

**BLENDON-WESTERVILLE JOINT ECONOMIC DEVELOPMENT ZONE  
TAX CODE**

**1.01 DEFINITIONS.**

As used in this Code, the following words shall have the meanings ascribed to them in this section, except as and if the context clearly indicates or requires a different meaning. The singular shall include the plural and the masculine gender shall include the feminine and the neuter genders.

“Association” means a partnership, limited partnership, or any other form of unincorporated enterprise owned by two or more persons.

“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.

“Board” means the Board of Review established pursuant to Section 171.21.

“Business” means an enterprise, activity, profession or undertaking of any nature located within the Zone conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, fiduciary, trust, association, corporation or any other entity.

“City” means the City of Westerville, Ohio.

“Code” means this Blendon-Westerville Joint Economic Development Zone Tax Code.

“Corporation” means a corporation or joint stock association organized under the laws of the United States, State of Ohio, or any other state, territory or foreign country or dependency.

“Department of Finance” means the Department of Finance of the City.

“Employee” means one who works for wages, salary, commissions or other type of compensation in the service of an employer.

“Employer” means an individual, partnership, association, corporation, governmental body, unit or agency or any other entity whether or not organized for profit, located in the Zone that employs one or more persons on a salary, wage, commission or other compensation basis.

“Finance Director” means the Director of Finance of the City.

“Fiscal year” means an accounting period of twelve months or less ending on any day other than December 31.

“Gross receipts” means the total income from any source whatsoever.

“Income Tax Division” means such division within the Department of Finance.

“Internal Revenue Code” means the Internal Revenue Code of 1986, as amended from time to time.

“JEDZ Board” means the Board of Directors of the Zone.

“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 system used by the taxpayer for federal income tax purposes without deduction of taxes imposed by this Code, or federal, state or other taxes based on income; and in the case of an association, without deduction of salaries paid to partners, and other owners; and otherwise adjusted to the requirements of this Code.

“Pass-through entity” means a partnership, limited liability company, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code.

“Person” means every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, person as applied to any unincorporated entity means the parties or members thereof, and as applied to corporations, the officers thereof.

“Place of business” means any bonafide 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.

“Tax” or “Taxes” means the tax or taxes imposed by this Code.

“Tax Administrator” means the Tax Administrator of the City.

“Taxable income” means wages, salaries, commissions and other compensation paid by an employer or employers before any deductions and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this Code.

“Taxable year” means the calendar year or the fiscal year on the basis of which the net profits are to be computed under this Code and, in the case of a return for a fractional part of a year, the period for which such return is required to be made.

“Taxpayer” means any person required to file a return or pay a tax pursuant to this Code.

“Wages” means qualifying 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 Ohio Revised Code.

“Zone” means the Blendon-Westerville Joint Economic Development Zone.

## **1.02 IMPOSITION OF TAX.**

There is hereby levied a tax at the rate of two percent upon the following:

(a) All salaries, wages, commissions and other compensation earned or received on and after February 1, 2013, by individuals for work done or services performed or rendered in the Zone.

(b) On the net profits earned on and after February 1, 2013, of all unincorporated businesses, pass-through entities, professions or other activities conducted within the Zone. For the purposes of this paragraph (b), an association shall not be taxable as an entity, but any member thereof shall be taxed individually only on that portion of his share, whether distributed or not of the annual net profits of the association and is derived from work done, services performed or rendered, and business or other activities conducted in the Zone.

(c) On the net profits on and after February 1, 2013, of all corporations, estates, trust and limited partnerships located within the Zone, derived from work done or services performed or rendered, ordinary gains from the operation of and/or the complete or partial sale or disposition of the assets of a business, profession, or enterprise or other activity (whether or not such business, profession, enterprise or other activity is conducted for profit or is ordinarily conducted for profit).

(d) Payments made to current and former employees by an employer as accrued benefits and/or vacation wages are taxable. Payments made to any current or former employee by an employer under a wage continuation plan during periods of disability or sickness, are taxable.

## **1.03 ALLOCATION OF NET PROFITS.**

(a) This section does not apply to taxpayers that are subject to and required to file reports under Code 5745 of the Ohio Revised Code. Net profit from a business or profession conducted both within and without the Zone shall be considered as having a taxable situs in the Zone for purposes of taxation pursuant to this Code in the same proportion as the average ratio of the following:

(1) The average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in the Zone during the taxable period to the average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

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

- (2) Wages, salaries and other compensation paid during the taxable period to persons employed in the business or profession for services performed in the Zone, to wages, salaries and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed.
- (3) Gross receipts of the business or profession from sales made and services performed during the taxable period in the Zone to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.
- (4) Adding together the percentages determined in accordance with subsections (a)(1)(2) and (3) 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.

(b) In the event that the foregoing allocation formula does not produce an equitable result under the formula provided for herein, the Finance Director or his delegate, upon application of the taxpayer, shall have the authority to substitute other factors or methods calculated to effect a fair and proper apportionment.

(c) As used in this Code, sales made in the Zone means:

- (1) All sales of tangible personal property which is delivered within the Zone regardless of where title passes if shipped or delivered from a stock of goods within the Zone.
- (2) All sales of tangible personal property which is delivered within the Zone regardless of where title passes even though transported from a point outside the Zone if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the Zone and the sales result from such solicitation or promotion.
- (3) All sales of tangible personal property which is shipped from a place within the Zone to purchasers outside the Zone 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.

#### **1.04 LEVY OF TAX.**

The tax shall be levied, collected and paid with respect to the salaries, wages, commissions, rents and other compensation earned on and after February 1, 2013, and with

respect to the net profits of business, pass-through entities, profession or other activity earned on and after February 1, 2013, with respect to the tax imposed by this Code. However, where the fiscal years of the business, pass-through entities, profession or other activity differ from the calendar year, the tax shall be applied to that part of the net profits for the fiscal year as shall be earned on and after February 1, 2013, with respect to the tax imposed by this Code, to the close of the taxpayer's fiscal year. Thereafter, the taxpayer shall report on its fiscal year basis.

Where the fiscal year of a business, pass-through entities, profession or other activity is other than a calendar year, in computing the initial tax the profits of such taxpayer shall be determined by dividing the annual profits by twelve and multiplying the quotient by the number of months within the period commencing February 1, 2013, with respect to the tax imposed by this Code, and ending at the conclusion of such fiscal year.

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

(a) Each taxpayer who engages in business, or whose salaries, wages, commissions, rents and other compensation are subject to the tax imposed by this Code shall, whether or not a tax is due thereon, make and file a return on or before April 15 of each year with the Department of Finance, Income Tax Division on a form furnished by or obtained from the Income Tax Division, setting forth the aggregate amount of salaries, wages, commissions, rents and other compensation earned and/or net profits earned and/or gross income from such business less allowable expenses in the acquisition of such gross income earned during the preceding year and subject to the tax, together with such other pertinent information as the Finance Director may require. However, when the return is made for a fiscal year or other period different from the calendar year, the return shall be made on or before the last day of the fourth month after the close of such fiscal year or other period.

(b) The net loss from an unincorporated business activity may not be used to offset salaries, wages, commissions or other compensation. However, if a taxpayer is engaged in two or more taxable business activities to be included in the same return, the net loss of one unincorporated business activity (except any portion of a loss separately reportable for municipal tax purposes to another taxing entity) may be used to offset the profits of another for purposes of arriving at overall net profits. These same provisions shall apply to joint returns filed by husband and wife.

(c) 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.

(d) Affiliated corporations may not deduct a loss from any other corporation having a taxable profit. Operations of any affiliated corporation may not be taken into consideration in computing net profits or the Business Allocation Percentage Formula of another.

(e) A taxpayer who pays their business expenses from their commissions or other compensation, without reimbursement from their employer, may deduct from their gross commissions or other compensation business expenses allowed by the Internal Revenue Service

for federal income tax purposes, but only to the extent that such expenses are incurred in earning commissions or other compensation subject to the tax imposed by this section.

(f) The taxpayer making a return shall, at the time of the filing thereof, pay the amount of taxes shown as due thereon; however where any portion of the tax so due has been deducted at the source pursuant to the provisions of Section 1.07 or where any portion of such tax has been paid by the taxpayer pursuant to the provisions of Section 1.08, credit for the amount so paid shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing the return.

(g) A taxpayer who has overpaid his income tax in any taxable year may request a refund provided there is no other tax liability and provided, further, that no amount of less than one dollar and one cent (\$1.01) will be refunded or collected.

(h) The Finance Director or his delegate shall have the authority to extend the time for filing of the annual return upon the request of the taxpayer for a period not to exceed six months, or one month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the federal income tax return. The Finance Director or his delegate may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due.

(i) In the case of a real estate investment trust and regulated investment company, taxable income shall be defined as 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.

(j) If the taxpayer is not a C corporation and is not an individual, the taxpayer shall compute income as if the taxpayer were a C corporation, except:

(1) 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

(2) 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.

(k) Extensions.

(1) Any taxpayer that has requested an extension for filing a federal income tax return may request an extension for the filing of an income tax return by filing a copy of the taxpayer's federal extension request with the Finance Director or his delegate. Any taxpayer not required to file a federal income tax return may request an extension for filing in writing to the Finance Director. The request for extension

must be filed on or before the original due date for the annual return. If the request is granted, the extended due date of the 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.

- (2) The Tax Administrator may deny a taxpayer's request for extension if the taxpayer:
  - A. Fails to timely file the request; or
  - B. Fails to file a copy of the federal extension request (if applicable); or
  - C. Owes the Zone any delinquent income tax, penalty, interest or other charge for the late payment or nonpayment of income tax; or
  - D. Has failed to file any required income tax return, report, or other related document for a prior tax period.
- (3) The granting of an extension for filing a Zone tax return does not extend the due date as provided in this section for payment of the tax; hence, penalty and interest may apply to any unpaid tax during the period of extension at the rate set out by Section 1.13. Any extension by the Tax Administrator shall be granted upon the condition that declaration filing and payment requirements have been fulfilled.

#### **1.06 AMENDED RETURN AND REFUNDS FOR OVERPAYMENT.**

Where an amended return must 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 Section 1.05(e) such amended return shall be on a form obtainable on request from the Income Tax Division. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

Within three months from the final determination of any federal tax liability affecting the taxpayer's tax liability hereunder, such taxpayer shall make and file an amended return showing income subject to the 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.

Within thirty days of receiving a tax refund from another municipality for which credit has been claimed on a taxpayer's return, as permitted by Section 1.16, such taxpayer shall make and file an amended return and pay any additional tax shown thereon.

No refund shall be allowed unless a written request is presented to the Finance Director or his delegate within three years of the date the taxes were due.

## **1.07 COLLECTION AT SOURCE.**

(a) Each employer within or doing business within the Zone, shall deduct at the time of payment of such salaries, wages, commissions or other compensation, the tax levied under this Code. Such 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) Employers shall pay to the Tax Administrator all income taxes withheld or required to be deducted and withheld on either a monthly or quarterly basis depending on the amount of taxes involved according to the following payment schedule.

- (1) Semi-monthly payments of the taxes withheld are to be made by an employer if (i) the total taxes 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 Tax Administrator within three banking days after the fifteenth and last day of each month.
- (2) Monthly payments of taxes withheld shall be made by an employer if the taxes withheld in the prior calendar year were more than one thousand one hundred ninety-nine dollars (\$1,199) or if the taxes withheld during any month of the preceding quarter exceeded one hundred dollars (\$100).

Such payments shall be paid to the Tax Administrator within fifteen days after the close of each calendar month.

- (3) All employers not required to make monthly or semi-monthly payments of taxes withheld under this section, shall make quarterly payments no later than the last day of the month following the end of each quarter.
- (4) Every agent (third party) representing an employer filing monthly or semi-monthly as hereunder, shall make payment by the electronic funds transfer (EFT) methods prescribed by the Tax Administrator, unless exemption from this requirement is given by the Finance Director or his delegate.

(c) Every employer doing business within the Zone on a temporary basis shall pay to the Tax Administrator all income taxes withheld or required to be deducted and withheld on a monthly basis, regardless of the amount of taxes involved. Such payment shall be paid to the Tax Administrator within fifteen days after the close of each calendar month. An employer is doing business within the Zone on a temporary basis when the employer maintains a place of business in the Zone or does business within the Zone for a period which the employer does not expect to exceed one year.

(d) The employer shall make and file a return on a form furnished by the Income Tax Division, showing the amount of tax deducted by the employer from the salaries, wages, commissions or other compensation of any employee and paid by the employer to the Tax Administrator.



(e) Each employer on or before February 28, unless written request for thirty days' extension is made to and granted by the Finance Director following any calendar year in which such deductions have been made, or should have been made by any employer shall file with the Finance Director or his delegate an information return (Blendon-Westerville JEDZ Withholding Statement of Wages Paid and Blendon-Westerville JEDZ Income Tax Withheld), for each employee from whom income tax has been or should have been withheld showing the name and address of the employee, the total amount of salaries, wages, commissions and other compensation paid to the employee during the year, and the amount of the tax withheld from each employee. In addition, each Form (W-2) shall show the employer's name, address, and Zone account number. An adding machine tape or list of amount of tax withheld and taxable wages as shown on the W-2's shall be attached with the number of W-2's shown. Any return not so filed shall be subject to a late filing penalty of five dollars (\$5.00) per day for each and every day they remain in violation to a maximum of three hundred dollars (\$300.00). In addition to the late filing penalty, any return which remains un-filed more than two months after its due date shall be subject to the penalties provided under Section 1.14.

(f) Any person, including corporations, partnerships, employers, estates and trusts, who files 250 or more information returns of form W-2 for any calendar year, must file these returns using magnetic media or such other process as determined acceptable to the Finance Director. All requirements apply separately to both original and corrected forms.

(g) In addition to the above wage reporting requirements, any person paying money to an individual or independent contractor shall report such payment. The information should be reported on Internal Revenue Service Form 1099 and filed yearly with the Tax Administrator on or before February 28th. Any return not so filed shall be subject to a late filing penalty of five dollars (\$5.00) per day for each and every day they remain in violation to a maximum of three hundred dollars (\$300.00). In addition to the late filing penalty, any return which remains un-filed more than two months after its due date shall be subject to the penalties provided under Section 191.14.

(h) Every employer or officer of a corporation is deemed to be a trustee for the Zone in collecting and holding the tax required under this Code to be withheld and the funds so collected by such withholding are deemed to be trust funds.

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

## **1.08 DECLARATIONS.**

Every person who anticipates any taxable income which is not subject to Section 1.07 or who engages in any business, profession, enterprise or activity subject to the tax imposed by this Code, and who expects to make a payment with declaration of one hundred dollars (\$100.00) or

more for all declarations shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon, if any (not to be less than one hundred dollars (\$100.00) per year). However, if a person's income is wholly from wages, salaries, commissions or other compensation from which the tax will be withheld and remitted in accordance with Section 1.07, such person need not file a declaration.

Such declarations shall be filed according to one of the following three alternatives. On April 15 of each year the taxpayer must elect one of the alternatives and remain with that alternative for a minimum of one year.

Alternate 1: The taxpayer shall file a declaration and payment for the first six months on April 15 of that year and for the second six months on October 31 of that year. Fiscal taxpayers shall file declarations on the fifteenth day of the fourth and tenth month of their fiscal year accordingly.

Alternate 2: The taxpayer shall file a declaration and payment quarterly in accordance with the federal income tax on April 15, July 31, October 31, and January 31 of the succeeding year for a quarter of a year. Fiscal taxpayers shall pay on the fourth, sixth, ninth and the first month of the following year accordingly.

Alternate 3: One declaration shall be filed, with payment on April 15 for the entire year. Fiscal taxpayers shall pay on the fifteenth of the fourth month according to their fiscal year.

Such declarations shall be filed upon a form furnished by, or obtainable from the Department of Finance, Income Tax Division.

On or before the fifteenth day of the fourth month of the year following that for which such declaration(s) was filed, an annual return shall be filed and any balance which may be due shall be paid therewith in accordance with the provisions of Section 191.05.

A declaration of estimated tax which is less than ninety percent (90%) of the tax due as shown on the annual return shall not be considered filed in good faith. The difference shall be subject to penalties and interest as provided for in Section 191.13.

### **1.09 DUTIES OF THE FINANCE DIRECTOR.**

(a) It shall be the duty of the Finance Director to collect and receive the tax imposed by this Code in the manner prescribed by this Code, and it shall also be his duty to keep an accurate record showing the payment received by him from each taxpayer and the date of the payment.

(b) The Finance Director or his delegate is hereby charged with the administration and enforcement of the provisions of this Code and they are hereby authorized to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this Code, including provisions for the reexamination and correction of returns and payments.

In any case where a taxpayer has failed to file a return or failed to pay the tax due on a return or has filed a return which does not show the proper amount of tax due, the Finance Director or his delegate may determine the amount of tax appearing to be due from the taxpayer based on any information in his possession and shall send to such taxpayer a written statement showing the amount of tax so determined together with interest and penalties thereon, if any.

(c) The Finance Director or his delegate is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments when the taxpayer has proved to the Finance Director that, due to certain hardship conditions he is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under this Code.

### **1.10 INVESTIGATIVE POWERS OF THE FINANCE DIRECTOR.**

(a) The Finance Director or his delegate or any authorized employee is hereby authorized to examine the books, papers, records and federal income tax returns of any employer or of any taxpayer or person subject to, or who the Finance Director or his delegate believes is subject to the provisions of this Code, for the purpose of verifying the accuracy of any return made, or, if any return was made to ascertain the tax due under this Code, and every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish upon written request by the Finance Director or his delegate, or his duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

The Finance Director or his delegate is hereby authorized to order any person presumed to have knowledge of the facts to appear before him and may examine such person, under oath, concerning any income which was or would have been returned for taxation of any transaction tending to effect such income, and for this purpose may compel the production of books, papers, records and federal income tax returns and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.

(b) The Finance Director or his delegate or any authorized employee is hereby authorized to institute procedures to determine the associations, businesses, corporations, persons, employers and employees subject to the provisions of this Code, and in connection therewith, to require that all persons, as defined in this Code shall provide in writing to the Finance Director such information as the Director deems necessary to provide for the enforcement of this Code. The refusal to provide information requested by the Finance Director, shall be deemed a violation of this Code, punishable as provided in Section 191.99.

### **1.11 TAX INFORMATION CONFIDENTIAL.**

Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this Code shall be confidential, except for official purposes, or except in accordance with proper judicial order or except as hereinafter provided. The Finance Director or his delegate may furnish the Internal Revenue Service, Treasury

Department of the United States, the Tax Commissioner of Ohio and the duly authorized income tax administrator of any other city or state with copies of the returns filed. The Finance Director or his delegate is also authorized to enter into agreements for the exchange of any information with any of the foregoing federal, state or city officials. No person shall divulge such information.

### **1.12 COLLECTION OF UNPAID TAXES.**

All taxes imposed by this Code shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable. The Finance Director or his delegate is authorized, in addition to his other duties, to institute civil lawsuits to collect delinquent taxes due and owing by virtue of the provisions of this Code. The Finance Director or his delegate is authorized to waive penalties and interest and compromise tax liability and the right to accept waiver of statutes of limitations.

### **1.13 INTEREST AND PENALTIES.**

All taxes imposed by this Code and remaining unpaid after they become due shall bear interest, in addition to the amount of unpaid tax, at the rate of twelve percent (12%) per year, and the taxpayers upon whom such taxes are imposed by this Code shall be liable, in addition thereto, to a penalty of ten percent (10%) of the amount of unpaid tax.

Any taxpayer or employer shall have twenty (20) days after assessment of a proposed penalty and/or interest charge to file a written protest with the Finance Director or his delegate showing cause why such penalty and/or interest should not be imposed.

A penalty shall not be assessed on an additional tax assessment made by the Finance Director or his delegate when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Finance Director; further, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, provided an amended return is filed and the additional tax is paid within three months after final determination of the federal tax liability.

### **1.14 VIOLATIONS.**

(a) Any person subject to the provisions of this Code who shall fail, neglect or refuse to make any return or declaration, or any employer who shall fail, neglect or refuse to deduct and withhold the taxes or pay the taxes imposed by this Code or any taxpayer who shall fail, neglect or refuse to pay the tax, interest and penalties imposed by this Code, or any person who shall refuse to permit the Finance Director or his delegate to examine the books, records and papers of a taxpayer, or any person who shall knowingly make an incomplete, false or fraudulent return, or who shall attempt to do anything whatever to avoid the payment of the whole or any part of the tax under this Code shall be deemed guilty of a fourth degree misdemeanor for a first offense and a second-degree misdemeanor for a second or subsequent offense. The failure of an employer or taxpayer to receive or procure a return or declaration form, shall not excuse him from making a return or declaration or paying the tax levied under this Code.

(b) When a corporation or any organization other than a natural person is convicted of an offense pursuant to this Code, it shall be fined not more than One Thousand Dollars (\$1,000.00) for the first offense and shall be fined not more than Five Thousand Dollars (\$5,000.00) for a second or subsequent offense.

(c) An officer, agent or employee of a corporation or other organization may be prosecuted for an offense committed by such corporation or other organization if he acts with the kind of culpability required for the commission of the offense, and any of the following apply:

- (1) In the name of the organization or in its behalf, he engages in conduct constituting the offense, or causes another to engage in such conduct, or tolerates such conduct when it is of a type for which he has direct responsibility.
- (2) He has primary responsibility to discharge a duty imposed on the organization by law, and such duty is not discharged.

(d) When a person is convicted of an offense under any of the conditions of Subsection (c) (1) or (2), he is subject to the same penalty as if he had acted in his own behalf.

### **1.15 EXEMPTIONS.**

The provisions of this Code shall not be construed to tax the active military pay or allowances of members of the armed forces of the United States, or the income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities.

The tax provided for herein shall not be levied on the personal earnings of any natural person under eighteen years of age.

### **1.16 CONTRACT PROVISIONS.**

No contract on behalf of the Zone for works or improvements of the JEDZ Board or the Zone shall be binding or valid unless such contract contains the following provisions:

“Said \_\_\_\_\_ hereby further agrees to withhold all taxes due or payable under the provisions of the Blendon-Westerville Joint Economic Development Tax Code, for wages, salaries, and commissions paid to its employees and further agrees that any of its sub-contractors shall be required to agree to withhold any such taxes due under said Code for services performed under this contract.”

### **1.17 METHOD OF RATE INCREASE.**

The rate of tax provided in Section 1.02 shall increase or decrease automatically if and when the rate of taxation imposed by Section 191.02 of the Codified Ordinances of the City increases or decreases, as applicable, without approval by a vote of the electorate.

### **1.18 SAVINGS CLAUSE.**

If any sentence, clause, section or part of this Code, or any tax agent, any individual or any of the several groups specified herein is found to be unconstitutional, illegal or invalid such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this Code. It is hereby declared to be the intention of the JEDZ Board that this Code would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

### **1.19 MANDATORY REGISTRATION.**

All employers, contractors or subcontractors who do work in the Zone shall register with the Director of Finance and shall present him a list of all employees, subcontractors, contractors or others who may do work for them whose profits, wages or earnings are not presently subject to withholding of the tax. Any person who violates this sub-section (b) shall be subject to a fine of five dollars (\$5.00) a day for each and every day they remain in violation, up to a maximum of three hundred dollars (\$300.00).

### **1.20 MANDATORY FILING.**

All persons doing business within the Zone shall file a tax return on a form prescribed by the Director of Finance for the collection of the tax. Any person who fails to make and/or file a return when due shall be subject to a late filing penalty of five dollars (\$5.00) per day for each and every day they remain in violation to a maximum of three hundred dollars (\$300.00). In addition to the late filing penalty, any return which remains un-filed more than two months after its due date shall be subject to the penalties provided under Section 1.14.

### **1.21 ESTABLISHMENT OF BOARD OF REVIEW.**

(a) A Board of Review, consisting of three members and an one alternate, who shall be individuals working within the Zone appointed by the JEDZ Board, is hereby created. The alternate member will replace a member who disqualifies himself or herself based upon a conflict of interest or who cannot attend. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and keep a record of its transactions. Any hearing of the Board may be conducted privately and the provisions of Section 1.11 hereof with reference to the confidential character of information required to be disclosed by this Code shall apply to such matters as may be heard before the Board.

(b) Any person dissatisfied with any ruling or decision of the Tax Administrator, which is made under the authority conferred by this Code, may appeal there from to the Board within 30 days from the announcement of such ruling or decision by the Tax Administrator and the Board shall, on hearing, have jurisdiction to affirm, reverse, or modify any ruling or decision or any part thereof. Such hearing shall be scheduled within 45 days from the date of appeal. The Board's ruling must be made within 90 days from the date of the hearing and shall be in writing and filed with the Tax Administrator. The concurrence of two members is required to reverse or modify any ruling or decision of the Tax Administrator.

## **1.22 PENALTY.**

(a) Whoever violates any of the provisions of this Code for which no penalty is otherwise provided shall be guilty of a fourth degree misdemeanor on a first offense, and a second-degree misdemeanor for a second and subsequent offense.

(b) Whoever violates Section 1.11 shall be deemed guilty of a first-degree misdemeanor. Each disclosure shall constitute a separate offense.

(c) Whoever violates Section 1.07 shall be deemed guilty of a first-degree misdemeanor. Each violation shall constitute a separate offense.