire or declaration required by The Ordinance or the regulations provided for in this Resolution; and any taxpayer who refuses to pay the Municipal Income Tax, interest or penalties imposed by The Ordinance; and any person who refuses to permit the City Auditor or his duly authorized agent or employee to examine his books, records and papers, or who knowingly makes any incomplete, false or fraudulent return, or who attempts to do anything whatsoever to avoid the payments of the whole or part of such tax, is guilty of a misdemeanor, punishable by a fine not to exceed \$100, and/or imprisonment not to exceed sixty (60) days, or both.

The failure of any employer or taxpayer to receive or procure returns, questionnaires, declarations or other forms is not an excuse for failure to make any declaration, questionnaire or return, or to pay the Municipal Income Tax.

Agents and employees charged with the duty of inspection or auditing of records of employers and taxpayers will carry proper identification, which shall be subject to examination by any person whose records are sought to be examined.

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

ARTICLE XI 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 Municipal Income 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 such tax.

ARTICLE XII
CONSTRUCTION--SEPARABILITY OF PROVISIONS

With respect to the construction, The Ordinance provided:

"If any sentence, clause, section or part of this 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 Marion that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section or part thereof not been included herein."

ARTICLE XIII
RECONCILIATION REPORTS

An annual reconciliation of total employee gross payrolls subject to city tax and total city taxes withheld, will be forwarded to the Marion City Income Tax office not later than February 28th of each year, unless a written request for extension has been made and approved by the Tax Commissioner. A totalized computerized listing of each employee's name, address, social security number, gross earnings before any deductions, and the amount of Marion city tax withheld will suffice for the requirements of this report. Compliance may also include forwarding a copy of each employee's W-2 or 1099 along with a totaled adding machine tape of all gross amounts before any deductions and of all city tax amounts withheld.

An annual report of non-employee compensation paid by a trade or business for services performed by people or unincorporated business entities not treated as its employees, will be forwarded to the Marion City Income Tax Department not later than February 28th of each year, unless a written request for extension has been made and approved by the Tax Commissioner. A copy of Federal Form 1099 or a listing of each such person or unincorporated business entity's name, address, social security or Federal identification number, and gross amounts paid will suffice for the filing requirements of this report. Said report will include, but is not limited to, amounts paid for sub-contracted labor, commissions, directors' fees and other compensation.

ARTICLE XIV
EFFECTIVE DATE OF REGULATIONS

The regulations provided for herein shall be effective and in full force and effect from and after January 1, 1972.

ARTICLE XV

This resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety in the City of Marion and for the further reason that the proper and efficient administration of the municipal income tax of the City of Marion effective at the rate of 1% from and after January 1, 1972 pursuant to Ordinance No. 1971-130, passed July 26, 1971 requires that regulations effective January 1, 1972 applicable to such tax be adopted to permit the printing and distribution of such regulations prior to January 1, 1972 to advise employers and employees of their respective obligations under such tax and to permit an efficient transition from the tax of 0.85% presently in effect to the tax of 1.00% imposed by such ordinance from and after January 1, 1972 and, as an emergency measure, shall take effect and be in force immediately upon its approval by the Mayor, provided it receives a majority vote of two-thirds of the members elected to Council; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

THOMAS FETTER
PRESIDENT OF COUNCIL

PASSED: November 22, 1971

APPROVED: November 23, 1971

EUGENE YAZEL
MAYOR

ATTEST:

MARY WILCOX
CLERK