

## PURPOSES; LEVY OF TAX.

For the purpose of providing funds for general Municipal operations, maintenance, new equipment, extension and enlargement of Municipal services and facilities and capital improvements of the Municipality, there is hereby levied a tax on salaries, wages, commissions and other compensation, and on net profits, as provided in this chapter.

(Ord. 10-88. Passed 5-9-88.)

### 880.01 DEFINITIONS

As used in this chapter, unless the context clearly indicates or requires a different meaning:

- a) "Association" means a partnership, limited partnership or any other form of unincorporated enterprise owned by two or more persons.
- b) "Board of Review" means the Board of Review established by and constituted as provided in Section 880.14.
- c) "Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or other entity, including, but not limited to, the renting or leasing of property, real, personal or mixed.
- d) "Corporation" means a corporation or joint stock association organized under the laws of the United States, the State or any other state, territory or foreign country or dependency.
- e) "Domicile" means a principal residence that the taxpayer intends to use for an indefinite time and to which whenever he is absent he intends to return. A taxpayer has only one domicile even though he may have more than one residence.
- f) "Employee" means a person who works for a wage, salary, commission or other type of compensation in the service of an employer.
- g) "Employer" means an individual, partnership, association, corporation, governmental body, unit or agency or other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission or other compensation basis.
- h) "Finance Director" means the person designated by this chapter, whether appointed or elected, to administer and enforce this chapter.
- i) "Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31.
- j) "Form 2106" means Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
- k) "Generic Form" means an electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation's tax on income.
- l) "Gross receipts" means the total income from any source.
- m) "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, not to include prizes, awards, or other income associated with any lottery or other similar games of chance provided by Ohio R.C.718.01. (Ord. 28-04. Passed 11-9-04.)
- n) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.

- o) “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.
- p) “Net profits” means a net gain from the operation of a business, profession, enterprise or other activity, after provision for all ordinary, reasonable 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 chapter or Federal, State and other taxes based on income, exclusive of the amount of the State franchise tax computed on the net worth basis, 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 chapter.
- q) “Nonresident” means a person domiciled outside the Municipality.
- r) “Nonresident unincorporated business entity” means an unincorporated business entity not having an office or place of business within the Municipality.
- s) “Ohio Business Gateway” means the online computer network system, initially created by the department of administrative services, that allows private businesses to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system as provided in Ohio R.C. 718.05. (Ord. 28-04. Passed 11-9-04.)
- t) “Other Payer” means any person other than an individual’s employer or the employer’s agent that pays an individual any amount included in the federal gross income of the individual. (Ord. 28-04. Passed 11-9-04.)
- u) “Person” means a 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 partners or members thereof and, as applied to a corporation, the officers thereof.
- v) “Place of business” means any bona fide office (other than a mere statutory office), factory, warehouse, or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his or her regular employees regularly in attendance.
- w) “Qualifying Wages” means wages, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations with adjustments as provided in Ohio R.C. 718.03. (Ord. 28.04. Passed 11-9-04.)
- x) “Resident” means an individual domiciled in the Municipality.
- y) “Resident unincorporated business entity” means an unincorporated business entity having an office or place of business within the Municipality.
- z) “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.
- aa) “Schedule C” means Internal Revenue Service Schedule C filed by a taxpayer pursuant to the Internal Revenue Code.
- bb) “Taxable income” means wages, salaries and other compensation paid by an employer before any deductions, and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with this chapter.
- cc) “Taxable year” means the calendar year or the fiscal year upon the basis of which net profits are to be computed under this chapter 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. (Ord. 10-88. Passed 5-9-88.)
- dd) “Taxpayer” means a person, where an individual, partnership, association, corporation or other entity, required hereunder to file a return or pay a tax. (Ord. 45-95. Passed 12-12-95.)

## 880.02 IMPOSITION OF TAX

(e) Taxable Income. Subject to Section 880.20, an annual tax for the purposes specified in Section 880 shall be imposed on and after January 1, 1989, at the rate of one percent per year, and an additional annual tax for the purpose of improving police services shall be imposed on and after January 1, 1995, at the rate of five-tenths of one percent per year, upon the following:

- (1) On all salaries, wages, commissions and other compensation earned during the effective period of this chapter by residents of the Municipality;
- (2) On all salaries, wages, commissions and other compensation earned during the effective period of this chapter by nonresidents for work done or services performed or rendered in the Municipality;
- (3) On the portion attributable to the Municipality of net profits earned during the effective period of this chapter of all resident unincorporated businesses, professions or other entities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the Municipality;
- (4) On the portion of the distributive share of the net profits earned during the effective period of this chapter of a resident partner or owner of a resident unincorporated business entity not attributable to the Municipality and not levied against such unincorporated business entity by the Municipality;
- (5) On the portion attributable to the Municipality of the net profit earned during the effective period of this chapter of all nonresident unincorporated businesses, professions or other entities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the Municipality, whether or not such unincorporated business entity has an office or place of business in the Municipality;
- (6) On the portion of the distributive share of the net profits earned during the effective period of this chapter of a resident partner or owner of a nonresident unincorporated business entity not attributable to the Municipality and not levied against such unincorporated business entity by the Municipality; and
- (7) On the portion attributable to the Municipality of the net profits earned during the effective period of this chapter of all corporations, derived from sales made, work done, services performed or rendered and business or other activities conducted in the Municipality, whether or not such corporations have an office or place of business in the Municipality, as defined in Ohio R.C. 718.01.
- (8) On all stock options or other compensation received in the form of property when included on Form W-2 or Form 1099 for federal purposes.
- (9) On all contributions of (or premiums paid by) the employer in the case of nonqualified plans when made and reported on IRS Form W-2 or Form 1099-M.
- (10) Capital gains and losses from sale, exchange or other disposition of property shall not be taken into consideration in arriving at net profits earned. However, any amount or value realized on a sale, exchange or other disposition of tangible personal property or real property used in business in excess of book value shall be treated as taxable income under the Chapter to the extent of depreciation allowed or allowable.

- (11) On all net gambling winnings in excess of \$1,000. Gambling includes but is not limited to bingo, keno, slot machines, casino games, horse racing, dog racing, jai alai, sweepstakes, wagering pools, lotteries, prizes and any other wagering transactions.

(f) The Municipality shall not tax the compensation of an individual if all of the following apply:

- (1) The individual does not reside in the Municipality;
- (2) The compensation is paid for personal services performed by the individual in the Municipality on twelve (12) or fewer days during the calendar year;
- (3) In the case of an individual who is an employee, the principal place of business of the individual's employer is located outside the Municipality and the individual pays tax compensation described in this section to the city, if any, in which the employer's principal place of business is located, and no portion of that tax is refunded to the individual;
- (4) The individual is not a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such a promoter, all as may be reasonably defined by the Municipality.

(g) Net Profits Attributable to the Municipality. The portion of the net profits attributable to the Municipality of a taxpayer conducting a business, profession or other activity both within and without the boundaries of the Municipality shall be determined as provided in Ohio R.C. 718.02 and in accordance with the rules and regulations adopted by the Finance Director Pursuant to this chapter. (Ord. 11-94. Passed 5-24-94.)

(h) As a general rule, rental of real estate for purposes of the Municipality Income Tax Ordinance constitutes the operation of a business, and net profits earned are subject to taxation hereunder.

#### 880.03 OPERATING LOSS CARRY FORWARD.

(a) The portion of a net operating loss sustained in any taxable year (subsequent to the effective date of the first ordinance permitting loss carry forwards) allocable to the Municipality may be applied against the portion of the profit of succeeding years, apportioned to the Municipality, until exhausted, but in no event for more than three taxable years. No portion of a net operating loss shall be carried back against the net profits of any prior year. (Ord. 25-88. Passed 9-12-88.)

(b) The portion of a net operating loss sustained shall be apportioned to the Municipality in the same manner as provided in this section for apportioning net profits to the Municipality.

(c) Net operating losses cannot be used to offset wages, salaries, commissions or other compensation. (Ord. 10-88. Passed 5-9-88.)

#### 880.04 CONSOLIDATED RETURNS.

(a) The filing of consolidated returns may be permitted, required or denied in accordance with the rules and regulations prescribed by the Finance Director.

(b) In the case of a corporation that carries on transactions with its stockholders or with other corporations related by stock ownership, interlocking directories or some other method, or if any person operates a division, branch, factory, office, laboratory or activity within the Municipality constituting a portion only of its total business, the Finance Director shall require such additional information as he or she may deem necessary to ascertain whether or not net profits are properly apportioned to the Municipality. If the Finance Directory finds net profits are not properly apportioned to the Municipality by reason of transactions with stockholders or with other corporations related by stock ownership,

interlocking directorates or transactions with such division, branch, factory, office, laboratory or activity, or by some other method, he or she shall make such allocation as he or she deems appropriate to produce a fair and proper apportionment of net profits to the Municipality. (Ord. 10-88. Passed 5-9-88.)

#### 880.05 EFFECTIVE PERIOD.

The tax imposed by this chapter for the purposes specified in Section ~~880.04~~ 880 shall be levied, collected and paid with respect to salaries, wages, commissions and other compensation of employees, and with respect to the net profits of businesses, professions or other activities, earned on and after January 1, 1989, and the tax imposed by this chapter for the purpose of providing funds for police services shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation of employees, and with respect to the net profits of businesses, professions or other activities, earned on and after January 1, 1995. (Ord. 11-94. Passed 5-24-94.)

#### 880.06 RETURN AND PAYMENT OF TAX.

(a) Each resident natural person who is eighteen years of age or older, and every business which conducts business in the Municipality, shall file a return, whether or not a tax is due thereon, on or before April 15 of the year following the effective date of this chapter. (Ord. 28-04. Passed 11-9-04.)

Any other person or business who or which earns taxable income in the Municipality, shall, whether or not a tax is due thereon, make and file a return on or before April 15 of the year following the effective date of this chapter except nonresident employees who work in the Municipality and whose employers withhold taxes from their wages in the amount specified by this chapter. (Ord. 28-04. Passed 11-9-04.)

When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four months from the end of such fiscal year or period. The Finance Director is hereby authorized to provide, by regulation, that the return of an employer, showing the amount of tax deducted by such employer from the salaries, wages, commissions, or other compensation of an employee, and paid by him or her to the Finance Director, shall be accepted, unless otherwise specified, as the return required of any employee whose sole income, subject to tax under this chapter, is such salaries, wages, commissions or other compensation. (Ord. 45-95. Passed 12-12-95.)

(b) The return shall be filed with the Finance Director on a form furnished by or obtainable upon request from such Finance Directory setting forth:

- (1) The aggregate amounts of salaries, wages, commissions and other compensation earned and gross income from the business, profession or other activity, less the allowable ordinary, reasonable and necessary expenses incurred in the acquisition of such gross income earned during the preceding year and subject to such tax;
- (2) The amount of the tax imposed by this chapter on such earnings and profits; and
- (3) Such other pertinent statements, information returns or other information as the Finance Director may require.

The Municipality shall accept a generic form of any return, report, or document required to be filed if the generic form once completed and filed, contains all of the information required to be submitted with the Municipality's prescribed returns, reports or documents, and if the taxpayer or return preparer filing the generic form otherwise complies with the rules or ordinances of the Municipality governing the filing of returns, reports or documents.

For taxable years beginning on or after January 1, 2005, a taxpayer subject to any municipal corporation's tax on the net profit from a business or profession may file any municipal income tax return or estimated municipal income return by using the Ohio business gateway. (Ord. 28-04. Passed 11-9-04.)

(c) The Finance Director may extend the time of filing of the annual return based on the following:

- (1) Any taxpayer that has requested an extension for filing a federal income tax return may request an extension for the filing of an annual tax return. The taxpayer shall make the request by filing a copy of the taxpayer's request for a federal filing extension with the Finance Director.
- (2) Any taxpayer not required to file a federal income tax return may request an extension for filing an annual tax return in writing.
- (3) On or after January 1, 2005 any taxpayer that is subject to any municipal corporation's tax on the net profit from a business or profession and has received an extension to file the federal income tax return shall not be required to notify the municipal corporation of the federal extension and shall not be required to file any municipal income tax return until the last day of the month to which the date for filing the federal return has been extended, provided that, on or before the date for filing the municipal income tax return, the person notifies the tax commissioner of the federal extension through the Ohio business gateway. An extension of time to file is not an extension of the time to pay any tax due as provided in Ohio R.C. 718.05. (Ord. 28-04. Passed 11-9-04.)
- (4) The request for extension shall be filed not later than the last day for filing the municipal annual tax return as prescribed by ordinance or rule of this municipal corporation.
- (5) The extended due date of the municipal 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. (Ord. 28-04. Passed 11-9-04.)
- (6) The Municipality may deny a taxpayer's request for extension if the taxpayer:
  - a) Fails to timely file the request;
  - b) Fails to file a copy of the federal extension request or written request;
  - c) Owes the Municipality any delinquent income tax or any penalty, interest, assessment or other charge for the late payment or nonpayment of income tax;
  - d) Has failed to file any required income tax return, report, or other related document for a prior tax period.
- (7) The granting of an extension for filing a Municipal income tax return does not extend the last date 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 880.11 and 880.99. No penalty shall be assessed in those cases in which the return is filed and the final tax paid within the extension period provided all other filing and payment requirements of the Tax Code have been met. Any extension by the Finance Director shall be granted with the understanding that declaration filing and payment requirements have been fulfilled; however, if, upon further examination it then becomes evident that declaration filing and payment requirements have not been fulfilled, penalty and interest may be assessed in full and in the same manner as though no extension had been granted.

(d) The taxpayer making a return shall, at the time of filing thereof, pay to the Finance Director the amount of taxes shown as due thereon; provided, however, that where any of the tax so due shall have been deducted at the source pursuant to the provision of Section 880.07 of the Ordinance, or where any portion of said tax shall have been paid by the taxpayer pursuant to the provisions of Section 880.08 of the Ordinance, or where an income tax has been paid to another municipality, credit for the amount so paid is limited to the tax rate of the Municipality of one and one-half percent (1.5%), in accordance with Sections 880.07, 880.08 and 880.16 thereof, shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing said return.

(e) A taxpayer who has overpaid the amount of tax to which the Municipality is entitled under this chapter may have such overpayment applied against any subsequent liability under this chapter or, at his or her election indicated on the return, such overpayment (or part thereof) shall be refunded, provided that no additional taxes or refunds of less than five dollars (\$5.00) shall be collected or refunded.

(f) Where necessary, a taxpayer must file an amended return in order to report additional income and pay any additional tax due, or to claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Sections 880.12 and 880.16. Such amended return shall be on a form obtainable on request from the Finance Director. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

(g) Within three months from the final determination of any Federal tax liability affecting the taxpayer's tax liability to the Municipality, such taxpayer shall make and file an amended return showing income subject to the income tax of the Municipality, based upon such final determination of the Federal tax liability, shall pay any additional tax shown due thereon or make a claim for liability and shall pay any additional tax shown due thereon or make a claim for refund of any overpayment. (Ord. 10-88. Passed 5-9-88.)

#### 880.07 COLLECTION AT SOURCE.

(a) In accordance with rules and regulations prescribed by the Finance Director, each employer within or doing business within the Municipality shall deduct, at the time of the payment of salaries, wages, commissions or other compensation, a tax at the rate provided in Section 880.02 hereof on the qualifying salaries, wages, commissions or other compensation due by the employer to the employee and shall, on or before the fifteenth (15<sup>th</sup>) day of the month following such withholding, make a return and pay to the Finance Director the amount of taxes so deducted. The return shall be on a form or forms prescribed by or acceptable to the Finance Director and shall be subject to the rules and regulations prescribed by the Finance Director. 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) So long as the taxes withheld by an employer for the Municipality during the measurement period are less than three hundred dollars (\$300) per month, payments may be made quarterly on or before the last day of the month following the end of the quarter, subject to the approval of the Finance Director. The Finance Director may revoke the approval of quarterly filing and payments whenever he has reason to believe that the conditions for granting such authorization have changed, were judged incorrectly, were not met, or when it is in the best interest of the Municipality to do so. Notice of withdrawal shall be made in writing and, in such case, the employer must begin to file in accordance with this Section.

(c) Each employer within or doing business within the Municipality shall deduct such taxes regardless of the employee's residency or age.

(d) Such employer, in collecting the tax, shall be deemed to hold the same, until payment is made by such employer to the Municipality, as a trustee for the benefit of the Municipality, and any such tax collected by such employer from his or her employees shall, until the same is paid to the Municipality, be deemed a trust fund in the hands of such employer.

(e) On or before February 28 of each year, beginning with the year 1990, each employer shall file a withholding return setting forth the names and addresses of all employees from whose compensation the tax was withheld during the preceding calendar year, the amount of tax withheld from his or her employees and such other information as may be required by the Finance Director. All payments not subject to withholding shall be reported on a form required by the Finance Director. (Ord. 28-04. Passed 11-9-04.)

(f) The Finance Director, for good cause, may require immediate returns and payments to be submitted to his or her office.  
(Ord. 10-88. Passed 5-9-88; Ord. 6-96. Passed 4-9-96.)

#### 880.08 DECLARATIONS.

(a) Every person who anticipates any taxable income which is not subject to Section 880.07, or who engages in any business, profession, enterprise or activity subject to the tax imposed by this chapter, 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. However, if a person's income is wholly from wages from which the tax will be withheld and remitted to the Municipality in accordance with Section 880.07, 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 this chapter, or within four months of the date the taxpayer becomes subject to the tax for the first time.  
(Ord. 28-04. Passed 11-9-04.)

Those taxpayers on a fiscal year basis may file a declaration within four months after the beginning of each fiscal year or period.

(c) Such declaration shall be filed upon a form furnished by or obtainable from the Finance Director, provided that credit shall be taken for the Municipal income tax to be withheld from any portion of such income. In accordance with Section 880.16, credit may be taken for tax to be paid to, or to be withheld and remitted to, another taxing municipality.

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

(d) Such declaration of estimated tax to be paid to the Municipality 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 seventh, tenth and thirteenth months after the beginning of the taxable year. However, if an amended declaration has been filed, the unpaid balance shown to be due thereon shall be paid in equal installments on or before the remaining payment dates.

(e) For taxable years beginning on or after January 1, 2005, a taxpayer subject to any municipal corporation's tax on the net profit from a business or profession may make payments of amount shown on declaration of estimated tax due by using the Ohio business gateway. (Ord. 28-04. Passed 11-9-04.)

(f) On or before 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 to the Municipality shall be paid therewith in accordance with Section 880.06.  
(Ord. 10-88. Passed 5-9-88; Ord. 6-96. Passed 4-6-96: Ord. 28-04. Passed 11-9-04.)

#### 880.09 ENFORCEMENT BY FINANCE DIRECTOR

(a) The Finance Director shall receive the tax imposed by this chapter in the manner prescribed in this chapter from the taxpayers, shall keep an accurate record thereof and shall report all monies so received.

The Finance Director shall enforce the payment of all taxes owed to the Municipality and shall keep accurate records for a minimum of five years showing the amount due from each taxpayer required to file a declaration and/or to make any return, including taxes withheld, and showing the dates and amounts of payments thereof.

(b) The Finance Director is hereby charged with the enforcement of this chapter and is hereby authorized, subject to the approval of the Board of Review, to adopt, promulgate and enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and the administration and enforcement of this chapter, including provisions for the re-examination and correction of returns.

The Finance Director 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 or she 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 or her under this chapter.

Failure to make any deferred payments when due shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Sections 880.11, 880.12 and 880.99 shall apply.

(c) In any case where a taxpayer has failed to file a return which does not show the proper amount of tax due, the Finance Director may determine the amount of tax appearing to be due to the Municipality from the taxpayer and shall send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.

(d) Subject to the consent of the Board of Review or pursuant to a regulation approved by the Board, the Finance Director may compromise any interest or penalty, or both, imposed under Section 880.11. (Ord. 10-88. Passed 5-9-88.)

#### 880.10 INVESTIGATIVE POWERS OF FINANCE DIRECTOR; CONFIDENTIAL INFORMATION.

(a) The Finance Director or his or her authorized agent or employee is hereby authorized to examine the books, papers, records and Federal Income Tax Returns of any employer, taxpayer or person subject to, or whom the Finance Director believes is subject to, this chapter, for the purpose of verifying the accuracy of any return made or, if no return was made, to ascertain the tax due under this chapter. 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 or her authorized agent or employee, the means, facilities and opportunities for making such examinations and investigations as are hereby authorized.

(b) The Finance Director is hereby authorized to order any person presumed to have knowledge of the facts to appear before him or her and may examine such person, under oath, concerning any income which was or should have been reported 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 or her, whether as parties or witnesses, whenever he or she believes such persons have knowledge of such income or information pertinent to such inquiry.

(c) The refusal to produce books, papers, records and Federal Income Tax Returns, or the refusal to submit to such examination by any employer or person subject to presumed to be subject to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax, or the failure of any person to comply with any of the provisions of this section or with an order or subpoena of the Finance Director authorized hereby, shall be deemed a violation of this chapter, punishable as provided in Section 880.99.

(d) Any information gained as a result of a return, investigation, verification of hearing before the Finance Director, required by this chapter or authorized by rules and regulations promulgated pursuant to this chapter, shall be confidential, and no disclosure thereof shall be made except for official purposes or as ordered by a court of competent jurisdiction.

(e) Every taxpayer shall retain all records necessary to compute his or her tax liability for five years from the date his or her return is filed or the withholding taxes are paid.  
(Ord. 10-88. Passed 5-9-88.)

#### 880.11 INTEREST AND PENALTIES

(a) All taxes imposed and all monies withheld or required to be withheld by employers under the provisions of this ordinance and remaining unpaid after they become due shall bear interest at the same rate which Section 718.12 of the Ohio Revised Code requires be paid by municipalities on their income tax refunds, i.e., the federal short-term rate as defined in Section 5703.47 of that Revised Code, plus three percent (3%) per year.

(b) In addition to interest as provided in subsection (a) hereof, penalties based on the unpaid tax are hereby imposed as follows:

- (1) For failure to pay taxes due, other than taxes withheld, one percent per month or fraction thereof or twenty-five dollars (\$25.00), whichever, is greater;  
(Ord. 25-88. Passed 9-12-88.)
- (2) For failure to file a final return on the specified filing date, twenty-five dollars (\$25.00), regardless of the taxpayer's liability.  
(Ord. 10-88. Passed 5-9-88.)

(c) A penalty shall not be assessed on an additional tax assessment made by the Finance Director when a return has been filed in good faith and the tax has been 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 that an amended return is filed and the additional tax is paid within three months after final determination of the Federal tax liability.

(d) Upon recommendation of the Finance Director, the Board of Review may abate a penalty or interest, or both, or upon an appeal from the refusal of the Finance Director to recommend abatement of a penalty and/or interest, the Board may nevertheless abate a penalty or interest, or both.  
(Ord. 10-88. Passed 5-9-88.)

#### 880.12 COLLECTION OF UNPAID TAXES; REFUNDS OF OVERPAYMENT.

(a) All taxes imposed by this chapter shall be collectible, together with any interest or penalty thereon, by a civil action at law. All additional assessments shall be made and all civil actions to recover Municipal income taxes and interest and penalties thereon shall be brought within three years after the tax was due or the return was filed, whichever is later.

(b) Taxes erroneously paid shall not be refunded unless a claim for a refund is made at the discretion of the Finance Director. Claims for a refund of Municipal income taxes must be brought within the time limitation provided in subsection (a) hereof.

(c) Amounts of less than five dollars (\$5.00) shall not be collected or refunded.  
(Ord. 10-88. Passed 5-9-88.)

## 880.13 VIOLATIONS

(a) No person shall:

- (1) Fail, neglect or refuse to make any return or declaration required by this chapter;
- (2) Make an incomplete, false or fraudulent return;
- (3) Willfully fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter;
- (4) Willfully fail, neglect or refuse to withhold the tax from his or her employees or remit such withholding to the Finance Director;
- (5) Refuse to permit the Finance Director or his or her authorized agent or employee to examine such person's books, records, papers and Federal Income Tax Returns relating to the income or net profits of a taxpayer;
- (6) Fail to appear before the Finance Director and to produce his or her books, records, papers or Federal Income Tax Returns relating to the income or net profits of the taxpayer upon order or subpoena of the Finance Director;
- (7) Refuse to disclose to the Finance Director any information with respect to the income or net profits of a taxpayer;
- (8) Fail to comply with any of the provisions of this chapter or with any order or subpoena of the Finance Director authorized hereby;
- (9) Give to an employer false information as to his or her true name, correct Social Security number or residence address, or fail to promptly notify an employer of any change in residence address and the date thereof;
- (10) Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and the Municipal income tax withheld, or knowingly give the Finance Director false information; or
- (11) Attempt to do anything to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter.

(b) Prosecutions for an offense made punishable under this section or any other provision of this chapter shall be commenced within three years after the commission of the offense, provided that in the cases of fraud, failure to file a return or the omission of twenty-five percent or more of the income required to be reported, prosecutions may be commenced within six years after the commission of the offense.

(c) The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him or her from making any information return, return or declaration, from filing such form or from paying the tax. (Ord. 10-88. Passed 12-12-00.)

## 880.14 BOARD OF REVIEW

(a) A Board of Review, consisting of a Chairperson and two other individuals to be appointed by Council, is hereby established. 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 by the Board may be conducted privately and the provisions of Section ~~880.11~~ 880.10, with reference to the confidentiality of information required to be disclosed by this chapter, shall apply to such matters as may be heard before the Board on appeal.

(b) All rules and regulations, and amendments or changes thereto, which are adopted by the Finance Director under the authority conferred by this chapter, must be approved by the Board before the same become effective. The Board shall hear and pass on appeals from any ruling or decision of the Finance Director and, at the request of the taxpayer or the Finance Director, is hereby authorized to substitute alternate methods of allocation.

(c) Whenever the Finance Director issues a decision regarding an income tax obligation that is subject to appeal as provided in this section, or in an ordinance or regulation of the Municipality, the Finance Director shall notify the taxpayer, in writing, of the taxpayer's right to appeal the decision and of the manner in which the taxpayer may appeal the decision.

(d) Any person who is aggrieved by a decision by the Finance Director and who has filed with the Municipality the required returns or other documents pertaining to the municipal income tax obligation at issue in the decision may appeal the decision to the Board of Review by filing a request with the Board. The request shall be in writing, shall state with particularity why the decision should be deemed incorrect or unlawful, and shall be filed within thirty (30) days after the Finance Director has issued the decision.

(e) The imposition of penalty and interest as prescribed in the codified ordinance of the Municipality is not a sole basis for an appeal.

(f) The Board of Review shall schedule a hearing within forty-five (45) days after receiving the request, unless the taxpayer waives a hearing.

(g) 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.

(h) The Board may affirm, reverse, or modify the Finance Director's decision or any part of that 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 a copy of its final decision by ordinary mail to all of the parties of the appeal with fifteen (15) days after issuing the decision. The taxpayer or Finance Director may appeal the Board's decision as provided in section 5717.011 of the Ohio Revised Code. (Ord. 28-04. Passed 11-9-04.)

(i) The Board of Review created pursuant to this section shall adopt rules governing its procedures and shall keep a record of its transaction. 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 Review created pursuant to this section are not meetings of a public body subject to Section 121.22 of the Ohio Revised Code.

#### 880.15 APPORTIONMENT OF FUNDS.

Monies derived from the tax imposed by this chapter for the purposes set forth in Section 880 shall be apportioned to the General Fund. Monies derived from the tax imposed by this chapter for the purpose of improving police services shall be apportioned to the Police Services Fund, which is hereby established. (Ord. 11-94. Passed 5-24-94.)

#### 880.16 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(a) Where a taxpayer of the Municipality is subject to a municipal income tax in another municipality, he or she shall not pay a total Municipal income tax on the same income greater than the tax imposed at the higher rate.

(b) Every individual taxpayer who resides in the Municipality who receives net profits, salaries, wages, commissions or other personal service compensation for work done or services performed or rendered outside of the Municipality, if it is made to appear that he or she has paid a municipal income tax on the same income taxable under this chapter to another municipality, shall be allowed a credit against the tax imposed by this chapter of the amount so paid by him or her, or in his or her behalf, to such other municipality. The credit shall not exceed the tax assessed by this chapter on such income earned in such other municipality where such tax is paid.

(c) Except as provided in division (D) of this section, if tax or withholding is paid to an incorrect municipal corporation on income or wages after the time period allowed for a refund of the tax or withholding paid by the incorrect municipal corporation, a nonrefundable credit, against the tax or withholding, shall be allowed against the tax or withholding due to the Municipality with respect to such income or wages, equal to the tax or withholding paid to the incorrect municipal corporation with respect to such income or wages. (Ord. 28-04. Passed 11-9-04.)

(d) If the tax rate of the Municipality is less than the tax rate of the municipal corporation to which tax or withholding was incorrectly paid, then the credit described in division (C) of this section shall be calculated using the tax rate in effect in the Municipality. (Ord. 28-04. Passed 11-9-04.)

(e) A claim for a refund or credit under this section shall be made in such manner as the Finance Director may, by regulation, provide.  
(Ord. 10-88. Passed 5-9-88.)

#### 880.17 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

(a) This chapter shall continue effective, insofar as the levy of taxes is concerned, until repealed. Insofar as the collection of taxes levied under this chapter and actions or proceedings for collecting any tax so levied or enforcing any of the provisions of this chapter are concerned, this chapter shall continue effective until all of the taxes levied under this chapter are fully paid and until any and all suits and prosecutions of the collection of such taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitations contained in Sections 880.11, 880.12 and 880.99.

(b) Annual returns due for all or any part of the last effective year of this chapter shall be due on the dates provided in Sections 880.06 and 880.07, as though the same were continuing.  
(Ord. 10-88. Passed 5-9-88.)

#### 880.18 SUBMISSION OF INFORMATION BY CONTRACTORS

(a) All contractors shall submit a list stating the names, addresses and amounts to be paid to any subcontractor or contract employee who did business in or is a resident of the Municipality, retroactive from January 1, 1989.

(b) At the time a contractor submits an application for a building permit, such contractor shall provide a list of the names and addresses of, and the amounts to be paid to, any subcontractor or contract employee who will do work on the project for which the contractor submits the application for a building permit and who does business in or is a resident of the Municipality.  
(Ord. 10-88. Passed 5-9-88.)

#### 880.19 SUBMISSION OF INFORMATION BY LANDLORDS.

All owners of single-family or multifamily buildings, utilized for rental property, whether they are dwellings or apartment buildings, located within the confines of the Municipality, shall, either personally or through their agents, furnish to the Municipality, by November 30 of each year, a current and complete list of all occupants over eighteen years of age of such single-family or multifamily dwellings or buildings. The list must be for occupants during the period between January 1 and November 30 of the current year. (Ord. 29-98. Passed 11-10-98.)

## 880.20 EXEMPTIONS.

This chapter shall not be construed as levying a tax upon the following:

- a) Funds received from the local, State or Federal government because of service in the Armed Forces of the United States by the person rendering such service or as a result of another person rendering such service;
- b) Poor relief, pensions, social security, unemployment compensation and disability benefits received from a private industry, the local, State or Federal government or a charitable, religious or educational organization;
- c) Dues, contributions and similar payments received by charitable, religious, educational or literary organizations or labor unions, lodges and similar organizations;
- d) Receipts from casual entertainment, amusements, sports events and health and welfare activities conducted by bona fide charitable, religious and educational organizations and associations;
- e) Any association, organization, corporation, club or trust that is exempt from Federal Income Tax by reason of its charitable, religious, educational, literary, scientific, etc., purposes;
- f) Gains from involuntary conversions, cancellation of indebtedness, interest of Federal obligations and income of a decedent's estate during the period of administration (except such income from the operation of a business); and (Ord. 10-88. Passed 5-9-88.)
- g) Compensation paid under Section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as precinct official, to the extent that such compensation does not exceed one thousand dollars (\$1,000) annually. Such compensation in excess of one thousand dollars may be subjected to taxation. The payer of such compensation is not required to withhold Municipal tax from that compensation.
- h) Compensation paid to an employee of a transit authority, regional transit authority, or 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 City, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such a tax by reason of residence or domicile in the Municipality, or the headquarters of the authority or commission is located with the Municipality.
- i) The income of a public utility when the public utility is subject to the tax levied under section 5727.24 or 5727.30 of the Ohio Revised Code, except starting January 1, 2002, the income of an electric company or combined company, as defined in section 5727.01 of the Ohio Revised Code, may be taxed by a municipal corporation subject to Chapter 5745 of the Ohio Revised Code.
- j) (EDITOR'S NOTE: Subsection (g) was repealed by Ordinance 6-96, passed April 9, 1996.)

## 880.21 FAILURE TO OBTAIN FORMS.

The failure of an employer, taxpayer or other person to receive or procure a return, declaration or other required form shall not excuse him or her from making any information return or declaration, from filing such form or from paying the tax. (Ord. 10-88. Passed 5-9-88.)

#### 880.22 SEPARABILITY.

If any sentence, clause, section or part of this chapter, or any tax against a person or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, 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 part of this chapter not been included herein. (Ord. 10-88. Passed 5-9-88.)

#### 880.99 PENALTY.

(a) Unless otherwise provided, whoever violates or fails to comply with any of the provisions of this chapter is guilty of a minor misdemeanor for a first offense if the amount of tax owed is less than one hundred dollars (\$100.00). A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(b) Whoever violates or fails to comply with any of the provisions of this chapter, and has a previous conviction under this chapter or owes a tax in excess of one hundred dollars (\$100.00), is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues. (Ord. 6-96. Passed 4-9-96.)

(c) In addition to the penalty provided in subsection (a) hereof, any employee of the Municipality who violates Section 880.12, relative to the disclosure of confidential information, is guilty of an offense punishable by immediate dismissal. (Ord. 10-88. Passed 5-9-88.)

(d) Whoever willfully violates Section 880.19 is guilty of a misdemeanor of the fourth degree and shall be fined not more than two hundred fifty dollars (\$250.00) or imprisoned not more than thirty days, or both. (Ord. 29-98. Passed 11-10-98.)