

## CITY TAX OFFICE

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### \*\*\*NOTICE\*\*\*

This publication contains all amendments to the Tax Ordinance through August 7, 2006 and supersedes all previous printings of the Newark Tax Ordinance. Please destroy any previous Ordinances now in your possession and refer to this publication only.

## CHAPTER 890 Income Tax

**EDITOR'S NOTE:** The Income Tax Ordinance of the City of Newark was originally passed by initiative petition on November 3, 1959. Council renewed it for five years on January 1, 1963, by Ordinance 62-150, and for another five years on June 30, 1967, by Ordinance 67-80. Ordinance 69-150, passed December 1, 1969, established an indefinite date of termination for the City Income Tax Ordinance. Ordinance 75-8, passed January 6, 1975, levied an additional income tax of one-fourth of one percent. Ordinance 78-28, passed March 23, 1978, provided an assessment procedure, made changes in penalties and administrative changes. Ordinance 79-21, passed February 21, 1979 and clarified income upon which a declaration is to be made. Ordinance 92-59, passed November 2, 1992, enacted amendments, repealed certain sections, and enacted new sections of the Ordinance. Ordinance 93-16, passed March 2, 1993 deleted a statement that provided for no interest on extended filings where tax is due. Ordinance 94-42, passed September 6, 1994 enacted amendments and enacted new sections of the Ordinance. Ordinance 98-60, passed December 7, 1998, enacted amendments to Sections 890.03, 890.05, 890.08 and 890.09. Ordinance 00-42 passed December 4, 2000, amended section 890.10. Ordinance 01-52 passed November 19, 2001, enacted amendments, repealed sections and enacted new sections of the Ordinance. Ordinance 04-21 passed July 6, 2004 amended section 890.03. Ordinance 05-48 passed September 6, 2005 enacted amendments, repealed certain sections, and enacted new sections of the Ordinance.

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### **CROSS REFERENCES**

Power to levy income tax – see Ohio Const., Art. XII, Sec. 5, Art. XII, Sec. 8, Art. XVIII, Sec. 3.

Joint Economic Development Zone taxes – see Ohio Revised Code, Section 716.69(H).

Municipal income taxes – see Ohio Revised Code, Chapter 718

Bond of Tax Administrator – see ADM. 254.01.

Bond of personnel in office of Tax Administrator – see ADM 254.01.

Notification of Tax Administrator required – see B.R. & T. 804.01.

Duties of Tax Administrator re licensing of temporary stores – see B.R. & T. 876.03.

### **890.01           PURPOSE.**

- (a) In order to provide funds for the purpose of financing capital improvements and the general revenue fund operations of the City and for other municipal purposes, there shall be and hereby is levied a tax of one percent on qualifying salaries and/or wages, commissions and other compensation and taxable income, and on net profits, as hereinafter provided, such one percent to be effective beginning July 1, 1967. (Ord. 67-80. Passed 6-30-67.)

- (b) In order to provide additional revenue for the City to be paid into the general revenue fund, there shall be and hereby is levied an additional tax of one-fourth of one percent on qualifying salaries and/or wages, including vacation and sick pay, commissions and other compensation and taxable income, and on net profits, as hereinafter provided. (Ord. 75-8. Passed 1-6-75.)
- (c) In order to provide additional revenue for the City to be paid into the general revenue fund, there shall be and hereby is levied an additional tax of one-half of one percent on qualifying salaries and/or wages, including vacation and sick pay, commissions and other compensation and taxable income, and on net profits, as hereinafter provided. (Ord. 01-52. Passed 11-19-01)
- (d) In order to provide funds for the purpose of financing capital improvements and to facilitate new and expanded growth for commercial and economic development in a JEDZ or JEDD and for other municipal purposes of the City, there shall be and hereby is levied a tax of one and three-fourths percent on qualifying salaries and/or wages, commissions and other compensation and taxable income, and on net profits, as hereinafter provided, such one and three-fourths percent to be effective beginning January 1, 2006.

## **890.02 DEFINITIONS.**

- (A) For the purpose of this chapter the following definitions shall apply, unless the context clearly indicates or requires a different meaning. The singular shall include the plural. The masculine gender shall include the feminine and the neuter genders.
- (1) **Adjusted federal taxable income.** Means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:
  - (a) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income;
  - (b) Add an amount equal to five percent (5%) of intangible income deducted under division (A)(1)(a) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code;
  - (c) Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;
  - (d) (i) Except as provided in division (A)(1)(d)(ii) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;
  - (ii) Division (A)(1)(d)(i) of this section does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.

- (e) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;
- (f) In the case of a real estate investment trust and regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;
- (g) If the taxpayer is not a C corporation and is not an individual, the taxpayer shall compute adjusted federal taxable income as if the taxpayer were a C corporation, except:
  - (i) Guaranteed payments and other similar amounts paid or accrued to a partner, former partner, member, or former member shall not be allowed as a deductible expense; and
  - (ii) Amounts paid or accrued to a qualified self-employed retirement plan with respect to an owner or owner-employee of the taxpayer, amounts paid or accrued to or for health insurance for an owner or owner-employee, and amounts paid or accrued to or for life insurance for an owner or owner-employee shall not be allowed as a deduction.

Nothing in division (A)(1) of this section shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.

Nothing in this chapter shall be construed as limiting or removing the ability of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax. (Ord. 05-48 passed 9-6-05)

- (2) **Association.** A partnership, limited partnership, limited liability company, Subchapter S corporation (S Corporation) as defined by the Internal Revenue Code (I.R.C.), 26 U.S.C. 1361, or any other form of unincorporated enterprise owned by one or more persons. NOTE: For purposes of a JEDZ or JEDD income tax levy, an S corporation will be treated as a Corporation.
- (3) **Banking Day.** Means that part of any day on which a bank is open to the public for carrying on substantially all of its banking functions.
- (4) **Board of Directors.** Means the Board of Directors of a JEDZ or JEDD.
- (5) **Board of Tax Appeals.** The Board created by and constituted as provided in Section 890.12.
- (6) **Business.** An enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, fiduciary, trust, corporation or any other entity, including but not limited to the renting or leasing of property, real, personal or mixed.
- (7) **Business allocation.** That portion of net profits to be allocated to the City or a JEDZ or JEDD as having been made therein pursuant to Section 890.03.
- (8) **Chapter.** Means Chapter 890 of the Codified Ordinances of the City of Newark, Ohio.
- (9) **City.** Means the City of Newark, Ohio.

- (10) **Compensation.** Shall include, but not limited to qualifying wages and/or salaries, commissions, vacation pay, sick pay (including 3<sup>rd</sup> party), holiday pay, bonuses, monetary value of awards and prizes related to employment, tips or gratuities, severance or termination pay, supplemental unemployment pay, strike pay, wage continuation payments made as a result of early retirement, employment termination, or for purposes of health, rest, recuperation or other reward, wage continuation payments made as a result of sickness or temporary disability and whether paid by the recipient's employer or by a third party, group term life insurance premiums paid on an employee's behalf for coverage of \$50,000 or more, ordinary income portion of stock options or employee stock purchase plans, or any other remuneration paid in cash or in property, or any other income from any source not specifically exempted by this Chapter or the Ohio Revised Code (O.R.C.), Chapter 718. The term compensation as used in this chapter shall not be limited to the items specifically set forth in this section.
- (11) **Corporation.** Means a corporation of joint stock association organized under the laws of the United States, the State of Ohio, or any other state or territory or foreign country or dependency, but not an S corporation. NOTE: For purposes of a JEDZ or JEDD income tax levy, an S corporation does mean a corporation as organized under the law. (Ord. 67-80. Passed 6-40-67; Ord. 69-150. Passed 12-1-69; Ord. 75-8. Passed 1-6-75; Ord. 92-59. Passed 11-2-92; Ord. 05-48 passed 9-6-05).
- (12) **Domicile.** Means a principal place of residence, employment or business within the City, JEDZ or JEDD. A place where an individual has his true, fixed and permanent legal residence. An individual may have more than one residence but not more than one domicile. Domicile is that property that is held out as the "home" address for one or more of the following: 1. Federal and state tax returns. 2. Employment, credit or banking purposes. 3. Auto registration. 4. Drivers license. 5. Children's education. 6. Voter registration. (Ord. 78-28. Passed 3-23-78.)
- (13) **Employee.** Means one who works for wages, salary, commission or any other type of compensation in the service and/or under the control of an employer. Any person for whom an employer is required to withhold either federal income tax or social security tax or on whose account payments are made under the worker's compensation law shall prima-facie be an employee.
- (14) **Employer.** Means an individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, that employs one or more persons on a salary, wage commission or other compensation basis.
- (15) **Fiscal year.** An accounting period of 12 months or less ending on any other day other than December 31.
- (16) **Form 1099-MISC, Miscellaneous Income.** Means Internal Revenue Service Form 1099-MISC filed by a taxpayer pursuant to the Internal Revenue Code.
- (17) **Form 2106, Employee Business Expenses.** Means Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
- (18) **Form 5754, Statement by Person(s) Receiving Gambling Winnings.** Means Internal Revenue Service Form 5754 filed by a taxpayer pursuant to the Internal Revenue Code.

- (19) **Form W-2, Wage and Tax Statement.** Means Internal Revenue Service Form W-2 filed by a taxpayer pursuant to the Internal Revenue Code.
- (20) **Form W-2G, Certain Gambling Winnings.** Means Internal Revenue Service Form W-2G filed by a taxpayer pursuant to the Internal Revenue Code.
- (21) **Generic form.** Means an electronic or paper form designed for reporting estimated municipal, JEDZ or JEDD income taxes and annual municipality, JEDZ or JEDD income tax liability or for filing a refund claim that is not prescribed by a particular municipal corporation, JEDZ or JEDD for the reporting of that municipal corporation, JEDZ or JEDD tax on income. Any municipality, JEDZ or JEDD that requires taxpayers to file income tax returns, reports, or other documents shall accept for filing a generic form of such a return, report, or document if the generic form, once completed and filed, contains all of the information required to be submitted with the municipality, JEDZ or JEDD prescribed returns, reports, or documents.
- (22) **Gross receipts.** Means the total income of taxpayers from whatever source derived, before any deductions, exceptions or credits are claimed.
- (23) **Income from a pass-through entity.** Means a corporation of joint stock association organized under the laws of the United States, the State of Ohio, or any other state or territory or foreign country or dependency, but not an S-corporation. NOTE: For purposes of a JEDZ or JEDD income tax levy, an S corporation does mean a corporation as organized under the law. (Ord. 67-80. Passed 6-40-67; Ord. 69-150. Passed 12-1-69; Ord. 75-8. Passed 1-6-75; Ord. 92-59. Passed 11-2-92).
- (24) **Intangible Income.** Means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, trade names, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings or other similar games of chance.
- (25) **Internal Revenue Code (I.R.C.).** Means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.
- (26) **Internet.** Means the international computer network of both Federal and nonfederal interoperable packet switched data networks, including the graphical sub network known as the World Wide Web.
- (27) **JEDZ or JEDD.** Means a Joint Economic Development Zone or JEDD created under the Ohio Revised Code sections 715.70, 715.71, 715.72 or 715.69(H), as amended from time to time.
- (28) **JEDZ or JEDD Contract.** Means the Joint Economic Development Zone Contract or the Joint Economic Development District Contract entered into by and between the City and a political subdivision duly authorized to form a Joint Economic Development Zone or Joint Economic Development District under Ohio law.
- (29) **Limited Liability Company.** Means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.
- (30) **Municipality.** Means the City of Newark, Ohio.

- (31) **Net profits.** Means the net gain from the operation of a business, profession, enterprise or other activity (whether or not such business, profession, enterprise or other activity is conducted for profit or is ordinarily conducted for profit), after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting method used by the taxpayers for federal income tax purposes without deduction of taxes imposed by this chapter, federal, state and other taxes based on income; and in the case of an association, without deduction of salaries/draws paid to partners and other owners; and otherwise adjusted to the requirements of this chapter. Net profits shall include any amount recognized as ordinary gains from recapture of accelerated depreciation from the sale or other disposition of tangible personal property or real property used in business. A R.E.I.T. shall be taxed as an entity on net profits before deduction of net operating loss or dividends paid to owners / members. Effective January 1, 2004 “net profit” for a taxpayer other than an individual means adjusted federal taxable income and “net profit” for a taxpayer who is an individual means the individual’s profit, other than the amounts described in division (i), Section 890.03, required to be reported on federal schedules C, E or F.
- (32) **Nonqualified deferred compensation plan.** Means a compensation plan described in section 3121 (v)(2)(C) of the Internal Revenue Code.
- (33) **Nonresident.** Means an individual who is not domiciled within the municipality, JEDZ or JEDD.
- (34) **Nonresident incorporated business entity.** Means an incorporated business entity not having an office or place of business within the municipality, JEDZ or JEDD.
- (35) **Nonresident unincorporated business entity.** Means an unincorporated business entity not having an office or place of business within the municipality, JEDZ or JEDD.
- (36) **Organization.** A corporation for profit or not for profit, a partnership, limited partnership, limited liability company, joint venture, unincorporated association, estate, trust or other commercial or legal entity organized as or by a governmental agency for the execution of a government program.
- (37) **Other entity.** Means a person or anybody not previously named or defined and including inter alia, fiduciaries.
- (38) **Other payer.** Means any person that pays an individual any amount included in the taxable income of the individual, other than the individual’s employer or that employer’s agent.
- (39) **Owner.** Means a partner of a partnership, a shareholder of an S corporation, a member of a limited liability company, or any other person with an ownership interest in a pass-through entity.
- (40) **Owner’s proportionate share,** with respect to each owner of a pass-through entity, means the ratio of (a) the owner’s income from the pass-through entity that is subject to taxation by the municipal corporation to (b) the total income from that entity of all owners whose income from the entity is subject to taxation by that municipal corporation.
- (41) **Pass-through entity.** Means a partnership, limited liability company, S corporation (not to include an S corporation entity located or working within a JEDZ or JEDD),

or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code.

- (42) **Person.** Every natural person, individual, firm, company, organization, partnership, fiduciary, association, business, business trust, corporation, governmental entity or any other entity. Whenever used in any clause prescribing and imposing a penalty, the term “person” as applied to any unincorporated entity shall mean the parties, owners or members thereof, and as applied to corporations, the officers thereof.
- (43) **Place of business.** Any bona fide office (other than a mere statutory office), factory, warehouse or other place, which is occupied and used by the taxpayer in carrying on any business activity individually or through any one or more of his regular employees regularly in attendance.
- (44) **Principal place of business.** Means in the case of an employer having headquarters’ activities at a place of business within a taxing municipality, JEDZ or JEDD the place of business at which the headquarters is situated. In the case of any employer not having its headquarters’ activities at a place of business within a taxing municipality, JEDZ or JEDD the term means the largest place of business located in a taxing municipality, JEDZ or JEDD.
- (45) **Qualified Plan.** Means a retirement plan satisfying the requirements under section 401 of the Internal Revenue Code.
- (46) **Qualifying wages.** Means wages, as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted in accordance with Section 718.03(A) of the O.R.C. This definition is effective January 1, 2004.
- (47) **Resident.** Means a person domiciled in the City, JEDZ or JEDD; having an office or place of business within the City, JEDZ or JEDD.
- (48) **Resident incorporated business entity.** Means an incorporated business entity whose office, place of operations or business situs is within the City, JEDZ or JEDD.
- (49) **Resident unincorporated business entity.** Means an unincorporated business entity within the City, JEDZ or JEDD having an office, place of operations or business within the City, JEDZ or JEDD.
- (50) **Return preparer.** Means any person other than a taxpayer that is authorized by a taxpayer to complete or file an income tax return, report, or other document for or on behalf of the taxpayer.
- (51) **Schedule C.** Means Internal Revenue Service schedule C filed by a taxpayer pursuant to the I.R.C.
- (52) **Schedule E.** Means Internal Revenue Service schedule E filed by a taxpayer pursuant to the I.R.C.
- (53) **Schedule F.** Means Internal Revenue Service schedule F filed by a taxpayer pursuant to the I.R.C.
- (54) **Subchapter S Corporation (S Corporation).** Means a corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year. Taxed as a pass-through entity for purposes of filing with the City. For purposes of a JEDZ or JEDD income tax levy, an S corporation will be treated as a corporation.
- (55) **Tax Administrator.** Is the individual designated by this Chapter to administer and enforce the provisions of this Chapter.



- (56) **Taxable income.** Means qualifying salaries and wages, commissions, or any other compensation paid by an employer and/or net profits from the operation of a business, profession, enterprise or activity, including the renting of property. Other compensation includes, but is not limited to, tips, tax shelter plans, gifts of any type for services rendered, vacation and holiday pay, wage continuation benefits (including plans paid by the employer for purpose of health, rest, recuperation or other reward and are deemed to have the same tax status as the primary job assignment or job location of the employee and are taxable on the same ratio as the normal earnings of such employee for his primary job assignment), director's fees, jury duty fees, stock options granted in connection with the performance of service and not designated as capital gains, property in lieu of cash, sick pay, bonuses, incentive payments in whatever form, company closing benefits, supplemental unemployment benefits, earnings designated as deferred compensation or compensation paid by an employer in whatever form for services rendered, employer paid premiums for group-term insurance in excess of fifty thousand dollars (\$50,000), strike benefits, depreciation recapture, ordinary income shown on Federal Form 4797, income from a non-qualified pension plan when reported on Form W-2, income from a covenant not to compete agreement, income for services performed as a guardian, executor, conservator, trustee or administrator and a resident partner's, member's or shareholder's distributive share of a nonresident partnership, LLC and/or S Corporation's net profits (whether received as wages paid or an draw from a capital account, and whether received or accrued); the term shall also include gross income received by a resident of the City as winnings derived from gaming, wagering, lotteries or other games of chance and shall be taxable in the year in which it is received (after August 6, 2004). The term taxable income may not be limited to the items set forth in this section. NOTE: For purposes of a JEDZ or JEDD income tax levy, a resident of a JEDZ or JEDD receiving pass-through income (distributive share of net profits) as a member or shareholder of an S corporation, such income will not be taxable unless it constitutes wages or salaries.
- (57) **Tax period.** Shall be the following:
- i. For the purpose of the initial one percent levy imposed by Section 890.03(a), the period beginning July 1, 1967, and having no termination date; and
  - ii. For the purpose of the additional one-fourth of one percent levy imposed by Section 890.03(b), the period beginning April 1, 1975, and having no termination date; and
  - iii. For the purpose of the additional one-half of one percent levy imposed by Section 890.03(c), the period beginning January 1, 2002, and having no termination date.
  - iv. For the purpose of a JEDZ or JEDD income tax levy imposed by Section 890.01(d), the tax period shall be as proscribed by each respective JEDZ or JEDD formed pursuant to Ohio law , unless repealed.
- (58) **Taxable year.** Means the corresponding tax-reporting period as prescribed for the taxpayer under the I.R.C. In the case of a return for a fractional part of a year, the period for which such return is required to be made.

- (59) **Taxpayer.** Means an association, business, organization, corporation, employer, or a person subject to a tax on income levied by a municipal corporation or a JEDZ or JEDD. Taxpayer does not include any person that is a disregarded entity or a qualifying subchapter S subsidiary for federal income tax purposes, but taxpayer includes any other person who owns the disregarded entity or qualifying subchapter S subsidiary, or a person who is required by this chapter to file a return, form or other document, whether or not a tax is due thereon. (Ord. 67-80. Passed 6-30-67; Ord. 69-150. Passed 12-1-69; Ord. 75-8. Passed 1-6-75.)

### **890.03 IMPOSITION AND LEVY OF TAX.**

- (A) Subject to the provisions of Section 890.17, an annual tax for the purposes specified in Section 890.01 shall be levied on and after July 1, 1967, at the rate of one percent per year, and on and after April 1, 1975, at the rate of one and one-fourth percent per year, and on and after January 1, 2002, at the rate of one and three-fourth percent per year, upon the following:
1. On all compensation, qualifying wages and/or taxable income (unless specifically exempted by this chapter) earned, received, accrued or otherwise set apart to residents of the City, a JEDZ or JEDD.
  2. On all compensation, qualifying wages and/or taxable income (unless specifically exempted by this chapter) earned, received, accrued or otherwise set apart to nonresidents of the City for sales made, work done or services performed or rendered within the City, JEDZ or JEDD.
  3. On the portion attributable to the City, JEDZ or JEDD of the net profits earned, received, accrued or in any other way set apart unto all resident unincorporated businesses, pass-through entities, professions or other activities derived from sales made, work done or services performed or rendered and business or other activities conducted in the City, JEDZ or JEDD.
  4. On the portion of the distributive share of the net profits earned, received, accrued or in any other way set apart unto a resident partner, member or owner of a resident association, pass-through entity or unincorporated business entity not attributable to the City. JEDZ or JEDD and not levied against such association, pass-through entity or unincorporated business entity. NOTE: For purposes of a JEDZ or JEDD income tax levy, the distributive share of the net profits earned, received, accrued or in any other way set apart unto a resident owner/member of an S corporation shall not be taxed at the owner/member level.
  5. On the portion attributable to the City, JEDZ or JEDD of the net profits earned, received, accrued or in any other way set apart unto all nonresident unincorporated businesses, associations, pass-through entities, professions or other activities, derived from sales made, work done or services performed or rendered and business or other activities

conducted in the City, JEDZ or JEDD whether or not such unincorporated business, association, pass-through entity, profession or other entity has a place of business in the City, JEDZ or JEDD. NOTE: For purposes of a JEDZ or JEDD income tax levy, an S corporation's net profits taxable to a JEDZ or JEDD will be treated as a corporation for filing and payment purposes.

6. On the portion of the distributive share, whether or not distributed, of the net profits earned, received, accrued or in any other way set apart unto a resident partner, member or owner of a nonresident association, pass-through entity, unincorporated business entity or a resident shareholder of a nonresident S corporation, not attributable to the City, JEDZ or JEDD and not levied against such association or unincorporated business entity. NOTE: For purposes of a JEDZ or JEDD income tax levy, an S corporation is treated as a corporation for tax filing and payment purposes.
7. On the net profits of all corporations, estates and trusts, derived from sales made, work done, services rendered or performed and business or other activities conducted in the City, JEDZ or JEDD, whether or not such corporations, estates, and trusts have their principal or any place of business located in the City, JEDZ or JEDD
8. On a resident shareholder's distributive share, whether distributed or not, of net profits of a subchapter S corporation to the extent the distributive share would be allocated or apportioned to this State under divisions (B)(1) and (2) of Section 5733.05 of the Ohio Revised Code if the S corporation is a corporation subject to taxes imposed under Chapter 5733 of the Ohio Revised Code. The tax imposed by this paragraph is effective for all accounting periods commencing on or after January 1, 2002. NOTE: This section does not apply for purposes of a JEDZ or JEDD income tax levy.
9. On all income received, by residents of the City, JEDZ or JEDD, as gambling winnings as reported on Internal Revenue Service form W-2G, Form 5754 and or any other form required by the Internal Revenue Service that reports winnings from gambling, prizes and lottery winnings.

**(B) Form 2106, Employee Business Expenses.**

An employee who pays his business expenses from his wages, salaries, commissions or other compensation, without reimbursement from his employer, may deduct from his gross qualifying wages, salaries, commissions or other compensation business expenses reported on Federal Form 2106, but only to the extent that such expenses were directly incurred in earning the income subject to the tax imposed by this chapter. Deduction shall be allocated first to the City, JEDZ or JEDD where the employment occurred, whether or not a refund from the employment municipality, JEDZ or JEDD was requested or received. Substantiation of expenses reported is required.

**(C) Allocation of net profits (Businesses both in and outside the City, JEDZ or JEDD boundaries.**

This section does not apply to taxpayers that are subject to and required to file reports under Chapter 5745.03, of the Ohio Revised Code and individuals who are residents of the City, JEDZ or JEDD. Net profit from a business or profession conducted both within and without the boundaries of a municipal corporation, JEDZ or JEDD shall be considered as having a taxable situs in such municipal corporation, JEDZ or JEDD for purposes of municipal, JEDZ or JEDD income taxation in the same proportion as the average ratio of the following:

- (1). Multiply the entire net profits of the business by a business apportionment percentage to be determined by:
  - (a) The average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in such municipal corporation, JEDZ or JEDD during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.
  - (b) Wages, salaries and other compensation paid during the taxable period to persons employed in the business or profession for services performed in such municipal corporation, JEDZ or JEDD to wages, salaries, and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed, excluding compensation that is not taxable by the municipal corporation, JEDZ or JEDD under section 718.011 of the O.R.C.;
  - (c) Gross receipts of the business or profession from sales made and services performed during the taxable period in such municipal corporation, JEDZ or JEDD to gross receipts of the business or profession during the same period from sales and services wherever made or performed.
  - (d) Adding together the percentages determined in accordance with subsections C. 1. a., b. and c. hereof, or such of the aforesaid percentages as are applicable to the particular taxpayer and dividing the total so obtained by the number of percentages used in deriving such total.
    - (i) A factor is applicable even though it may be apportioned entirely in or outside the City, JEDZ or JEDD.
    - (ii) Provided however, that in the event a just and equitable result cannot be obtained under the formula provided for herein, the Tax Administrator, upon application of the taxpayer, shall have the authority to substitute other factors or

methods calculated to effect a fair and proper apportionment.

- (2). As used in subsection C of this section, “ sales made in a municipal corporation,” “JEDZ” or “JEDD” mean:
- (1) All sales of tangible personal property delivered within such municipal corporation, JEDZ or JEDD regardless of where title passes if shipped or delivered from a stock of goods within such municipal corporation, JEDZ or JEDD;
  - (2) All sales of tangible personal property delivered within such municipal corporation, JEDZ or JEDD regardless of where title passes even though transported from a point outside such municipal corporation, JEDZ or JEDD the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such municipal corporation, JEDZ or JEDD and the sales result from such solicitation or promotion;
  - (3) All sales of tangible personal property shipped from a place within such municipal corporation, JEDZ or JEDD to purchasers outside such City, JEDZ or JEDD regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

**(D) Net Operating Loss.**

1. For the purpose of this tax if a net operating loss has been sustained in any taxable year, such losses may not be carried forward or backward to any other taxable year.
2. The net operating loss of any association, pass-through entity or unincorporated business activity may not be used to offset salaries, wages, commissions, other compensation or other miscellaneous non-business taxable income.
3. Commencing with taxable years beginning January 1, 2002, if a taxpayer is engaged in two or more taxable associations, pass-through entities or unincorporated business activities to be included in the same return, the net loss of one association or unincorporated business activity (except any portion of a loss separately reportable for City tax purposes to another taxing entity) may be used to offset the profits of another for purposes of arriving at overall net profits from association or unincorporated business activities. For purposes of a JEDZ or JEDD income tax levy, pass-through net loss derived by residents of a JEDZ or JEDD shall not be an allowable loss against any other business net profits included on the same or separate tax return. The portion of a loss allowed to be deducted by a resident, from the operation of a business or rental property shall be calculated as follows:

- (i) If the business or rental property is located within the corporate boundaries of the City, JEDZ or JEDD, or is in a jurisdiction that has no municipal, or JEDZ or JEDD income tax, the entire loss may be deducted against the same or other unincorporated business or rental profits.
- (ii) If the business or rental property is located outside the corporate boundaries of the City, JEDZ or JEDD but is located in a jurisdiction that has a municipal, JEDZ or JEDD income tax, the amount of loss shall be calculated using the following methods (whichever applies):
  - (a) If the tax rate of the other taxing jurisdiction is 1% or more, multiply the loss applicable to that other City, JEDZ or JEDD by 57.14% to determine the amount of loss that can be deducted against the same or other unincorporated business or rental profits that will be reported on the same Income Tax Return.
  - (b) If the tax rate of the other taxing jurisdiction is less than 1%, the amount of loss shall be calculated using the following formula:
    - Step A – Subtract the tax rate of the other municipality, JEDZ or JEDD from the tax rate of the City of Newark, JEDZ or JEDD.
    - Step B - Divide the result by the tax rate of City of Newark, a JEDZ or JEDD.
    - Step C – Multiply the business loss by the result of Step B. This is the portion of the loss that can be deducted against the same or other unincorporated business or rental profits that will be reported on the same City of Newark, JEDZ or JEDD tax return.

- 4. Entities subject to current year loss limitations pursuant to the Internal Revenue Code shall report and use the total loss in the current year. Loss limited by the I.R.C. in one year shall not be carried forward or backward to another year. Loss is subject to the provisions in Section 890.03(D)(3) of this Chapter.

**(E) Consolidated Returns.**

A consolidated return may be filed by a group of corporations who are affiliated through stock ownership if that affiliated group filed for the same tax period a consolidated return for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code.

Once a consolidated return has been filed for any taxable year, consolidated returns shall continue to be filed in subsequent years unless permission in writing is granted by the Tax Administrator to file separate returns or until a corporation is no longer associated with other corporations(s).

**(F) Rental income from real property.**

Rental income from real property shall be taxed as follows:

1. The rental, ownership, management or operation of rental property shall be considered a business, regardless of whether the property is residential, commercial or farm property and therefore subject to the requirements of this chapter, including the filing of tax returns on rentals that sustain a net operating loss.
2. Rental income received by a taxpayer engaged in the business of buying and selling real estate shall be considered as part of business income.
3. Real property, as the term is used in this chapter, shall include commercial, residential, farm property and any other types of real estate.
4. In determining the taxable income from rentals, the deductible expenses shall be of the same nature, extent and amount as allowed by the Internal Revenue Service for federal tax purposes with the exception that loss limitations are not applicable for tax purposes.
5. Residents of the City, JEDZ or JEDD, are subject to taxation upon the net income from rental property regardless of where the property is located.
6. Nonresidents of the City, JEDZ or JEDD, are subject to taxation only if the real property is situated within the City Corporation, JEDZ or JEDD limits.
7. To be considered nontaxable as ground rentals, the property must be under perpetual leasehold by the terms of which the lessor performs no services of any type, including the payment of taxes on the property.
8. Corporations owning or managing real estate are taxed only on that portion of income derived from property located in the City, JEDZ or JEDD,
9. Rooms rented and boarding houses shall constitute a business activity and shall be reported by all property owners for property located in the City, JEDZ or JEDD, and/or by a resident with rented rooms or boarding houses located outside the City, JEDZ or JEDD.

**(G) Patents and copyrights.** Income from a patent or a copyright is not taxable if the income is subject to the State intangible tax. Such items shall be clearly disclosed on an attachment to be filed with the City tax return.

**(H) Exemptions.** The tax provided for in subsection (a) hereof shall not be levied upon the following:

1. Pay or allowance of active members of the Armed Forces of the United States by the person rendering such service or as a result of another person rendering such service. However, spouses or other

family members not on active duty will be subject to all provisions of this Tax Ordinance;

2. Welfare benefits, pension payments received as a result of retirement and reported on Form 1099-R or similar federal form, State unemployment compensation, social security benefits, worker's compensation;
3. Proceeds of insurance paid by reason of death of the insured; retirement disability benefits, annuities, or gratuities not in the nature of compensation for services rendered from whatever source derived;
4. Alimony received;
5. Income, dues, contributions and receipts from casual entertainment, amusements, sports events and health and welfare activities received by religious, fraternal, bona fide charitable, scientific, literary or educational institutions or organizations, labor unions, lodges and similar organizations;
6. Any association, organization, corporation, club or trust which is exempt from Federal taxes on income by reason of its charitable, religious, educational, literary or scientific purpose; any such association or organization falling in this category shall be required to file declarations and final returns and remit the taxes levied under this chapter on all net profits from activities, the income from which is not specifically exempt from taxation under the Ohio Revised Code, Section 718.01.
7. Gains from involuntary conversion, cancellations of indebtedness, interest on Federal obligations, dividend income subject to the Ohio intangible property tax, interest income from institutions which pay the Ohio intangible property tax thereon and income of a decedent's estate during the period of administration (except such income from the operation of a business);
8. The income of individuals under eighteen (18) years of age. All provisions of this chapter apply on and after an individual's eighteenth birthday.
9. In the case of a minister of the gospel, gross income does not include the rental value of a home furnished to him as part of his compensation; or the rental allowance paid to him as part of his compensation, to the extent used by him to rent or provide a home.
10. Salaries, wages, commissions, other compensation, other income and net profits, the taxation of which is prohibited by the United States Constitution or any act of congress limiting the power of the states or their political subdivisions to impose net income taxes on income derived from interstate commerce.
11. Salaries, wages, commissions, other compensation, other income and net profits, including interest and dividends as provided in 718.01, O.R.C., the taxation of which is prohibited by the Constitution of the State or any act of the Ohio General Assembly limiting the power of the City, JEDZ or JEDD, to impose net income taxes.



12. On or after, January 1, 2001, compensation paid to a nonresident individual for personal services performed by the individual in the City, JEDZ or JEDD, on twelve (12) or fewer days in a calendar year unless one of the following applies:
  - a. The individual is the employee of another person; the principal place of business of the individual's employer is located in another municipal corporation, JEDZ or JEDD in this State that imposes a tax applying to the compensation paid to the individual for services performed on those days; and the individual is not liable to that other municipal corporation, JEDZ or JEDD for tax on the compensation paid for such services.
  - b. The individual is a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event and their employees.

For purposes of the 12-day calculation, any portion of a day worked in the City, JEDZ or JEDD, shall be counted as one day worked in the City, JEDZ or JEDD,. This section is effective January 1, 2001.

13. Compensation paid under O.R.C. 3501.28 or 3501.36 of to a person serving as a precinct official, to the extent that such compensation does not exceed one thousand (\$1,000) annually. Such compensation in excess of one thousand dollars may be subject to taxation. The payer of such compensation is not required to withhold the City, JEDZ or JEDD tax from that compensation.
14. Compensation paid to an employee of a transit authority, regional transit authority, or a regional transit commission created under Chapter 306 of the Ohio Revised Code for operating a transit bus or other motor vehicle for the authority or commission in or through the Municipality, JEDZ or JEDD, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such tax by reason of residence or domicile in the Municipality, ~~or a~~ JEDZ or JEDD, or the headquarters of the authority or commission is located within the Municipality, JEDZ or JEDD.
15. The income of a public utility, when that public utility is subject to the tax levied under section 5727.24 or 5727.30 of the Ohio Revised Code, except a municipal corporation, JEDZ or JEDD may tax the following, subject to Chapter 5745. of the Ohio Revised Code:
  - a. The income of an electric company or combined company;
  - b. The income of a telephone company.As used in division (F)(15) of this section, "combined company", "electric company", and "telephone company" have the same meanings as in section 5727.01 of the Ohio Revised Code.

16. Generally the above noted items in this section are the only forms of income not subject to the tax. Any other income, benefits, or other forms of compensation shall be taxable.

(Ord.67-80. Passed 6-30-67; Ord. 73-28. Passed 3-5-73; Ord. 75-8. Passed 1-6-75; Ord 88-51. Passed 11-7-88; Ord. 92-59. Passed 11-2-92; Ord. 94-42. Passed 9-6-94.)

#### **890.04 EFFECTIVE DATES.**

(a) The initial one percent levy imposed by Section 890.03(a) shall be levied, collected and paid with respect to the taxable income (unless specifically exempted by this chapter), salaries, qualifying wages, vacation pay, sick pay, commissions and all other compensation earned, received, accrued or in any way set apart to any individual on and after July 1, 1967, and thereafter for an indefinite period of time, and with respect to the net profits of associations, businesses, professions and other activities earned on and after July 1, 1967, and thereafter for an indefinite period of time.

(Adopting Ordinance. Ord. 92-59. Passed 11-2-92.)

(b) The additional one-fourth percent levy imposed by Section 890.03(a) shall be levied, collected and paid with respect to the taxable income (unless specifically exempted by this chapter), salaries, qualifying wages, vacation pay, sick pay, commissions and all other compensation earned, received, accrued or in any way set apart to any individual on and after April 1, 1975, and thereafter for an indefinite period of time, and with respect to the net profits of associations, businesses, professions and other activities earned on and after April 1, 1975, and thereafter for an indefinite period of time.

(Ord. 75-8. Passed 1-6-75; Ord. 92-59. Passed 11-2-92.)

(c) The additional one-half percent levy imposed by Section 890.03(a) shall be levied, collected and paid with respect to the taxable income (unless specifically exempted by this chapter), salaries, qualifying wages, vacation pay, sick pay, commissions and all other compensation earned, received, accrued or in any way set apart to any individual on and after January 1, 2002, and thereafter for an indefinite period of time, and with respect to the net profits of associations, businesses, professions and other activities earned on and after January 1, 2002, and thereafter for an indefinite period of time.

(d) The one and three-fourths percent levy imposed by Section 890.01(d) shall be levied, collected and paid with respect to taxable income (unless specifically exempted by this Chapter), salaries, qualifying

wages, vacation pay, sick pay, commissions and all other compensation earned, received, accrued or in any way set apart to any individual on and after January 1, 2006, and thereafter for a period of not less than thirty (30) years, and with respect to the net profits of associations, businesses, professions and other activities earned on and after January 1, 2006, and thereafter for a period of not less than thirty (30) years. The levy imposed by Section 890.01(d) shall continue in full force and effect indefinitely beyond any applicable period proscribed by a JEDZ or JEDD contract until the earlier of:

- (1) The expiration of a JEDZ or JEDD Contract (including any and all renewals and extensions thereof): or
- (2) A duly authorized resolution of the Board of Directors issued in accordance with Section 715.691 of the Ohio Revised Code canceling or otherwise modifying the levy imposed by Section 890.01(d).

#### **890.05 RETURN AND PAYMENT OF TAX.**

- (a) Each person residing in the City, JEDZ or JEDD, who is 18 years or older, any resident or nonresident person or entity who engages in a business, profession, association or other activity in the City, JEDZ or JEDD, shall, whether or not a tax is due thereon, be required to make and file the City, JEDZ or JEDD income tax return, on or before April 15 of each year with the Tax Administrator. In the case of a nonresident individual whose sole source of income derived from inside the City, JEDZ or JEDD, limits is subject to full withholding of Newark, ~~or a~~ JEDZ or JEDD tax by an employer, the employee shall not be required to file an annual tax return, however, if any employer fails to properly withhold JEDZ or JEDD tax on all taxable compensation, the employee shall file a City, JEDZ or JEDD income tax return and pay the tax due. Pursuant to ORC Section 718.03(D)(1), an employee is not relieved from liability for a tax by the failure of the employer to withhold the tax as required by the City, JEDZ or JEDD or by the employer's exemption from the requirement to withhold the tax.
  - (i) E-Z Filing / Exemption: Individuals whose entire income is tax exempt for tax for the City, JEDZ or JEDD purposes, or who have no income of any type, shall file a tax exempt form (E-Z Form) in lieu of the tax return, on or before April 15 (due date change effective with the 2001 tax year) of each year, unless granted total exemption from annual filing under the mandatory filing regulations by approval of the Tax Administrator or duly authorized Tax Department agent/employee. The Tax Administrator may reverse the exempt status, at any time, based on reasonable belief that a tax liability exists or a change in income status has occurred.
  - (ii) Generic Forms: The City, JEDZ or JEDD will accept generic forms for estimated payments, the annual income tax return and the declaration of estimated tax.

However, to be acceptable, the generic form must contain all the information required on forms supplied by a the City, JEDZ or JEDD and must be similar in format that will allow processing of the generic forms without changing the City's, JEDZ or JEDD existing procedures for processing forms. Determination of whether or not a generic form meets this criterion shall be the responsibility of the Tax Administrator.

(iii) **Husband and Wife Filing:** A husband and wife may elect to file joint or separate tax returns for municipal, JEDZ or JEDD purposes, even though one of the spouses has neither taxable income nor deductions included on the municipal, JEDZ or JEDD return, regardless of whether their federal and state returns were filed separately or jointly. If a joint City, JEDZ or JEDD return is made, the tax shall be computed on the aggregate taxable income and the liability with respect to the tax shall be joint and several.

(iv) Each return or exemption form must set forth the following:

- (1) The aggregate amount(s) of all income, salaries, qualifying wages, commissions and other compensation earned, received, accrued, allocated, apportioned or in any way set apart unto him, or other income defined by statute as taxable, rental income, net profits and/or gross income from such business less allowable expenses incurred in the acquisition of such gross income during the preceding year and subject to the tax; and
- (2) The amount of the tax imposed by this Tax Code on such earnings and profits; and
- (3) Such other pertinent documents, statements, information returns or other information as the Tax Administrator may require, including copies of Form 1099's (or appropriate listing) substantiating income or deduction, and/or a copy of the taxpayer's federal income tax return or returns, and including a statement that the figures in the return are the figures used in the return for federal income tax adjusted to set forth only such income as is taxable under the provisions of this chapter.

(b) **Fiscal Year End Taxpayers:** A taxpayer on a fiscal year or other period different from the calendar year, shall beginning with his first fiscal year, any part of which falls within the tax period, pay the tax on the basis of his fiscal year and shall file his annual returns by the fifteenth (15<sup>th</sup>) day of the fourth month after the close of that fiscal year or other period.

(c) **Extensions:** A taxpayer may request an extension for the filing of a City, JEDZ or JEDD income tax return. The taxpayer shall make the request by filing a copy of the taxpayer's request for a federal filing extension with the office of the Tax Administrator. The request for extension shall be filed not later than April 15 or the last day for the City, JEDZ or JEDD filing of an income tax return as

prescribed by this Ordinance. The City, JEDZ or JEDD grant such request for extension filed before 1/1/2004, for a period not less than the period of the federal extension request and for taxable years beginning after 2003, the extended due date of the City, JEDZ or JEDD income tax return shall be the last day of the month following the month to which the due date of the federal income tax return has been extended, if extension is filed in paper form; if filed via the Ohio Business Gateway the extended due date shall be the last day of the month to which the due date of the federal income tax return has been extended. The City, JEDZ or JEDD may deny a taxpayer's request for extension only if the taxpayer fails to timely file the request, fails to file a copy of the federal extension request, owes the City, JEDZ or JEDD any delinquent tax, penalty, interest, assessment, or other charge for the late payment or nonpayment of income tax, or has failed to file any required income tax return, report, or other related document for a prior tax period. The granting of an extension for filing a City, JEDZ or a JEDD income tax return does not extend the last date for paying the tax without penalty and interest. The filing due date for the current year declaration of estimated tax shall not be extended for any reason whatsoever.

- (d) **Payments With Tax Returns:** A taxpayer making a return shall, at the time of the filing thereof, pay to the City, JEDZ or JEDD Treasurer the amount of tax shown to be due thereon, provided, however, that where any portion of the tax so due has been deducted at the source, pursuant to the provisions of Section 890.06, or where any portion of such tax has been paid by the taxpayer, pursuant to the provisions of Section 890.07, credit for the amount shown to be due and only the balance, if it exceeds \$4.99 (\$5.00 or more), shall be due and payable at the time of filing such return. (Prior to 1/1/06 tax due of \$2.01 or more is required to be paid.)
- (e) **Filing Deadline on Holiday or Weekend Day.** When the last day for filing a return falls upon a Saturday, Sunday or federal holiday, the taxpayer shall be permitted to file on or before the first business day following said Saturday, Sunday or federal holiday without penalty.
- (f) **Payment Plans.** The Tax Administrator is authorized but is not required to arrange for the payment of unpaid taxes, penalties and interest on a schedule of installment payments, when the taxpayer has proved to the Administrator that, due to certain hardship conditions, he is unable to pay the full amount due. Such authorization shall not be granted until the taxpayer files proper returns for all amounts owed by him under the ordinance.
- (g) **USPS – Postmark.** All returns postmarked by the United States Postal Service on the official due date of the return will be considered received by the City, JEDZ or JEDD on that due date. All returns delivered to the City, JEDZ or JEDD not using the United States Postal Service will be considered received by the City, JEDZ or JEDD on the date delivered. Postmark will only be used for statutory

required deadlines and will not be considered as the official date received on other non-statutory filings, payments or reports.

#### **890.51 OVERPAYMENT OF TAX (REFUND OR CARRY FORWARD)**

- (a) Overpayment of Tax: Any taxpayer that has paid more than the amount of tax that the City, a JEDZ or JEDD is entitled to under the provisions of this chapter, may request a refund provided there is no other outstanding tax, penalty or interest liability and provided, further, that no amount of less than five dollars (\$5.00) will be, carried forward or backward, or refunded. No refund shall be made to any taxpayer until he has complied with all provisions of this Chapter and has furnished all information, documentation or substantiation required by the Tax Administrator. No refunds will be allowed for City, JEDZ or JEDD residents on income received, accrued or paid for vacation days, sick days, holidays, personal days, or any other paid days off. No refunds will be allowed for nonresident individuals for vacation days, sick days (including third part sick pay), holidays, personal days, severance pay, wage continuation pay, or other paid days off, but shall be allowed for performance of duties outside the City, JEDZ or JEDD.
- (b) No refund shall be allowed unless written request is presented to the Tax Administrator or his duly authorized agent, within three (3) years of the date the taxes were due, or the return was filed, whichever is later.
- (c) For purposes of refunds sought under this section, the time specified in 890.051(a) shall commence upon the first to be filed of the Employer's Return of Tax Withheld, the Employer's Withholding Reconciliation, the current or former employee's personal income tax return, or the business income tax return.

#### **890.0512 AMENDED RETURN FILING; PAYMENT AND/OR REFUND.**

- (a) Where necessary, an amended return shall be filed in order to report additional income and pay any additional tax due or claim a refund of tax overpaid subject to the requirements and/or limitations contained in Sections 890.05 and 890.051, such amended return shall be made on a City, JEDZ or JEDD tax return (or acceptable generic form). A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.
- (b) Within three (3) months from the final determination of any federal tax liability affecting the taxpayer's City, JEDZ or JEDD tax liability, such taxpayer shall make and file an amended City, JEDZ or JEDD return showing income subject to the City, JEDZ or JEDD tax based upon such final determination of federal tax liability, and pay any additional tax shown due thereon or make a claim for refund of any overpayment, subject to provisions and limitations contained in Section 890.051.
- (c) Within thirty (30) days of receiving a tax refund from another municipality or village for which credit has been claimed on a taxpayer's City, JEDZ or JEDD return, as permitted by Section 890.14, such taxpayer shall make and file an

amended City, JEDZ or JEDD return and pay any additional tax shown thereon. A resident having paid tax erroneously to another municipality, village, JEDZ or JEDD shall be required to file with the other municipality, village, JEDZ or JEDD in order to obtain a refund of the tax paid in error, filing amended City, JEDZ or JEDD returns to remit tax due the City, JEDZ, for which credit of said tax was permitted under Section 890.14 of this Chapter.

- (d) Information returns, schedules and statements required to support tax returns, which are incomplete without such information, shall be filed within the time limits set forth for the filing of the tax returns and the failure to file such information returns, schedules and statements shall be a violation of this Tax Code. Provided, however, that the taxpayer shall have ten (10) days after notification by the Tax Administrator to file the items required by this division.

## **890.06 COLLECTION AT SOURCE.**

- (a) **Withholding by Employer.** Each employer within or doing business within the City, JEDZ or JEDD or who employs one or more persons on a salary, wage, commission or other compensation basis as defined in Section 890.03 of this Chapter, shall deduct, when such salary, wages, commissions or other compensation is paid, allocated, apportioned or set aside, the tax of one and three-fourth (1 3/4%) on the qualifying salaries, wages, commissions, bonuses, tips or other compensation due by such employer to each such employee. The employer shall, on or before the last day specified below in division (b) of this section, make a return and pay the Tax Administrator the amount of taxes so deducted and withheld. The employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in fact been withheld.
- (b) **1. Monthly payments** of the taxes deducted (or required to be deducted) are to be made by an employer if the total taxes in the prior calendar year exceeded one thousand, one hundred and ninety-nine dollars (\$1,199.00) or if the taxes during any month for the preceding quarter exceeded one hundred dollars (\$100.00). Such payments shall be made to the City JEDZ or JEDD on or before the fifteenth day after the end of each calendar month.
- 2. Semi-monthly payments** are effective January 1, 2006 of the taxes withheld are to be made by an employer if (i) the total taxes deducted (or required to be deducted) in the prior calendar year were \$12,000 or more, or (ii) the amount of taxes deducted for any month in the preceding quarter exceeded \$1,000. Such payments shall be paid to the City, JEDZ or JEDD within five banking days after the fifteenth and the last day of each month.
- 3. Quarterly payments.** All employers not required to make semi-monthly or monthly payments of taxes withheld under subsection (1) hereof, shall make quarterly payments to the City, JEDZ or JEDD no later than the last day the

month (April, July, October and January) following the end of each quarter of each year.

(c) **Reconciliation and W-2's.** Each employer, on or before the last day of

February each year, unless written request for thirty (30) days extension is made to and granted by the Tax Administrator or his agent, following any calendar year in which such tax deductions have been made, or should have been made by an employer shall file with the Tax Administrator an information return known as Newark, JEDZ or JEDD Reconciliation of Tax Withheld with W-2 copies for each employee from whom income tax has been or should have been deducted and withheld, showing the Social Security number, name, address of the employee, the total gross amount of salaries, wages, commissions, prize moneys, tips, gratuities and any other gross compensation paid (or earned by) the employee during the year and the amount of City, JEDZ or JEDD income tax deducted and withheld from each employee. If the total tax withheld from any employee-included tax withheld and remitted to another City/village, the amount of same shall be separately shown on the return of information to the City, JEDZ or JEDD concerning each employee. For the convenience of employers, the W-2/information return may be submitted in one of two ways as listed below. Those employers using Form W-2, furnished commercially, may submit a copy of such commercial Form W-2, provided that the copy furnished to the City, JEDZ or JEDD clearly shows the information required by paragraph (a)(4) hereof.

- (i.) An employer using a commercial Form W-2 may submit a copy of such commercial Form W-2, provided that the copy furnished to the City, JEDZ or JEDD reports the information required by division (c) of this section.
- (ii.) Where the furnishing of this W-2 / information return, as indicated above, will create a distinct hardship, the employer, upon written request to the Tax Administrator, may be permitted to furnish a list of all employees subject to the tax, which list shall show the employee's full name, last known address, Social Security number, gross amount of compensation earned or paid during the year and the amount of Newark income tax withheld, as well as other municipal taxes withheld (identifying each municipality). Federal, FICA, State and local wages must be reported. The employer's name must be indicated on each sheet. Each sheet must be numbered and the total number of sheets that comprise the complete



report shall be indicated on the first page.

Effective with the withholding reconciliations for the year 1994, any annual withholding reconciliation, including employee W-2/information returns, not submitted on or before February 28 of each year, shall be subject to a penalty of twenty-five dollars (\$25.00) effective March 1 and increased by twenty-five dollars (\$25.00) the first day of each month thereafter that such employer remains in violation, to a maximum of one hundred dollars (\$100.00). Upon written request to the Tax Administrator, a thirty (30) day extension may be granted.

- (d) **1099-MISC. Forms.** In addition to the wage reporting requirements of this section, any person required by the Internal Revenue Service to report on Form 1099-MISC. payments to individuals not treated as employees for service performed shall also report such payments to the City, JEDZ or JEDD when the services were performed within the City, JEDZ or JEDD. The information may be submitted on a listing, and shall include the name, address and social security number (or federal identification number), and the amount of the payments made. Federal form(s) 1099 may be submitted in lieu of such listing. The information shall be filed annually on or before February 28 following the end of each calendar year.
- (e) Every employer or officer of a corporation, in collecting such tax, shall be deemed to hold the same, until payment is made by such employer to the City, JEDZ or JEDD, as a trustee for the benefit of the City, JEDZ or JEDD, and any such tax collected by such employer shall, until the same is paid to the City, JEDZ or JEDD, be deemed a trust fund in the hands of such employer.
- (f) No person shall be required to withhold the tax on the wages or other compensation paid to domestic servants employed exclusively in or about such person's residence, but such servants shall be subject to the tax imposed by this chapter and to the provisions of Section 890.05.
- (g) No contract on behalf of the City, JEDZ or JEDD for works or improvements of the City, JEDZ or JEDD shall be binding or valid unless such contract contains the following provisions: "Said \_\_\_\_\_ hereby further agrees to withhold all City, JEDZ or JEDD income taxes due or payable under the provisions of the Income Tax Ordinance, for qualifying wages, salaries, and commissions paid to its employees, and further agrees that any of its subcontractors shall be required to agree to withhold any such City, JEDZ or JEDD income taxes due under said chapter for services performed under this contract."  
(Ord. 92-59. Passed 11-2-92; Ord. 94-42. Passed 9-6-94.)

## **890.07 DECLARATIONS OF ESTIMATED TAX LIABILITY**

(A) Requirements for filing. Every person who anticipates any taxable income which is not subject to withholding provisions of Section 890.06 of this chapter or who engages in any association, business, profession, enterprise or activity subject to the tax imposed by Section 890.03 of this chapter and such income, when multiplied by the tax rate imposed by this chapter, less credits allowed under Section 890.14 of this chapter, results in estimated tax due of \$250.00 (effective 1/1/01; \$50.00 prior to 1/1/01) or more, shall file a declaration, setting forth such estimated income or estimated profit, together with the estimated tax due thereon, during the year covered by the declaration.

Any taxpayer, who is an individual, and did not reside in the City, JEDZ or JEDD on the first day of January of the current calendar year shall not be required to file a declaration of estimated tax; however, may choose to do so to avoid a large tax payment due with the annual filing.

(B) Dates for filing.

1. Individual taxpayers shall file such declaration on or before April 15 of each year disregarding any extension, during the life of this chapter.
2. Business taxpayers shall file such declaration on or before the day on which the annual tax return for the prior year is required to be filed disregarding any extension or, in the case of a fiscal year taxpayer, the fifteenth day of the fourth month of the taxpayer's taxable year.

(C) Declaration Form. Such declaration shall be filed upon a form furnished by, or obtainable upon request from the Income Tax Division, or on a form described in Section 890.05(a)(ii) of this Chapter.

(D) Amending Declaration. The original declaration, or any subsequent amendment thereof, may be increased or decreased on or before any subsequent quarterly payment date as provided for herein.

If an amended declaration of estimated tax has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

(E) Quarterly estimated tax payments.

1. For taxpayers who are individuals, such declarations of estimated tax to be paid the City, JEDZ or JEDD shall be accompanied by a payment of at least 22.5% of the estimated annual tax, and at least a similar amount shall be paid on or before the last day of the seventh, tenth and thirteenth months after the beginning of the taxable year.
2. For taxpayers who are not individuals, such declarations of estimated tax to be paid the City, JEDZ or JEDD shall be accompanied by a payment of at least 22.5% of the estimated annual tax, and at least a similar amount shall be paid on or before the fifteenth day of the sixth, ninth and twelfth months after the beginning of the taxable year.

- (F) Filing without payment. The mere submission of a declaration estimating a tax liability shall not constitute filing unless accompanied by the required payment.
- (G) On or before April 15 or the fifteenth day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the City, JEDZ or JEDD shall be paid therewith in accordance with the provisions of Section 890.05 of this chapter.
- (H) The declaration of estimated tax shall be no less than one hundred percent (100%) of the taxpayer's tax liability for the preceding year, provided that the return for the preceding year reflected a twelve-month period and the taxpayer filed a return for the preceding year.
- (I) Any entity (individual, corporation or association) may pay 100% of the prior years tax in four equal installments in the current year and avoid any underpayment of estimated tax penalty/interest. Prior year tax of zero or a prior year loss will not avoid penalty/interest. No penalty or interest for failure to pay estimated tax will apply to an entity whose tax for the year, after credit for tax withheld, is less than \$100.00. A declaration of estimated tax, which is less than 90% of the tax shown to be due on the final return, shall not be considered in good faith. The difference shall be subject to penalties and interest as provided for in section 890.10 of this chapter.

#### **890.08 DUTIES OF TREASURER AND TAX ADMINISTRATOR.**

- (a) It shall be the duty of the Tax Administrator to prescribe the form and method of keeping the accounts and reports to be rendered to his office. The Tax Administrator is hereby charged with the internal audit of all accounts and returns including the re-examination and correction of the returns. The Tax Administrator shall also fix the amount of tax due from a taxpayer who fails to file a return or who has filed a return which does not show the proper amount of tax due, after he has established the same from an audit or examination of the taxpayer's income, and shall send to the taxpayer by standard United States Postal Service a written statement showing the amount of the tax so fixed together with the interest and penalties thereon, if any.
- (b) The Treasurer shall demand and receive all taxes due the City, JEDZ or JEDD. The employees of the Income Tax Division, as provided by Council, shall be appointed by and be responsible to the Treasurer.

- (c) This chapter shall be administered by the Tax Administrator, who shall be the administrative head of the Income Tax Division, and shall also be administered by such officers, deputy clerks, cashiers, investigators, collectors and other employees as may, from time to time, be determined by Council, and they shall receive such salary as may be determined by Council. The Administrator is hereby authorized to promulgate such rules and regulations as are reasonably necessary to administer the provisions of this chapter. Any rules so promulgated by the Administrator shall be kept open for public inspection in the office of the Administrator during regular business hours.

**890.09 EXAMINATION OF BOOKS AND RECORDS AND DIVULGING CONFIDENTIAL TAX INFORMATION.**

- (a) The Tax Administrator or any authorized employee is hereby authorized to examine the books, papers and records of any employer, or of any taxpayer or person subject to the tax, for the purpose of verifying the accuracy of any return made or, if no return was made, to ascertain the tax due. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish to the Tax Administrator or his duly authorized agent or employee, the means, facilities and opportunities for making such examination and investigation as are hereby authorized.
- (b) The Tax Administrator or his duly authorized agent or employee is hereby authorized to order any person, employer or employee reasonably believed to have knowledge of the facts to appear before him, and may examine any person, employer or employee under oath concerning any income that was or should have been returned for taxation, or concerning any transaction tending to affect such income, and for this purpose may compel the production of the federal income tax returns, books, papers, records and the attendance of any person before him, whether as a party or a witness, whenever he believes that such person has knowledge of such income or information pertinent to such inquiry.
- (c) Tax returns and any information gained as a result of any returns or audits are confidential and shall be carefully preserved so that they shall not be available for inspection by anyone other than the proper agents of the City or JEDZ for official purposes. Any information gained from any return, investigation, hearing or verification required or authorized by this chapter shall be confidential and no disclosure thereof shall be made except to Municipal, County, State or Federal taxing agencies or unless ordered by a court of competent jurisdiction or unless disclosure is necessary to the conduct of a hearing before the Board of Tax Appeals. A taxpayer may execute a waiver and consent form or authorization form to the Tax Administrator to release information gained through tax returns or audits. No person shall divulge such information.

- (d) Refusal by an employer, employee or any person to comply with an order of the Tax Administrator or to submit to such examination, whether subject or presumed to be subject to the tax and/or having knowledge of such employer, employee or person subject or presumed to be subject to the tax, shall be deemed a violation of this chapter.

#### **890.10 INTEREST AND PENALTIES.**

- (a) All taxes imposed by this chapter and remaining unpaid after they become due shall bear interest, in addition to the amount of the unpaid tax, at the rate of 1.5% percent per month or fraction thereof.
- (b) In addition to the interest provided in subsection (a) above, penalties based on unpaid tax from taxpayers, monies withheld or required to be withheld by employers under the provisions of this chapter, and for failure to file required returns or information filings as required under the provisions of this chapter, are as follows:
  - 1. For failure to pay taxes due, other than taxes withheld or required to be withheld, 10% of the total tax due.
  - 2. For failure to remit taxes withheld or required to be withheld from employees, 5% per month up to a maximum of 100% of the total tax due.
  - 3. For late payment of the quarterly estimated tax, 5% of the total tax due.
  - 4. For failure to file an income tax return, \$25.00 beginning the first day after the filing due date. \$50.00 penalty will be imposed for any income tax return filed more than 60 days beyond the filing due date.
  - 5. For failure to file the employer's reconciliation of income tax withheld, \$25.00 per month (or fractional part thereof) beginning the first day after the filing due date up to a maximum of \$100.00.
  - 6. For failure to file Federal Form 1099's as required by this chapter, \$10.00 per month (or fractional part thereof) up to a maximum of \$100.00.
- (c) A penalty shall not be assessed on an additional tax assessment made by the Tax Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed herein. In the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, provided that an amended return is filed and the additional tax is paid within three months after final determination of the federal tax liability.

- (d) The Tax Administrator is hereby given the authority to abate any of the penalties imposed by this section, upon written request of the taxpayer, and subject to the provisions of this section. Such abatement is authorized whether in part or in full. The Administrator may promulgate reasonable rules and regulations governing the abatement of penalties.
- (1) Any penalty imposed by this section may be collected by assessment under Section 890.111. Any request for abatement of a penalty so assessed shall be made within thirty (30) days of service of the assessment and shall follow the procedures of Section 890.111.
  - (2) In the case of a taxpayer who pays all tax, penalty and interest with the filing of his return, a request for abatement may accompany the return. In any event, payment in full of all taxes, penalties and interest due and the filing of all required returns or documents on the taxpayer's account must be made prior to filing petition for abatement or reduction of penalties assessed. NOTE: Under no circumstances will the interest imposed by this chapter be reduced or abated. Filing of a petition requesting penalty abatement or reduction must be filed within thirty (30) days of the full payment of the tax, penalty and interest due. Under this subsection, the Administrator may act upon the abatement request immediately, hold an immediate hearing with the taxpayer or may continue the hearing or action on the request to a later date at his discretion or at the request of the taxpayer.
- (e) A fee of twenty-five (\$25.00) dollars shall be imposed and collected for any check written for the payment of City, JEDZ or JEDD income taxes, penalties or interest which is returned by the bank for insufficient funds or other reasons. The City, JEDZ or JEDD may refuse to accept personal checks from anyone who has been subject to this bad-check fee.

#### **890.11 COLLECTION OF UNPAID TAXES.**

All taxes imposed by this chapter shall be collectible by the city of Newark Tax Department or its authorized agent, together with any interest, penalties and reasonable administrative costs thereon, by suit or by other means as other debts of like amount are recoverable. No additional assessment shall be made after three years from the time of payment of any tax due hereunder, provided, however, that there shall be no period of limitation on an additional assessment in the case of a return that omits gross income of 25% of that required to be reported, or in the case of the filing of a false or fraudulent return with intent to evade the tax, or in the case of failure to file a return.

Reasonable administrative costs associated with the delinquent tax collection, includes but is not limited to, fees no less than 25% of the total delinquent amount, including the tax amount, interest and penalties of any post judgment account assigned to a collection agency and no greater than 35% of the total delinquent amount, including tax amount, interest and penalties of any prejudgment account assigned to a collection agency.

In those cases in which the Administrator of the Internal Revenue Service and the taxpayer have executed a waiver of the federal statute of limitations, the period within which an additional assessment may be made by the Tax Administrator shall be extended three years from the time of the final determination of the federal tax liability, except that taxes erroneously paid shall not be refunded unless a claim for refund is made within three years after final determination of the federal tax liability. (Ord. 67-80. Passed 6-30-67; Ord. 75-8. Passed 1-6-75; Ord. 06-42 Passed 8-7-06.)

#### **890.111 ALTERNATE METHOD OF COLLECTION OF UNPAID TAXES.**

In addition to the procedure set forth in Section 890.11, the Tax Administrator may proceed to collect delinquent returns and tax in accordance with this section.

- (a) If any employer fails to remit or collect a tax as required by Section 890.06, he shall be personally liable for the amount due. The Administrator may make an assessment against such employer based upon any information in his possession.
  - (b) If any person fails to file a return required by Section 890.05 and properly remit the tax due thereon, or fails to make a declaration required by Section 890.07, the Administrator may make an assessment of any unpaid portion of net taxes due. Such assessment may be based upon any information in the possession of the Administrator, including estimates based upon the taxpayer's previous returns.
  - (c) In each case, the Administrator shall give to the person assessed, written notice of the assessment. Such notice may be served by certified mail, registered mail or personal service. If the taxpayer refuses receipt of certified or registered mail, the sending of said notice by regular mail will constitute valid receipt of assessment.
  - (d) Unless the employer or taxpayer to whom such notice of assessment is directed, files within thirty days after service thereof, either personally or by registered or certified mail, a petition in writing, notarized or verified under oath by such employer or taxpayer, such assessment shall become conclusive and the amount thereof shall be due and payable. Such petition shall state with particularity the objections to the assessment.
  - (e) When a petition for reassessment is filed, the Administrator shall set the time and place for a hearing. Notice of the hearing and the Administrator's findings shall be served by either certified or registered mail, or by regular mail if the certified or registered mail is undeliverable. The Administrator at his sole discretion may continue hearings.
  - (f) Any penalty imposed by this chapter may be collected by assessment as provided by this section.
  - (g) All assessments not paid within thirty days of becoming conclusive shall bear interest at the rate of one and one-half percent per month on the unpaid balance.
  - (h) The Administrator may designate one or more persons in his employ as hearing examiners to act as his agent in conducting the hearings authorized by this section.
- (Ord. 78-28. Passed 3-23-78.)

#### **890.112 LIABILITY OF AND COLLECTION FROM BUSINESS ORGANIZATIONS.**

- (a) If any corporation required to withhold tax, file returns or pay tax under the provisions of this chapter fails, for any reason, to make such filing or payment, any of its officers shall be personally liable for such failure.
- (b) If any association, partnership or business required to withhold tax, file returns or pay any tax under the provisions of this chapter fails, for any reason, to make such filing or payment, any member, partner or owner shall be personally liable for such failure.
- (c) The dissolution of a corporation, partnership, association or business shall not discharge the liability of an officer, owner, partner, member or employee for a prior failure of the corporation, partnership, association or business to file returns or remit tax due.
- (d) The sum due under this section may be collected by assessment in the manner provided by Section 890.111.

(Ord. 78-28. Passed 3-23-78.)

## **890.12 BOARD OF TAX APPEALS.**

- (a) A Board of Tax Appeals consisting of the Mayor, the Auditor and the Treasurer, is hereby created. The Board shall elect, from its members, a Chairman, a Vice-Chairman and a Secretary. Such Board shall meet at least one time each month and at such other times as becomes necessary. A majority of the members shall constitute a quorum.
- (b) Whenever the Tax Administrator issues a decision regarding a municipal income tax obligation that is subject to appeal as provided for in this chapter, the Tax Administrator shall notify the taxpayer at the same time, of the taxpayer's right to appeal the decision and of the manner in which the taxpayer may appeal the decision.
- (c) Any person who is dissatisfied with any ruling or decision of the Tax Administrator, which is made under the authority conferred by this chapter, and who has filed with the municipal corporation the required returns or other documents pertaining to the municipal income tax obligation at issue in the decision may appeal the ruling or decision to the Board created pursuant to this section by filing a request with the Board through the Office of the Tax Administrator. The request shall be in writing, shall state why the ruling or decision should be deemed incorrect or unlawful, and shall be filed within thirty (30) days after the Tax Administrator issues the ruling or decision.
- (d) Upon the filing of such appeal, the Tax Administrator shall forthwith notify the members of the Board of such appeal and the Board shall schedule a hearing within forty-five (45) days after receiving the request, unless the taxpayer waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the Board and may be represented by an attorney at law, certified public accountant or other representative.
- (e) The Board may affirm, reverse, or modify the Tax Administrator's ruling or decision. The Board shall issue a decision on the appeal within ninety (90) days after the Board's final hearing on the appeal, and send notice of its decision by ordinary mail to the petitioner within fifteen days after issuing the decision.
- (f) The Board of Tax Appeals created pursuant to this section shall adopt rules governing its procedures and shall keep a record of its transactions. Such records are not public records available for inspection under Section 149.43 of the Ohio Revised Code. Hearings requested by a taxpayer before a Board of Tax Appeals created pursuant to this section are not meetings of a public body subject to Section 121.22 of the Ohio Revised Code.



### **890.13 ALLOCATION OF FUNDS**

- (a) The funds collected under the provisions of the within Ordinance with regard to the Newark Income Tax Levy shall be deposited into a special fund known as “Income Tax Revenue Fund” and such funds shall be disbursed in the following manner:
- (1) First, such part thereof as shall be necessary to defray all expense of enforcing the provisions of this Ordinance.
  - (2) Second, such part hereof as shall be necessary to defray the general operating expenses of the City, not to exceed eighty-nine percent (89%) of the balance of the Income Tax Revenue Fund after the items set forth in paragraph (1) hereof have been satisfied.
  - (3) Third, after the general operating expenses of the City have been satisfied, the remaining amount, not to exceed eleven percent (11%), shall be deposited into the Capital Improvement Fund.
- (b) Additional Tax of  $\frac{1}{4}\%$ . The funds collected under the additional Newark levy of one-fourth of one percent of income imposed by Section 890.03 shall be deposited in the special fund known as the Income Tax Revenue Fund and such funds shall be disbursed in the following manner:
- (1) First, the sum necessary to defray the expenses of collecting the tax and of administering and enforcing the provisions of this chapter; and
  - (2) Second, the balance to be turned over and to become part of the General Revenue Fund of the City.
- (Ord. 75-8. Passed 1-6-75.)
- (c) Additional Tax of  $\frac{1}{2}\%$ . The funds collected under the additional Newark tax of one half of one percent of income imposed by Section 890.03 shall be deposited in the Income Tax Revenue Fund and shall be disbursed in the following manner:
- (1) First, the sum necessary to defray the expenses of collecting the tax and of administering and enforcing the provisions of this chapter; and
  - (2) Second, the balance to be turned over to the General Fund specifically dedicated to police and fire protection.
- (d) Funds collected under a JEDZ or JEDD levy on the one and three-fourths percent of income imposed by Section 890.03 shall be deposited into a special fund known as the Etna Corporate Park JEDZ Fund and such funds shall be disbursed in the following manner:
- (1) An amount equal to twenty percent (20%) of the funds collected shall become part of a fund to cover authorized administrative and litigation expenses of the Board of Directors and costs for improvements constructed in, or which directly benefit, the JEDZ; and
  - (2) The remaining eighty (80%) of the funds collected shall become part of a fund for the purposes of a JEDZ and the City.

### **890.14 CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES.**

- (a) Every individual taxpayer who resides in the City, JEDZ or JEDD who earned, received, accrued or in any other way had set aside unto him net profits, salaries, qualifying wages, commissions, other compensation, or other personal service compensation for work done or services performed or rendered outside the City, JEDZ or JEDD, if it is established with supporting documentation that said income is subject to municipal income tax in another municipality or JEDZ and that said tax has been paid to that other municipality or JEDZ on the same income taxable under this ordinance, shall be allowed a credit against the tax imposed by this ordinance of the amount so paid by him or in his behalf to such other municipality, JEDZ or JEDD. The credit shall not exceed one percent (1%) of the income subject to tax in another municipality, JEDZ or JEDD and, if that same income taxable to Newark, JEDZ or JEDD has been reduced by allowable business net losses, the tax credit paid to the other City, JEDZ or JEDD will not exceed the amount of income remaining subject to Newark, JEDZ or JEDD tax. Tax paid for another City, or JEDZ or JEDD cannot be used to offset Newark, JEDZ or JEDD income tax due on other taxable income not subject to tax in that other City. The credit will not be allowed for taxes erroneously paid to another municipality, JEDZ or JEDD. If it is established that said tax was withheld or paid to a municipality, JEDZ or JEDD that the taxpayer had no legal obligation to pay said tax, no credit for said tax will be permitted.
- (b) A resident of the City, JEDZ or JEDD who has sustained a net loss arising from a business activity in another municipality shall be subject to the same reduction. The City will reduce a loss derived from a business activity in another taxing jurisdiction not to exceed 57.14% (1% of the 1-3/4% tax rate) before that loss can be used to offset other taxable business income.
- (c) No credit shall be given for any tax paid to a school district, county, state or federal taxing authority.
- (d) Notwithstanding any provision of this chapter to the contrary, a claim for refund or credit under this section shall be made in such manner as Council may by regulation provide.
- (e) A partial year resident must pro-rate credit for taxes owed and paid to another municipality, JEDZ or JEDD, reflecting credit for 1% of the income taxed while the taxpayer was a resident of the City, JEDZ or JEDD.

#### **890.15 KEEPING OF RECORDS**

The following City income tax records shall be retained by the Tax Administrator for a period of three years and shall thereafter be disposed of: Annual Returns, Declarations, Reconciliations, Amended Returns, Delinquent Notices and W-2 Forms.

(Ord. 74-89. Passed 1-6-75; Ord. 75-8. Passed 1-6-75)

#### **890.16 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.**

This chapter shall continue effective insofar as the levy of taxes is concerned, and insofar as the collection of taxes levied and actions or proceedings for collecting any tax levied or enforcing any provisions of this chapter are concerned, until all such taxes levied in the authorized tax periods are fully paid and until any and all suits and prosecutions

for the collection of such taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitations contained in this chapter. (Ord. 74-96. Passed 12-7-74; Ord. 75-8. Passed 1-6-75.)

#### **890.17 APPLICATION OF CHAPTER; SEPARABILITY.**

This chapter shall not apply to any person or to any property as to whom or which it is beyond the power of Council to impose the tax herein provided for. If any sentence, clause, section or other part of this chapter or any tax against or exemption granted any individual or any of the several groups of persons or forms of income specified herein is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such sentence, clause, section or other part of this chapter and shall not affect or impair any of the remaining sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or other part of this chapter not been included herein.

(Ord. 67-80. Passed 6-30-67; Ord. 75-8. Passed 1-6-75.)

#### **890.18 MANDATORY REGISTRATION AND FILING.**

- (a) Each new resident of the City, JEDZ or JEDD shall register with the Income Tax Division of the City to become subject to the provisions of this chapter, within thirty(30) days of residence in the City, JEDZ or JEDD.
- (b) All employers, contractors or subcontractors who perform work or services within the City, JEDZ or JEDD shall register with the Income Tax Division and shall provide a list of all employees, subcontractors or others who may perform work or services for them if those employees, subcontractors or others are not already registered with the Income Tax Division or, whose profits, wages or earnings are not subject to withholding of the City, JEDZ or JEDD income tax and shall do so within 30 days of work or services performed within the City, JEDZ or JEDD.
- (c) Every Newark resident individual, 18 years of age, or older shall be required to file an annual income tax return, whether or not an income is earned or received and whether or not a tax is due thereon, on or before April 15 of each year. The Tax Administrator or his duly authorized agent, under established rules and regulations, may grant exemption from such annual filing.
- (d) Any business, profession, association or corporation reporting a net loss is subject to the filing requirements of this chapter.
- (e) Effective October 1, 1993 and every year thereafter on or before October 1<sup>st</sup>, all owners of rental property who rent to tenants of houses, commercial property, apartments, rooms, boarding houses and other rental accommodations shall file with the Tax Administrator a report showing the name, address and telephone number, if available, of each such tenant who occupies an apartment, room, house or commercial property or other rental accommodation within the City, JEDZ or JEDD, unless the tenant(s) is responsible for their City, JEDZ or JEDD water utility payment. Said report must also provide the date a tenant vacates an apartment, room, house, commercial property or

other rental accommodation located within the City, JEDZ or JEDD and a forwarding address, if available.

- (f) Any person who violates 890.18, subsection (a), (b) or (d) shall be subject to a penalty of five dollars (\$5.00) a day for each and every day said person remains in violation. Any person who violates subsection (c) hereof is subject to interest and penalties as prescribed in Section 890.10 of this chapter.

(Ord. 92-59. Passed 11-2-92.)

## **890.19 VIOLATIONS.**

- (a) No person shall:
- (1) Fail, neglect or refuse to make any return or declaration required by this chapter;
  - (2) Make any incomplete, false or fraudulent return;
  - (3) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter;
  - (4) Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the City Income Tax Division;
  - (5) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his books, records, papers and federal income tax returns relating to the income or net profits of a taxpayer;
  - (6) Fail to appear before the Tax Administrator and to produce his books, records, papers or federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator or Assistant Tax Administrator;
  - (7) Refuse to disclose to the Tax Administrator any information with respect to a taxpayer's income or net profits;
  - (8) Fail to comply with the provisions of this chapter or any order or subpoena of the Tax Administrator authorized hereby;
  - (9) Give to an employer false information as to his true name, correct social security number and residence address, or fail to promptly notify an employer of any change in residence address and date thereof; or
  - (10) Fail to use ordinary diligence in maintaining proper records of employees; residence addresses, total wages paid and the City of Newark, JEDZ or JEDD taxes withheld, or knowingly give the Tax Administrator false information.
- (b) All prosecutions under this section must be commenced within the periods stipulated in the Ohio Revised Code, Chapter 718.12.
- (c) The failure of any employer, taxpayer or person to receive or procure a return, declaration, reconciliation or other required return or form shall not excuse him from:
- (1) making any information return, declaration, report or return required,
  - (2) filing such form, or
  - (3) from paying the tax.
- (d) As used in this section "person", in addition to the meaning prescribed in Section 890.02(u), includes, in the case of an association or corporation not having any partner, member or officer within the City, JEDZ or JEDD, any employee or agent of such association or corporation who can be found within the corporate limits of the City or boundaries within the JEDZ or JEDD.

(Ord. 67-80. Passed 6-30-67; Ord. 75-8. Passed 1-6-75.)

**890.99 PROSECUTION AND FINES.**

- (a) Civil action to recover taxes, penalties and interest shall be brought within three years after tax was due, or return was filed, whichever is later. A taxpayer failing to file a return or omitting 25% or more of income required to be reported will be deemed to have perpetrated a fraud and prosecution may be commenced within six (6) years after commission of the offense.
- (b) Whoever violates any of the provisions of this chapter, may be fined as follows:
  - (1) First offense: \$ 250.00 (max.);
  - (2) Second offense: \$ 500.00 (max.);
  - (3) Third offense: \$ 750.00 (max.)
  - (4) Fourth offense: \$1,000.00 (max.).

If the violation of this section is willful and intentional a jail term may also be imposed with the fine as follows:

- (1) First offense: 30 days (max.);
  - (2) Second offense: 60 days (max.);
  - (3) Third offense: 90 days (max.);
  - (4) Fourth offense: 180 days (max.).
- (c) Whoever violates section 890.09(c) shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months, or both. Each disclosure shall constitute a separate offense.
- (Ord. 67-80. Passed 6-30-67; Ord. 74-89. Passed 12-2-74; Ord. 75-8 Passed 1-6-75.)