

RESOLUTION NO. 2014-6

A RESOLUTION LEVYING A TAX ON INCOME OF  
INDIVIDUALS AND NET PROFITS OF BUSINESSES AND  
APPROVING AND ADOPTING INCOME TAX  
REGULATIONS

WHEREAS, pursuant to Ohio Revised Code Section 715.691 and the Joint Economic Development Zone Contract dated as of August 1, 2013, as amended by the First Amendment to Joint Economic Development Zone Contract dated as of December 5, 2013, the Second Amendment to Joint Economic Development Zone Contract dated as of December 6, 2013, the Third Amendment to Joint Economic Development Zone Contract dated as of December 13, 2013 and the Fourth Amendment to Joint Economic Development Zone Contract dated as of March 5, 2014 (collectively, the "JEDZ Contract"), all by and between the City of Grandview Heights, Ohio (the "City") and Clinton Township (Franklin County), Ohio (the "Township"), the City and the Township created the Clinton-Grandview Heights Joint Economic Development Zone (the "JEDZ") and appointed members of this Board; and

WHEREAS, the JEDZ Contract and Ohio Revised Code Section 715.691 authorizes this Board to levy a tax on the income earned persons working within the JEDZ and on the net profits of businesses located within the JEDZ at a rate not higher than the rate of income tax levied by the City; and

WHEREAS, the City and the Township have determined that no elector resides within the territory of the JEDZ; and

WHEREAS, this Board may levy such a tax without the necessity of submitting the rate of such tax to the electors; and

WHEREAS, this Board desires to levy such tax at a rate equal to the rate of income tax levied from time to time by the City and to provide income tax regulations for the administration of the tax;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Clinton-Grandview Heights Joint Economic Development Zone that:

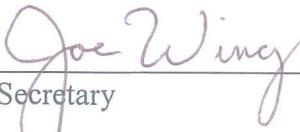
Section 1. This Board hereby levies a tax commencing April 1, 2014 on the income of persons working within the JEDZ and on the net profits of businesses located in the JEDZ, which tax shall initially be at the rate of two and one-half percent (2-1/2%), the current rate of income tax levied by the City, and which tax shall adjust automatically with any change in the rate of income tax levied by the City, all in accordance with the Clinton-Grandview Heights Joint Economic Development Zone Income Tax Regulations attached hereto as Exhibit A, which regulations are hereby approved and ratified.

Section 2. This Board finds and determines that all formal actions of this Board concerning and relating to the adoption of this resolution, and that all deliberations of this Board and of any of its committees that resulted in those formal actions, were taken in meetings open to the public in compliance with the law.

Section 3. This resolution shall be in full force and effect immediately upon its adoption.

Adopted: March 13, 2014

  
\_\_\_\_\_  
Chair

Attest:   
\_\_\_\_\_  
Secretary

**CLINTON-GRANDVIEW HEIGHTS JOINT ECONOMIC DEVELOPMENT ZONE**  
**INCOME TAX REGULATIONS**

1.01 DEFINITIONS.

As used in these Regulations, 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. The masculine gender shall include the feminine and the neuter genders.

(a) "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:

(1) 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.

(2) Add an amount equal to five percent (5%) of intangible income deducted under division (a)(1) 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.

(3) 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 sections 1221 or 1231 of the Internal Revenue Code.

(4) A. Except as provided in division (a)(4)B. 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 sections 1221 or 1231 of the Internal Revenue Code.

B. Division (a)(4)A. of this section does not apply to the extent the income or gain is income or gain described in sections 1245 or 1250 of the Internal Revenue Code.

(5) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income.

(6) 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.

(7) 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:

A. 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

B. 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 be not allowed as a deduction.

Nothing in division (a) 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 these Regulations 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.

(b) "Administrator" means the Director of Finance of the City.

(c) "Association" means a partnership, limited partnership, or any other form of unincorporated enterprise owned by two or more persons.

(d) "Business" means an enterprise, activity, profession, or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, fiduciary, limited liability company, trust, association, corporation or any other entity.

(e) "City" means the City of Grandview Heights, Ohio.

(f) "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.

(g) "Employee" means one who works for wages, salary, commissions or other type of compensation in the service of an employer.

(h) "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.

(i) "Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31.

(j) “Generic form” means an electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability or for filing a refund claim that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation’s tax on income, which contains all the information required on the JEDZ’s regular tax return, estimated payment forms, and request for refund forms, and is in a similar format that will allow processing of the generic form without altering the JEDZ’s procedures for processing forms.

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

(l) “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, tradenames, investments in real estate investment trusts, investment 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.

(m) “Internal Revenue Code” means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.

(n) “JEDZ” means the Clinton-Grandview Heights Joint Economic Development Zone.

(o) “JEDZ Contract” means the Joint Economic Development Zone Contract dated as of August 1, 2013 by and between the City and Clinton Township (Franklin County), Ohio, as amended and supplemented from time to time.

(p) “Limited liability company” means a limited liability company formed under Chapter 1705. of the Ohio Revised Code or under the similar laws of another state.

(q) “Net profits” means (1) for a taxpayer other than an individual, adjusted federal taxable income and (2) for a taxpayer who is an individual, the individual’s profit, other than amounts described in Section 1.14(a)(3), required to be reported on schedule C, schedule E, or schedule F.

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

(s) “Person” means every natural person, firm, company, business trust, estate, trust, partnership, limited liability company, fiduciary, association, corporation, or any other entity. Whenever used in any clause prescribed and imposing a penalty, the term “person” as applied to

any unincorporated entity shall mean the parties or members thereof, and as applied to corporations, the officers thereof.

(t) "Place of business" means 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.

(u) "Qualifying wages" means wages as defined in section 3121(a) of the Internal Revenue Code, including non-qualified deferred compensation and stock options, without regard to any wage limitations, adjusted in accordance with section 718.03(A) of the Ohio Revised Code.

(v) "Regulations" means these regulations – the Clinton-Grandview Heights Joint Economic Development Zone Income Tax Regulations.

(w) "Section" means a section of these Regulations.

(x) "Schedule E" means Internal Revenue Service schedule E filed by a taxpayer pursuant to the Internal Revenue Code.

(y) "Schedule F" means Internal Revenue Service schedule F filed by a taxpayer pursuant to the Internal Revenue Code.

(z) "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 entire taxable year.

(aa) "Taxable income" means qualifying wages paid by an employer or employers, compensation for personal services, other income defined by statute as taxable, and/or the net profits from the operation of a business, profession, or other enterprise or activity adjusted in accordance with the provisions of these Regulations.

(bb) "Taxable year" means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.

## 1.02 IMPOSITION OF TAX.

There is hereby levied a tax upon the following:

(a) On all qualifying wages, commissions, other compensation, and other taxable income earned or received on or after April 1, 2014 by natural persons for work done or services performed or rendered in the JEDZ.

(b) On net profits earned or received on or after [April] 1, 2014, of all unincorporated businesses, professions, or other activities located in the JEDZ.

(c) For the purposes of subsection (b) above, an association or pass-through entity, except for an S corporation, shall not be taxable as an entity, but any member or owner thereof shall be taxed individually only on that portion of the individual's share, whether distributed or not, of the annual net profits of the association as is derived from work done, services performed or rendered, and businesses or other activities conducted in the JEDZ.

(d) On the net profits earned or received on or after [April] 1, 2014, of all corporations, estates, trusts and limited partnerships located in the JEDZ, whether or not such corporations, estates, trusts and limited partnerships have their principal business located in the JEDZ.

(e) The rate of such tax shall initially be two and one-half percent (2-1/2%) per annum, but shall automatically change from time to time to equal the rate of tax imposed by the City pursuant to Chapter 181 of the City of Grandview Heights Codified Ordinances.

### 1.03 ALLOCATIONS OF NET PROFITS.

(a) This section does not apply to taxpayers that are subject to and required to file reports under Chapter 5745. of the Ohio Revised Code. Except as otherwise provided in subsection (b) hereof, net profit from a business or profession conducted both within and without the boundaries of the JEDZ shall be considered as having a taxable situs in the JEDZ for purposes of the tax in the same proportion as the average ratio of:

(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 JEDZ 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.

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 JEDZ 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 a municipal corporation under Section 718.011 of the Ohio Revised Code.

(3) Gross receipts of the business or profession from sales made and services performed during the taxable period in the JEDZ to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

(b) In the event that the foregoing business allocation percentage formula does not produce an equitable result, another basis may, under uniform regulations, be substituted by the Administrator so as to produce such result.

(c) As used in these Regulations, "sales made in the JEDZ" means:

(1) All sales of tangible personal property which is delivered within the JEDZ regardless of where title passes if shipped or delivered from a stock of goods within the JEDZ.

(2) All sales of tangible personal property which is delivered within the JEDZ regardless of where title passes even though transported from a point outside the JEDZ if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the JEDZ and the sales result from such solicitation or promotion.

(3) All sales of tangible personal property which is shipped from a place within the JEDZ to purchasers outside the JEDZ 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) Except as otherwise provided in division (e) of this section, net profit from rental activity not constituting a business or profession shall be subject to tax only by the JEDZ only if the property generating the net profit is located in the JEDZ.

(e) Affiliated corporations may not deduct a loss from any other corporation having a taxable profit and operations of any affiliated corporation having a loss may not be taken into consideration in computing net profits or business allocation percentage formula.

#### 1.04 LEVY OF TAX.

(a) Such tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation earned, and with respect to the net profits of business, professions or other activities earned, on and after April 1, 2014; provided, however, that where the fiscal years of the business, profession or other activity differs 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 April 1, 2014, to the close of the taxpayer's fiscal year. Thereafter, the taxpayer shall report on its fiscal year basis.

(b) Where the fiscal year of a business, profession or other activity is other than a calendar year, in computing 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 April 1, 2014, and ending at the conclusion of such fiscal year.

#### 1.05 RETURN AND PAYMENT OF TAX.

(a) Each taxpayer who engages in business or other activity, or whose qualifying wages, commissions other compensation and other taxable income are subject to the tax imposed by these Regulations shall, whether or not a tax be due thereon, make and file a return on or before April 15 of each year with the Administrator on a form furnished by or obtainable from the Administrator, including a generic form if the generic form, when completed and filed, contains all the information required by the prescribed form, setting forth the aggregate amount of qualifying wages, commissions, other compensation earned and/or net profits earned and/or gross income from any business, profession, or other activity less allowable expenses in the acquisition of such gross income earned during the preceding year and subject to the tax, the amount of the tax imposed by these Regulations on such earning and profits, together with such other pertinent information, including copies of federal or state tax returns and/or schedules, as the Administrator or his delegate may require; provided, however, that 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 fifteenth (15th) 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 qualifying 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.

(c) A husband and wife, in any taxable year, may elect to file separate or joint returns.

(d) If a net operating loss has been sustained in any taxable year, such loss may not be carried forward or backward to any other taxable year.

(e) Any affiliated group that files a consolidated return for federal income tax purposes pursuant to section 1501 of the Internal Revenue Code may file a consolidated return with the JEDZ. However, once the affiliated group has elected to file a consolidated return or a separate return with the JEDZ, the affiliated group may not change its method of filing in any subsequent tax year without written approval from the Administrator.

(f) The taxpayer making a return shall at the time of the filing thereof, pay to the JEDZ the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of Section 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 the taxpayer's income tax in any taxable year may request a refund provided, however, there is no other tax liability and provided, further, that no amount of less than one dollar (\$1.00) will be refunded or collected.

(h) The Administrator 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 extension request may be made by filing a copy of the taxpayer's request for a federal filing extension, or by filing a written request. The Administrator 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. No penalty or interest shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended.

#### 1.06 AMENDED RETURN; REFUNDS.

(a) 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(f), such amended return shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

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

(c) No refund shall be allowed unless a written request is presented to the Administrator 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 JEDZ, shall deduct at the time of payment of such salaries, wages, commissions or other compensation, the tax at the rates set forth in Section 1.02 on the qualifying wages due by the employer to such employees and shall, on or before the last day of the month following the close of each calendar quarter, make a return showing the amount of taxes so deducted and a record of payments showing that all taxes deducted during the quarter have been paid to the JEDZ in accordance with the payment schedule prescribed by subsection (b)(1), (2) and (3) hereof. 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. Every employer is deemed to be a trustee for the JEDZ in collecting and

holding the tax required under these Regulations to be withheld and the funds so collected by such withholding are deemed to be trust funds.

(b) Employers shall pay to the JEDZ all income taxes withheld or required to be deducted and withheld on either a semi-monthly, monthly, or quarterly basis depending on the amount of taxes involved according to the following payment schedule:

(1) Semi-monthly payments of the taxes deducted are to be made by an employer if the total taxes deducted in the prior calendar year were twelve thousand dollars (\$12,000) or more, or the amount of taxes deducted for any month in the preceding quarter exceeded one thousand dollars (\$1,000). Such payment shall be paid to the JEDZ within five banking days after the fifteenth and the 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 less than twelve thousand dollars (\$12,000) but more than one thousand one hundred and ninety-nine dollars (\$1,199) or if the taxes withheld during any month for the preceding quarter exceeded one hundred dollars (\$100.00). Such payments shall be paid to the JEDZ within fifteen days after the close of each calendar month, however, those taxes accumulated for the third month of the calendar quarter need not be paid until the last day of the month following such quarter.

(3) All employers not required to make semi-monthly or monthly payments of taxes withheld under subsections (b)(1) and (2) hereof, shall make quarterly payments no later than the last day of the month following the end of each quarter.

(c) The failure of an employer to remit to the JEDZ the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer in connection with the failure to remit the tax withheld.

(d) The employer shall make and file a return on a form furnished by the Administrator, showing the amount of tax deducted by the employer from the qualifying wages, of any employee and paid by the employer to the JEDZ.

(e) Each employer on or before January 31, unless written request for thirty days extension is made to and granted by the Administrator or his delegate, following any calendar year in which such deductions have been made, or should have been made by such employer, shall file with the Administrator or his delegate an information return [**Clinton-Grandview Heights JEDZ Withholding Statement of Wages Paid, and Clinton-Grandview Heights 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 qualifying wages, commissions and other compensation paid such employee during the year, and the amount of JEDZ income tax withheld from each employee.

(f) All officers, members, managers, trustees, or the employees having control or supervision of or charged with the responsibility of filing the report and making payment, are personally liable, jointly and severally, for failure to file the report or pay the tax due as required by this section, as well as any related interest and penalties. The dissolution, termination, or bankruptcy of a corporation, limited liability company, business trust or association does not discharge an officer's, member's, manager's, trustee's, or employee's liability for a prior failure of the corporation, limited liability company, business trust or association to file returns or pay tax due.

#### 1.08 DECLARATIONS.

(a) 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 Sections 1.02(b) 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; provided, however, if a person's income is wholly from qualifying wages, from which the tax will be withheld and remitted to the JEDZ in accordance with Section 1.07, such person need not file a declaration.

(b) Such declaration shall be filed on or before April 15 of each year during the life of these Regulations, or on or before the fifteenth (15th) day of the fourth month the taxpayer becomes subject to tax for the first time.

(c) Those taxpayers reporting on a fiscal year basis shall file a declaration on or before the fifteenth (15th) day of the fourth month after the beginning of each fiscal year or period.

(d) Such declaration shall be filed upon a form furnished by or obtainable from the Administrator or on an acceptable generic form, provided, however, credit shall be taken for the JEDZ tax to be withheld from any portion of such income.

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

(f) Such declarations of estimated tax to be paid the JEDZ shall be accompanied by a payment of at least one-fourth of the estimated annual tax, and at least a similar amount shall be paid on or before the last day of the sixth, ninth and twelfth months after the beginning of the taxable year, provided, however, that in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

The declaration of estimated tax to be paid to the JEDZ by taxpayers who are not individuals shall be accompanied by a payment of at least twenty-two and one-half percent

(22.5%) of the declaration amount and at least a similar amount shall be paid on or before the last day of the sixth, ninth, and twelfth months of the taxpayer's taxable year.

(g) On or before the fifteenth (15th) 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 JEDZ shall be paid therewith in accordance with the provisions of Section 1.05.

(h) A declaration of estimated tax that is less than eighty percent (80%) of the tax as shown on the final return shall not be considered filed in good faith. The difference shall be subject to penalties and interest as provided in Section 1.15.

#### 1.09 DUTIES OF THE ADMINISTRATOR.

(a) The Administrator shall collect and receive the tax imposed by these Regulations in the manner prescribed by these Regulations, 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 such payment.

(b) The Administrator shall have the power to appoint a delegate to assist in the administration of these Regulations, and such delegate shall be responsible to the Administrator.

(c) The Administrator and his delegate are hereby charged with the administration and enforcement of the provisions of these Regulations and they are hereby empowered 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 these Regulations, including provisions for the reexamination and correction of returns and payments.

(d) 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 Administrator or his delegate may determine the amount of tax appearing to be due the JEDZ 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.

#### 1.10 INVESTIGATIVE POWERS OF THE ADMINISTRATOR OR HIS DELEGATE.

(a) The Administrator 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 Administrator or his delegate believes is subject to, the provisions of these Regulations for the purposes of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under these Regulations, and every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish upon written request by the Administrator 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.

(b) The Administrator and his delegate are each 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 or any transaction tending to affect 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.

#### 1.11 TAX INFORMATION CONFIDENTIAL.

Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by these Regulations shall be confidential, except for official purposes, or except in accordance with proper judicial order, or except as hereinafter provided. The Administrator 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 Administrator 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. Any person divulging such information, except as authorized in this section, shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine of not more than five hundred dollars (\$500.00) or imprisoned for not more than six months, or both. Each disclosure shall constitute a separate offense.

#### 1.12 COLLECTION OF UNPAID TAXES.

(a) All taxes imposed by these Regulations shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable.

(b) The Administrator or his delegate is authorized to institute civil law suits to collect delinquent taxes due and owing the JEDZ by virtue of the provisions of these Regulations. The Administrator or his delegate is authorized to waive penalties and interest and compromise tax liability and the right to accept waiver of State statutes of limitations.

#### 1.13 EXEMPTIONS.

(a) The provisions of these Regulations shall not be construed to tax the following:

(1) Military pay or allowances of members of the armed forces of the United States and of members of their reserve components, including the Ohio National Guard;

(2) 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;

(3) Amounts excluded from federal gross income pursuant to section 107 of the Internal Revenue Code;

(4) Intangible income;

(5) The income of a public utility, when that public utility is subject to the tax levied under Sections 5727.24 or 5727.30 of the Ohio Revised Code;

(6) An S corporation shareholder's distributive share of net profits of the S corporation, other than any part of the distributive share of net profits that represents wages as defined in Section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in Section 1402(a) of the Internal Revenue Code;

(7) Qualifying wages and other compensation paid to a natural person for services performed in the JEDZ on twelve (12) or fewer days in a calendar year unless such person is a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such promoter, all as may be reasonably defined by the JEDZ.

(8) Beginning with the thirteenth (13th) day that an individual receives qualifying wages or other compensation for services performed in the JEDZ, all provisions of these Regulations shall apply to the individual and the individual's employer, including with respect to qualifying wages paid for the first twelve days.

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

#### 1.14 CONTRACT PROVISIONS.

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

"The undersigned hereby further agrees to withhold all JEDZ income taxes due or payable under the provisions of the Clinton-Grandview Heights Joint Economic Development Zone Income Tax Regulations, for 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 JEDZ income taxes due under such regulations for services performed under this contract."

#### 1.15 INTEREST AND PENALTIES.

(a) All taxes imposed by these Regulations and remaining unpaid after they become due shall bear interest in addition to the amount of the unpaid tax, at the rate of eighteen percent

(18%) per annum, and the taxpayers upon whom such taxes are imposed by these Regulations shall be liable in addition thereto, to a penalty of ten percent (10%) of the amount of the unpaid tax.

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

#### 1.16 ALLOCATION OF FUNDS.

The funds collected under the provisions of these Regulations shall be applied pursuant to Section 4.3 of the JEDZ Contract.

#### 1.17 BOARD OF REVIEW.

(a) There is hereby created an Income Tax Board of Review (hereinafter referred to as "Board"). The Board shall consist of the Chair, the Vice-Chair and the Secretary of the Board of Directors of the JEDZ. The Board shall possess the authority of a municipal income tax board of review set forth in Chapter 718 of the Ohio Revised Code and shall perform its duties in accordance with such provisions.

(b) The Board shall establish its own rules of organization and procedure for the conduct of its business, elect its own chairperson, and keep a record of its proceedings. Such records of proceedings and hearings are not public records available for inspection under Section 149.43 of the Ohio Revised Code. Hearings requested by a taxpayer before the Board are not meetings of a public body subject to the provisions of Section 121.22 of the Ohio Revised Code.

(c) A majority of its members shall constitute a quorum for the conduct of any business to come before the Board.

(d) Any person dissatisfied with a decision of the Administrator that is made under the authority conferred by these Regulations may appeal to the Board by filing a notice of appeal with the Board within thirty days from the announcement of such decision by the Administrator. The appeal request shall be in writing and shall state why the decision should be deemed incorrect or unlawful. Upon appeal, the Board shall review the relevant facts as documented and any rules or regulations that have been adopted or applied by the Administrator under the authority of these Regulations.

(e) The Board shall schedule a hearing within forty-five (45) days after receiving the request, unless the taxpayer waives the hearing. If the hearing is not waived, the taxpayer may

appear before the Board with representation from an attorney at law, certified public accountant, or other representative.

(f) The Board may affirm, reverse or modify the decision of the Administrator or any part of that decision. The Board shall issue a decision on the appeal within ninety days after the Board's final hearing on appeal, and shall send notice of its decision by ordinary mail to all of the parties to the appeal within fifteen days after issuing the decision. The taxpayer or the Administrator may appeal the Board's decision as provided in Section 5717.011 of the Ohio Revised Code.

#### 1.18 PENALTY.

(a) Any person subject to the provisions of these Regulations who fails, neglects or refuses to make any return or declaration, or any employer who fails, neglects, or refuses to deduct and withhold the taxes or pay the taxes imposed by these Regulations, or any taxpayer who fails, neglects or refuses to pay the tax, interest and penalties imposed by these Regulations, or any person who refuses to permit the Administrator or his delegate, or his duly authorized agent or employee, to examine the books, records and papers of a taxpayer, or any person who knowingly makes an incomplete, false, or fraudulent return, or who attempts to do anything whatever to avoid payment of the whole or any part of the tax under these Regulations, shall be deemed guilty of a misdemeanor and shall be fined not more than two hundred fifty dollars (\$250.00) for the first offense, and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than ninety days or both, for a second or subsequent offense.

(b) 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 these Regulations.