

RESOLUTION NO. 1595

TITLE:

A RESOLUTION ADOPTING RULES AND REGULATIONS UNDER THE AUTHORITY OF SECTION 5, VILLAGE OF DENNISON INCOME TAX ORDINANCE NO. 1594

BE IT RESOLVED BY THE COUNCIL OF THE VILLAGE OF DENNISON, OHIO, THREE-FOURTHS OF THE MEMBERS CONCURRING, AND DECLARING AN EMERGENCY:

ARTICLE I-1

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

(A) The definitions of the terms "Taxpayer", "Association", "Business", "Corporation", "Employee", "Employer", "Net Profits", "Non-Resident", "Person", "Resident", "Other Entity" shall be the same as set forth in Section 1 of the Village of Dennison Ordinance No. 1594.

(B) 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 Dennison solely by consigning goods to an independent factor or contractor outside the Village for sale.

(C) The term "Business Allocation Percentage", as used in these Regulations, means the average percentage arrived at by applying the formula set forth in Section 2, subsection H of the Ordinance. The "Business Allocation Percentage" is the percentage which may be applied to determine the portion of the entire net profits of a taxpayer to allocated as having been made within the Village of Dennison within the meaning of the provisions of said Section 2.

(D) The term "The Ordinance" means Ordinance No. 1594 enacted by the Council of the Village of Dennison on December 19, 1972.

The singular shall include the plural and the masculine shall include the feminine and the neuter.

ARTICLE I-2

Commencement and Duration of the Tax

The tax imposed by the Ordinance is effective as to income and profits earned or accruing on and after January 1, 1973 and payroll deductions must be made against all salaries, wages, commissions, bonuses and other compensation earned or accruing on and after that date.

The Ordinance continues effective insofar as the levy of taxes is concerned on and after January 1, 1973.

ARTICLE II-1

Imposition of Tax – Resident Employees

In the case of the residents of the Village of Dennison an annual tax of one percent is imposed on all salaries, wages, commissions and other compensation earned or accrued on and after January 1, 1973. For the purpose of determining the tax on the earnings of the resident taxpayers, taxed under subsection A of the Section 2 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, 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, 1973.

(1) As an officer, director or employee 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, subdivision, section or unit of the State of Ohio or any of the political 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, 1973.

(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, 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, 1973, regardless of how computed, by whom or wheresoever paid.

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

Amounts received from an employer by way of expenses and not by way of compensation, and used as such by the individual receiving them, are not deemed to be compensation, if the employer deducts such expense advances as such from his gross income for the purpose 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 Section 2 of the Ordinance, they shall not be separately taxed. In such case, such net earnings shall be taxed as provided in Article II-9 of the 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 Dennison tax under this Ordinance but are not subject to withholding provisions. That is to say, the domestic will report earnings and pay the tax directly to the Dennison Income Tax Department.

ARTICLE II-2

Imposition of Tax – Non-Residents

In the case of individuals who are non-residents of Dennison there is imposed under the Ordinance an annual tax of one percent on all salaries, wages, commissions and other compensation, earned or accruing on and after January 1, 1973, for work done or services performed or rendered within the Village of Dennison, 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 Village of Dennison, and cases involving compensation for personal services partly within and partly outside the Village of Dennison, 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 Dennison, there is imposed an annual tax of one percent on the net profits earned or accruing on and after January 1, 1973.

2. For the purpose of construing subsection (c) and (d) of Section 2 of the Ordinance, the term “residents” in the phrase “conducted by residents of the Village of Dennison” will ordinarily be construed to have reference to the business entity itself, as distinguished from the partners, proprietors or other participants in its profits.
3. Generally, a 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 Village of Dennison, 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 tax imposed under Section 2 (c) of the Ordinance is levied upon the entire net profits of the resident trade, business, profession, other activity, enterprise, or undertaking, wherever earned, paid or accrued and regardless of the fact that any part of such business or professional activity may have been conducted at or through a place or places of business located outside the Village of Dennison.

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, there is imposed an annual tax of one percent on the net profits (earned or accruing on and after January 1, 1973) of such trade, business, profession, enterprise, undertaking, or other activity if, and to the extent, conducted in or derived from activity in Dennison.
2. A non-resident entity within the meaning of a subsection (e) of Section 2 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 Village of Dennison, 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 Dennison branch, office, store warehouse or other place of business, including (a) billings made on such transactions, or (b) services rendered, or (c) shipments made, or (d) goods, chattels, merchandise, etc., sold, or (e) commissions, fees or other remuneration or payments earned.
3. In the case of the partnership, association, or other unincorporated business owned by one or more persons the 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 Article II-3 are applicable to render taxable against such resident partners or members their distributive share of any profits of such non-residents entity not taxable under this 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 Dennison, such business entity may at its option use and apply the Business Allocation Percentage Formula set forth in Section 2, subsection H 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 Dennison, whether domestic or foreign, and whether domiciled in Dennison, or elsewhere, there is imposed an annual tax of one percent on that part of the net profits (earned or accruing on and after January 1, 1973) 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 Village of Dennison.
2. The Provision 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 Village of Dennison 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, as long as said usual accounting system shall be one acceptable to the Federal Internal Revenue Department as evidenced by acceptance and approval of income tax returns filed therein; or
 - (b) Use the Business Allocation Percentage Formula set forth in Section 2, subsection H 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 Section 2 of the Ordinance to compute the percentage of their entire net profits (derived from activities both within and outside the Village of Dennison) which is taxable under the Ordinance, and to determine the tax payable to the Village of Dennison thereunder.

If the taxpayer did not have a place of business outside Dennison 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 a tax of one percent on the entire net profit of the business.

If the taxpayer had a place or places of business outside Dennison and was doing business in Dennison during such period, the business allocation percentage shall be computed on the basis as set forth in Section 2, subsection H of the Ordinance.

The business allocation percentage is computed by determining the percentage (a) which Dennison real and tangible personal property bears to all real and tangible personal property (including that situated in Dennison) of taxpayer wheresoever situated; (b) which Dennison business sales bear to taxpayer's entire business sales wheresoever derived (including those derived from Dennison); and (c) which payrolls paid by taxpayer within Dennison bear to taxpayer's entire payroll wheresoever paid (including Dennison 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 Dennison, Detroit and Cleveland.

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

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

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

Business Allocation Percentage:
10% plus 20% plus 30% equals 20%

3

EXAMPLE 2:

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

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

Business allocation Percentage:
20% plus 30%

2 equals 25%

EXAMPLE 3:

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

Business Allocation Percentage:

$\frac{100\% \text{ plus } 20\% \text{ plus } 30\%}{3\%}$ equals 50%

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

In case it shall appear to the Village Clerk that any income or capital of the taxpayer is improperly or inaccurately reflected, the Village Clerk may adjust items of income, expense, 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 Dennison is determined by dividing the net book value (during the period covered by the report) of such property within Dennison, without deduction of any encumbrances, by the average net book value similarly computed, of all such property within and without Dennison. Only property owned by the taxpayer is considered in determining such percentage.

3. EXPLANATION OF SALES FACTOR.

Receipts from the following are allocable to Dennison:

- (a) Work done and performed or services rendered to Dennison
- (b) Rentals from property situated in Dennison, where the rental of such property is a usual or normal part of the taxpayer's business activity.
- (c) For the purpose of determining business allocation percentage, no account shall be given to receipts, within or without Dennison, 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.
- (d) Compensations and other receipts for work done or services performed within Dennison are allocable to Dennison 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 or by any other person. It is immaterial where such amounts were payable or where they were received.

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

Where a lump sum is received by the taxpayer in payment for services within and without Dennison, the amount attributable to services within Dennison 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 Dennison.

- (e) 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 Dennison, if the real property was situated in Dennison. Receipts from sale 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 Dennison if the sales were made in Dennison or through a regular place of business of the taxpayer in Dennison.

4. PAYROLL FACTOR. The percentage of the taxpayer's payroll allocable to Dennison is determined by dividing the wages, salaries and other personal service compensation of the taxpayer's employees within Dennison during the period covered by the report, by the total amount of compensation of all taxpayer's employees 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 Dennison usually includes all employees regularly connected with or working out of a place of business maintained by the taxpayer in Dennison.

However, where an employee performed services both within and without Dennison, the amount treated as compensation for services performed within Dennison 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 Dennison; (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 Dennison bears to the value of all his services; and (c) in the case of an employee compensated on a time basis, the proportion of the total amount received by him which the working time employed in Dennison bears to the total working time.

5. ADJUSTMENT OF BUSINESS ALLOCATION PERCENTAGE FORMULA

Generally, the Business Allocation Percentage Formula will result in a fair apportionment of the taxpayer's net profits within and without Dennison. 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 Village. Accordingly, in such cases, the Village Clerk may substitute factors calculated to bring about a fair and proper allocation in any case where the taxpayer has adopted the optional use of the business allocation percentage formula.

ARTICLE II-7

On What Earnings or Net Profits Tax First Levied

The tax referred to in Article II-1 and II-2 shall first be levied collected and paid with respect to the salaries, wages, bonuses, incentive payments, commissions, fees and/or other compensation earned on and after January 1, 1973.

The 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 Director of Internal Revenue) from and after January 1, 1973.

But see Article II-8 for fiscal year returns.

ARTICLE II-8

Fiscal Years

Where the fiscal year of a trade, business, profession, enterprise, undertaking and/or other activity differs from the calendar year, the tax shall be applicable to the net profits of the fiscal year, but for the first fiscal year with respect only to such portion thereof as was earned on and after January 1, 1973.

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

ARTICLE II-9

Net Business Profits

In amplification of the definition of the term "Net Profits" as set forth in Section 1 subsection G of the Ordinance, 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 said basis is used in the filing of Federal Income Tax Returns, the same basis must be used for the purpose of this

tax.

(c) If the return is made on a “cash 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.

(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 expense 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 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.

(h) Bad debts in a reasonable amount may be allowed in the year ascertained worthless and charged off, but in no event shall the amount allowed exceed the amount recognized as a deduction for the purpose of the Federal Income Tax.

(i) 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 and other expenses of said property are 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 inheritance taxes and
- (4) Taxes and/or special assessments for local benefits or improvements to property which tend to appreciate the value thereof.

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

(k) If the taxpayer is a non-resident, only the amount of net profits applicable to the activities of the business in Dennison shall be subjected to tax. If the non-resident taxpayer’s records do not disclose the actual net profits for the Dennison 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 Village Clerk 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 for...determining Dennison income tax under the provisions of this Ordinance...However, all expense connected with the acquisition or carrying of securities, the income from which is not recognized as taxable under this 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, 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 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 of the lessee, whether or not such rental exceeds \$100 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 farm; whether or not the gross income exceeds \$100 per month; and provided further that the person who operates a rooming house shall be considered in business whether or not the gross income exceeds \$100 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 Resolution, 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 expense shall be of the same nature, extent and amount as are allowed by the Internal Revenue Department for Federal Income Tax purposes.
- (6) Residents of Dennison are subject to taxation upon net income from rentals (to the extent above specified) on all properties located in Dennison, and on all properties located outside Dennison, the net income of which is not subject to city income tax in said other community. In the case of residents of Dennison, if the net income of properties located outside Dennison is subject to city income tax in another community, then said net income will not be subject to village income tax in Dennison.

Non-residents of Dennison are subject to such taxation only if the real property is situated with the Village of Dennison Non-residents, in determining whether gross monthly rentals exceed \$100, shall take into consideration only real estate situated within Dennison.

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

ARTICLE II-10

Reconciliation with Federal Return

In a form satisfactory to the Village Clerk, 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 Village Clerk and the business income reported to the Federal Internal Revenue Department.

If, as a result of a change made in business income by the Federal Internal Revenue Department, or by a judicial decision, an additional amount will result as owing to the Village of Dennison, 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, 1973 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 Village Clerk a final return on a form furnished by or obtainable from the Village Clerk. Thereafter, each such taxpayer shall, on or before April 15 of each subsequent year, make and file a final return with the Village Clerk. 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 Dennison 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 Village Clerk, 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 receives both compensation for services performed for an employer, in whatsoever form, and in addition receives income from any business activity or occupation not subject to withholding under the Ordinance, must file a declaration and 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 Village Clerk 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 three and one-half months from the end of said fiscal year.

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 the Village Clerk 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 therefore, 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.

6. Where any portion of the tax otherwise due shall have been paid by the taxpayer pursuant to the provisions of Article IV-1 and Article V-1 of this Resolution, or where an income tax has been paid to another municipality, pursuant to Section 4 of the Ordinance, credit for the amount so paid shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing said final return.

7. Upon written request of the taxpayer, the Village Clerk may extend the time for filing the annual return for a period of not more than six (6) months or not more than thirty (30) days beyond any extension requested of and granted by the Federal Internal Revenue Department for the filing of the Federal Income Tax return.

For payments in installments, see Article V-2.

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 tax of one percent of 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 Village of Dennison for services rendered, work performed, or other activities engaged in to earn such compensation, within the Village of Dennison; 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 Village of Dennison, regardless of the place where the services are rendered.

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

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 Section 2 of the Ordinance. (See Article II-3 and II-4.)

5. In the case of employees who are non-residents of Dennison, the amount to be deducted is one percent of the compensation paid with respect to personal services rendered in Dennison.

Where a non-resident receives compensation for personal services rendered or performed partly within and partly outside Dennison, the withholding employer shall deduct, withhold and remit that portion of the compensation which is earned within Dennison 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 Village of Dennison bears to the volume of business transacted by him within and outside the Village of Dennison.
- (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 Village of Dennison bears to the total number of working days employed within and outside the Village of Dennison.
- (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 Village of Dennison of a non-resident employee who performs the duties for which he is employed entirely outside the Village, but enters the Village for the purpose of reporting, receiving instructions, accounting, etc., incidental to his duties outside the Village, shall not be deemed to take such employee out of the class of those rendering their services entirely outside the Village.

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 expense necessarily and actually incurred by the employee in the actual performance of his services, provided, that such expense must be of the kind and in the amount recognized and allowed as deductible expense 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, 1973. The first return and payment required to be made on account of such deductions shall be made, filed and paid to the Village Clerk on or before April 30, of each year hereafter.

Each employer within the Village of Dennison 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 tax of one percent of salaries, wages, commissions, or other compensation due by the said employer to the said employee and shall make a return and pay to the Village Clerk the amount of taxes so deducted as follows:

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

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 Dennison Income Tax Ordinance as he uses in reporting quarterly taxes withheld to the Federal Government.

Said return shall be on a form prescribed by and obtainable from the Village Clerk and shall be subject to the rules and regulations prescribed therefore by the Village Clerk.

For adjustment of errors in returns of tax withheld by employers see Article VI-2 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 Village of Dennison, 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 Village of Dennison 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 until the same is paid to the Village of Dennison.

Every such employer required to deduct and withhold the tax at the source is liable directly to the Village of Dennison 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-1 of these Regulations, whose tax will accordingly be withheld as to his entire earnings for such year by his employer, and who during such taxable year expects to derive no other compensation or other income which is subject to tax under the Ordinance, need not file a declaration as provided in the Article.

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

- (a) On or before April 15, 1973 and every such calendar year thereafter, taxpayer shall file a declaration of his estimated tax for the taxable period beginning January 1, 1973.
- (b) A similar declaration shall be filed by each such calendar year taxpayer on or before the 15th day of April of each subsequent year during the life of the Ordinance, 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.

3. 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 three and one-half months after the beginning of the first fiscal year beginning on and after January 1, 1973 and the subsequent declaration for each year thereafter on or before the 15th day of the fourth month following the beginning of each such fiscal year. Those taxpayers on a fiscal year basis shall make quarterly payments on or before the 15th day of the fourth month and on or before the last day of the sixth, ninth and twelfth 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.

4. The estimated tax for a calendar year taxpayer may be paid in full with the filing of the declaration or in equal installments on or before April 15, June 30, September 31 and December 31.

5. The declarations so required shall be filed upon a form furnished by or obtainable from the Village Clerk. 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.

6. 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 Village Clerk 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 during the life of the Ordinance, 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 there after 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 period 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 (3) of these Regulations.

3. For final returns and final adjustment of tax due, see Article III.

ARTICLE VI-2

Collection of Deficiencies

Allowance of Credit for Overpayment

If, as a result of investigation conducted by the Village Clerk, a return is found to be incorrect, the Village Clerk 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 Village Clerk or through the medium of the filing of a claim or petition for refund or credit, that an overpayment has been made, the Village Clerk 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 Village Clerk and there has been a (termination of the employee-employer relationship, the taxpayer (employee) may obtain an adjustment by application to the Village Clerk).

ARTICLE VII

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 Village from the taxpayer, and are recoverable as other debts by suit instituted by the Village Solicitor.

Employers who or which, although obliged under the Ordinance to withhold and remit to the Village Clerk the taxes required to be withheld at the source (Article IV-1), shall fail to so withhold and/or remit, become liable to the Village in a civil action to enforce the payment of the debt created by such failure.

When a final return is filed as prescribed in Article III hereof and a deficiency is determined to be due to the Village of

Dennison, action to collect the same must be brought within three (3) years after the tax was due or the return was filed, whichever is later. However, in the case of fraud, failure to file a return, or the omission of twenty-five percent or more of income required to be reported, prosecution may be commenced within six (6) years after the commission of the offense.

ARTICLE VIII
Identification Required

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.

ARTICLE X
Savings Clause

If any sentence, clause, section or part of this Resolution, or any tax against any individual or any of the several groups specified herein, is found to unconstitutional, illegal, or invalid, such unconstitutionality, illegality or invalidity shall effect only such sentence, clause, section or part of this Resolution and shall not affect or impair any of the remaining provision, sentences, clauses, sections or other parts of this Resolution. It is hereby declared to be the intention of the Council of the Village of Dennison that this Resolution would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

ARTICLE XI
Split-Payrolls

In the case of hourly employees, where a payroll continues past December 31, 1972, and said payroll does not end until a period in January, 1973, said payroll shall be considered a split-payroll, and as such said payroll will not be subject to withholding tax under Dennison Village Income Tax Ordinance effective January 1, 1973. That is to say – only the first full pay for hourly employees earned after January 1, 1973, and all payrolls thereafter, will become subject to withholding under Dennison Village Income Tax Ordinance.

All salaried employees paid on a calendar month will be subject to withholding under Dennison Village Income Tax Ordinance as of January 1, 1973.

ARTICLE XII
Withholding Statements

The Dennison Income Tax Department will not require the filing of employee earning reports, resembling Federal Form W-2, as of December 31, 1972, or at any subsequent date.

ARTICLE XIII

This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, welfare and safety, the emergency being the necessity of immediately raising additional funds for the operation of necessary governmental functions imposed by law, including proper police and fire protection, but not limited thereto, and, as such, this Resolution shall take effect and be in force immediately upon passage by Council and approved by the Mayor.

Passed in Council this 19th day of December, A.D. 1972.

John Freeman 12-19-72
President of Council

Eugene Hart 12-19-72
Mayor

ATTEST:

Robert Murphy
Acting Clerk