

## **CHAPTER 890**

### **Earned Income Tax**

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EDITOR'S NOTE: An increase in the Municipal Income Tax from 1% to 2% was passed by the voters on March 2, 2004.

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#### CROSS REFERENCES

Limitation on rate of taxation - see CHTR. Sec. 6.01

Tax Administrator - see ADM. Ch. 235

Earned income taxes - see Ohio R.C. Ch. 718

#### **890.01 PURPOSE OF TAX.**

To provide funds for the purposes of street, sidewalk/pathway/bikeway construction, maintenance and repair, storm sewer, sanitary sewer and water systems construction, maintenance and repair, debt service, capital improvements and such general Municipal purposes as Council shall determine including, specifically, at least, 7.5% of such tax being designated to provide funds for the Fire Department; 4.5% of such tax being designated to provide funds for Emergency Medical Services; 7.5% of such tax being designated to provide funds for the City's Park System; and 6% of such tax being designated to provide funds for construction and improvement of community learning centers in cooperation with the Hudson City School District, and related debt service, there is hereby levied a tax at the rate of 2% on all salaries, wages, commissions and other compensation, and on net profits, as hereinafter provided.

(Ord. 79-55. Passed 2-19-80; Ord. 90-64. Passed 8-20-90; Ord. 03-227. Passed 4-7-04.)

## **890.02 DEFINITIONS.**

As used in this chapter:

(a) "Adjusted Federal Taxable Income." For tax years prior to 2004, see definition of "Net Profits" as defined in this section. For taxable years 2004 and later, "Adjusted Federal Taxable Income" shall mean a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, but including subsequent adjustments from required additions and deductions. Pass-through entities must compute "Adjusted Federal Taxable Income" as if the pass-through entity was a C corporation. This definition does not apply to any taxpayer required to file a return under Ohio R.C. 5745.03 or to the net profit from a sole proprietorship. This definition is effective for tax years beginning on or after January 1, 2004.

(b) "Administrator" means the Tax Administrator of the Municipality.

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

(d) "Board of Review" means the Board created by and constituted as provided in Section 890.47.

(e) "Business" means any 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, excluding, however, all nonprofit corporations which are exempt from the payment of Federal income tax.

(f) "Corporation" means a corporation or joint stock association organized under the laws of the United States, the State or any other state, territory, foreign country or dependency.

(g) "Employee" means one who works for a wage, salary, commission or any other type of compensation in the service of an employer.

(h) "Employer" means an individual, partnership, association, corporation, government body, unit or agency or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission or other basis of compensation.

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

(j) "Generic Form" shall mean an electronic or paper form designed for reporting estimated municipal income taxes, and/or annual municipal income tax liability, and/or requests for refunds, which contain all the information required on the Municipality's regular tax return, estimated payment forms and request for refund forms, and are in a

similar format that will allow processing of the generic forms without altering the Municipality's procedures for processing forms.

(k) "Gross receipts" means the total income from any source whatever.

(l) "Municipality" means the Village of Hudson.

(m) "Net profits" means a net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for Federal income tax purposes, without deduction of taxes imposed by this chapter or Federal, State and other taxes based on income, and, in the case of an association, without deduction of salaries paid to partners and other owners. If the Tax Administrator approves the use of books and records as a substitute method, the following shall apply:

(1) The net profits allocable to the Municipality from business, professional or other activities conducted in the Municipality by corporations or unincorporated entities (whether resident or nonresident) may be determined from the records of the taxpayer only if the taxpayer has bona fide records which disclose with reasonable accuracy what portion of his or her net profits is attributable to that part of his or her activities conducted within the Municipality.

(2) If the books and records of the taxpayer are used as the basis for apportioning net profits, a statement must accompany the return explaining the manner in which such apportionment is made in sufficient detail to enable the Tax Administrator to determine whether the net profits attributable to the Municipality are apportioned with reasonable accuracy.

(3) In determining the income allocable to the Municipality from the books and records of a taxpayer, an adjustment may be made for the contribution made to the production of such income by headquarters activities of the taxpayer, whether such headquarters is within or without the Municipality.

(n) "Nonresident" means an individual domiciled outside the Municipality.

(o) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Municipality.

(p) "Person" means every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person," as applied to any unincorporated entity, means the partners or members thereof, and as applied to corporations, the officers thereof.

(q) "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.

(r) "Qualifying wage" means wages as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, but including subsequent adjustments from required additions and deductions. "Qualifying wage" represents employees' income (including non-qualified deferred compensation and stock options) from which municipal tax shall be deducted by the employer, and any wages not considered a part of "qualifying wage" shall not be taxed by the Municipality. This definition is effective January 1, 2004 for taxable years 2004 and later.

(s) "Resident" means an individual domiciled in the Municipality.

(t) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the Municipality.

(Ord. 79-55. Passed 2-19-80.)

(u) "Taxable income" means wages, salaries and other compensation paid by an employer or employers before any deduction. "Other compensation" includes, but is not limited to, bonuses; commission; incentive payments; directors fees; property in lieu of cash; tips; contest prizes and awards; tax shelter plans; vacation and sick pay, regardless of label, such as sick leave, vacation pay, etc.; wage continuation plans; non-qualified deferred compensation; and stock option plans given as compensation to the extent to which it is included on the taxpayer's annual W-2 or applicable 1099s. "Other compensation" does not include dismissal or severance pay or supplemental income benefits for early retirement regardless of label. "Taxable income" shall also include income from gaming, wagering and lotteries, including the Ohio State Lottery, and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this chapter. "Taxable income" does not include intangible income, including patents, copyrights, trademarks, investments in real estate investment trusts, investments in regulated investment companies and appreciation on deferred income.

(Ord. 97-37. Passed 4-23-97.)

(v) "Taxable year" means the calendar year or the fiscal year upon the basis of which the 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.

(w) "Taxpayer" means a person, whether an individual, partnership, association, corporation or other entity, required hereunder to file a return or pay a tax.

(Ord. 79-55. Passed 2-19-80; Ord. 05-14. Passed 2-2-05.)

### **890.03 IMPOSITION OF TAX.**

An annual tax for the purposes specified in Section 890.01 shall be imposed on and after January 1, 2005, upon the following items of income, at the rate of 2%:

(a) On all salaries, wages, commissions and other compensation earned on and after January 1, 2005, by residents of the Municipality;

(b) On all salaries, wages, commissions and other compensation earned on and after January 1, 2005, by nonresidents of the Municipality for work done or services performed or rendered within the Municipality;

(c) On all salaries, wages, commissions and other compensation earned on and after January 1, 2005, for work done or services performed or rendered by employees of the City who are not otherwise subject to the provisions of this chapter;

(d) On the portion attributable to the Municipality on the net profits earned on and after January 1, 2005, of all resident unincorporated business entities or professions or other activities, derived from sales made, work done, services performed or rendered, and business or other activities conducted in the Municipality;

(e) On the portion of the distributive share of the net profits earned on and after January 1, 2005, 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;

(f) On the portion attributable to the Municipality of the net profits earned on or after January 1, 2005, of all nonresident unincorporated business entities, professions or other activities, derived from sales made, work done, services performed or rendered, and business and other activities conducted in the Municipality, whether or not such unincorporated business entity has an office or place of business in the Municipality;

(g) On the portion of the distributive share of the net profits earned on and after January 1, 2005, 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;

(h) On the portion attributable to the Municipality of the net profits earned on and after January 1, 2005, 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; and

(Ord. 90-64. Passed 8-20-90.)

(i) On all proceeds from lotteries, gaming, wagering or schemes of chance, including the Ohio State Lottery, received by residents of the City or received by nonresidents of the City within the City or on the basis of activity conducted within the City.

(Ord. 97-37. Passed 4-23-97; Ord. 03-227. Passed 4-7-04.)

#### **890.04 EFFECTIVE PERIOD.**

The tax shall be levied, collected and paid with respect to salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professions or other activities, earned on and after January 1, 2005, subject to collection in accordance with Section 890.49.

(Ord. 90-64. Passed 8-20-90; Ord. 03-227. Passed 4-7-04.)

#### **890.05 DETERMINATION OF ALLOCATION OF TAX.**

In the taxation of income which is subject to Municipal income taxes, if the books and records of a taxpayer conducting a business or profession both within and without the boundaries of the Municipality disclose with reasonable accuracy what portion of its net profit is attributable to that part of the business or profession conducted within the boundaries of the Municipality, then only such portion shall be considered as having a taxable situs in the Municipality for the purposes of Municipal income taxation. The portion of the entire net profits of a taxpayer to be allocated as having been derived from within the Municipality, in the absence of actual records thereof, shall be determined as follows:

Multiply the entire net profits by a business allocation percentage to be determined by a three-factor formula of property, payroll and sales, each of which shall be given equal weight as follows:

(a) The average net book value of the real and tangible personal property owned or used by the taxpayer in the business or profession in the Municipality during the taxable period to the average net book value of all the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated. Real property includes property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight.

(b) Wages, salaries and other compensation paid during the taxable period to persons employed in the business or profession for services performed in the Municipality to wages, salaries and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed.



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

In the event that the foregoing allocation formula does not produce an equitable result, another basis may, under uniform regulations, be substituted so as to produce such result.

(Ord. 79-55. Passed 2-19-80.)

#### **890.06 SALES MADE IN THE MUNICIPALITY.**

As used in Section 890.05(c), "sales made in the Municipality" means:

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

(b) All sales of tangible personal property which is delivered within the Municipality, regardless of where title passes, even though transported from a point outside the Municipality if the taxpayer is regularly engaged through his or her own employees in the solicitation or promotion of sales within the Municipality and the sales result from such solicitation or promotion; or

(c) All sales of tangible personal property which is shipped from a place within the Municipality to purchasers outside the Municipality, regardless of where title passes, if the taxpayer is not, through his or her own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

(Ord. 79-55. Passed 2-19-80.)

#### **890.07 TOTAL ALLOCATION.**

Add together the percentages determined in accordance with Section 890.05(a), (b) and (c) or such of the aforesaid percentages as are applicable to the particular taxpayer and divide the total so obtained by the number of percentages used in deriving the total in order to obtain the business allocation percentage referred to in Section 890.05.

A factor is applicable even though it may be allocable entirely in or outside the Municipality. (Ord. 79-55. Passed 2-19-80.)

#### **890.08 RENTALS.**

Rental income received by a taxpayer shall be included in the computation of net profits from business activities under Section 890.03(c), (d) and (e) only if and to the extent that the rental, ownership, management or operation of the real estate from which such rentals are derived (whether so rented, managed or operated by a taxpayer, individually, or through agents or other representatives) constitutes a business activity of the taxpayer in whole or in part.

Where the gross monthly rental of any and all real properties, regardless of number and value, aggregates in excess of four hundred fifty dollars (\$450.00) per month, it shall be prima-facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental property shall be subject to tax. However, in the case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds four hundred fifty dollars (\$450.00) per month. Further, in the case of farm property, the owner shall be considered engaged in a business activity when he or she shares in crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds four hundred fifty dollars (\$450.00) per month. Further, the person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds four hundred fifty dollars (\$450.00) per month.

Property owners who are considered to have a business activity under the provisions of this section shall submit or cause to be submitted to the Administrator a list of names and addresses of all persons, firms, corporations or other entities occupying, leasing or renting any premises belonging to the property owner within this Municipality. The required list shall be prepared as of December 31 of each year and submitted on or before January 31 of the following year.

(Ord. 79-55. Passed 2-19-80.)

### **890.09 OPERATING LOSS CARRY-FORWARD.**

(a) The portion of a net operating loss sustained in any taxable year subsequent to April 1, 1980, allocable to the Municipality, may be applied against the portion of the profit of succeeding tax years allocable to the Municipality until exhausted, but in no event for more than five taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.

(b) The portion of net operating loss sustained shall be allocated to the Municipality in the same manner as provided herein for allocating net profits to the Municipality.

(c) The Administrator shall provide by rules and regulations the manner in which such net operating loss carry-forward shall be determined.

(Ord. 79-55. Passed 2-19-80.)

#### **890.10 SOURCES OF INCOME NOT TAXED.**

The tax provided for in this chapter shall not be levied on the following:

(a) Pay or allowance of active members of the Armed Forces of the United States or the income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities;

(b) Poor relief, unemployment insurance benefits, old age pensions or similar payments, including disability benefits received from local, State or Federal government or charitable, religious or educational organizations;

(c) Proceeds of insurance paid by reason of the death of the insured and pensions, disability benefits, annuities or gratuities not in the nature of compensation for services rendered from whatever source derived;

(d) Receipts from seasonal or casual entertainment, amusements, sports events and health and welfare activities when any such are conducted by bona fide charitable, religious or educational organizations and associations;

(e) Alimony received;

(f) Personal earnings of any natural person under eighteen years of age;

(g) Compensation for personal injuries or for damage to property by way of insurance or otherwise;

(h) Interest, dividends and other revenue from intangible property;

(i) Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations, items of income already taxed by the State from which the Municipality is specifically prohibited from taxing and income of a decedent's estate during the period of administration (except such income from the operation of a business);

(j) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the states or their political subdivisions to impose net income taxes on income derived from interstate commerce; and

(k) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the Constitution of the State or any act of the General Assembly limiting the power of the Municipality to impose net income taxes.

(l) Parsonage allowance, to the extent of the rental allowance or rental value of a house provided as part of an ordained minister's compensation. The ordained minister must be duly ordained, commissioned or licensed by a religious body constituting a church or church denomination, and must have authority to perform all sacraments of the church.

(Ord. 79-55. Passed 2-19-80; Ord. 05-14. Passed 2-2-05.)

### **890.11 WHEN RETURN REQUIRED TO BE MADE.**

Each taxpayer shall, whether or not a tax is due thereon, make and file a return on or before April 30 of the year following the effective date of this chapter (Ordinance 79-55, passed February 19, 1980) and on or before April 30 of each year thereafter. 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.

(Ord. 79-55. Passed 2-19-80.)

### **890.12 FORM AND CONTENT OF RETURNS.**

The return shall be filed with the Administrator on a form or forms furnished by or obtainable upon request from such Administrator, setting forth:

(a) The aggregate amounts of salaries, wages, commissions and other compensation earned and gross income from the business, profession or other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to such tax;

(b) The amount of the tax imposed by this chapter on such earnings and profits; and

(c) Such other pertinent statements, information returns or other information as the Administrator may require.

(Ord. 79-55. Passed 2-19-80.)

### **890.13 EXTENSION OF TIME FOR FILING RETURNS.**

The Administrator may extend the time for filing of the annual return, upon the request of the taxpayer, for a period of not more than 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 Administrator 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. 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 may deny the extension if the taxpayer's income tax account with the Municipality is delinquent in any way.

(Ord. 79-55. Passed 2-19-80; Ord. 05-14. Passed 2-2-05.)

#### **890.14 CONSOLIDATED RETURNS.**

(a) An affiliated group which 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 Municipality, However, once the affiliated group has elected to file a consolidated return or a separate return with the Municipality, the affiliated group may not change their method of filing in any subsequent tax year without written approval from the Municipality.

(b) Filing of consolidated returns may be permitted or required in accordance with rules and regulations prescribed by the Administrator.

(c) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within the Municipality constituting a portion only of its total business, the Administrator shall require such additional information as he or she may deem necessary to ascertain whether net profits are properly allocated to the Municipality. If the Administrator finds that net profits are not properly allocated 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 allocation of net profits to the Municipality.

(Ord. 79-55. Passed 2-19-80; Ord. 05-14. Passed 2-2-05.)

#### **890.15 AMENDED RETURNS.**

(a) Where necessary, 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, limitations, or both, contained in Sections 890.30 to 890.32 and 890.34. 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 Municipal tax liability, such taxpayer shall make and file an amended Municipal return showing income subject to the Municipal 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.

(Ord. 79-55. Passed 2-19-80.)

#### **890.16 PAYMENT OF TAX ON FILING OF RETURN.**

(a) The taxpayer making a return shall, at the time of filing thereof, pay to the Administrator the amount of tax shown to be due thereon, provided that:

(1) Where any portion of the tax so due has been deducted at the source pursuant to Section 890.17; or

(2) Where any portion of such tax has been paid by the taxpayer pursuant to Section 890.18; or

(3) Where an income tax has been paid on the same income to another municipality, credit for the amount so deducted or paid or credit to the extent provided for in Section 890.33 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.

(b) 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 hereunder or, at his or her election, indicated on the return, such overpayment, or a part thereof, shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded.

(Ord. 79-55. Passed 2-19-80.)

#### **890.17 COLLECTION AT SOURCE.**

(a) In accordance with rules and regulations prescribed by the Administrator, each employer within or doing business within the Municipality shall deduct, at the time of the payment of salary, wages, commissions or other compensation, the tax at the rate imposed in Section 890.03 per year, on the gross salaries, wages, commissions or other compensation due by the employer to the employee, and shall, on or before the last day of each month, make a return and pay to the Administrator the amount of taxes so deducted during the previous month. However, if the amount of tax so deducted by any employer

in any one month is less than one hundred dollars (\$100.00), the employer may defer the filing of a return and payment of the amount deducted until the last day of the month following the end of the calendar quarter in which such month occurred.

(b) Returns shall be on a form or forms prescribed by or acceptable to the Administrator and shall be subject to the rules and regulations prescribed therefor by the Administrator. The employer shall be liable for the payment of the tax required to be deducted and withheld whether or not such taxes have, in fact, been withheld.

(c) Such employer, in collecting such 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.

(d) No person shall be required to withhold the tax on wages or other compensation paid to domestic servants employed by him or her exclusively in or about such person's residence, even though such residence is in the Municipality, but such employees shall be subject to all the requirements of this chapter.

(e) A nonresident individual who works in the Municipality 12 or fewer days per year shall be considered an occasional entrant, and shall not be subject to the Municipality's municipal income tax for those 12 days. For purposes of the 12-day calculation, any portion of a day worked in the Municipality shall be counted as one day worked in the Municipality.

(f) Beginning with the thirteenth day, the employer of said individual shall begin withholding the Municipality's income tax from remuneration paid by the employer to the individual, and shall remit the withheld income tax to the Municipality in accordance with the requirements of this chapter. Since the individual can no longer be considered to have been an occasional entrant, the employer is further required to remit taxes on income earned in the Municipality by the individual for the first 12 days.

(g) If the individual is self-employed, it shall be the responsibility of the individual to remit the appropriate tax to the Municipality.

(h) The 12-day occasional entry rule does not apply to entertainers or professional athletes, their employers or individuals who perform services on their behalf, or to promoters and booking agents of such entertainment events and sporting events.

(i) Every manager shall be deemed to be a trustee of the City in collecting and holding the tax required under this chapter to be withheld, and the funds so collected by such withholding shall be deemed to be trust funds. Every manager shall be liable directly to the City for payment of such trust, whether actually collected by such employer or not. Any tax deducted and withheld shall be considered paid to the City,

whether or not the employer actually remits the tax to the City, for purposes of determining employee payments or credits.

(j) All managers shall be personally liable to the extent of the tax, interest and penalty, jointly and severally, for failure to file the employer's return or to pay the employer's tax, interest and penalty as required under this chapter.

(k) No change in structure by an employer, including a fundamental change, shall discharge its managers from liability for the employees or manger's failure to remit funds held in trust, to file a tax return or to pay taxes.

(Ord. 79-55. Passed 2-19-80; Ord. 05-14. Passed 2-2-05; Ord. 06-65. Passed 6-7-06.)

### **890.171 FUNDAMENTAL CHANGES; SUCCESSOR EMPLOYERS.**

If any employer who or which is liable for tax obligations imposed by this chapter undergoes a fundamental change, then the employer and its manager shall be liable for taxes due up to the date of the fundamental change. Taxes and final tax returns shall be due immediately after the fundamental change. A successor employer shall withhold from any purchase price that the successor owes to the predecessor an amount sufficient to pay all unpaid taxes, interest and penalties which the predecessor employer owes pursuant to this chapter. The successor employer shall make such withholding until such time that the predecessor employer has paid such taxes, interest and penalties. If the successor fails to withhold such amount, then the successor and, in a personal manner, the successor's manager shall be jointly and severally liable for the payment of such taxes, interest and penalties.

(Ord. 06-65. Passed 6-7-06)

### **890.18 DECLARATION OF INCOME.**

(a) Except as provided in this section, every person shall file a declaration setting forth taxable income, including distributive shares of net profits of unincorporated business entities, estimated to be earned by the taxpayer during the current tax year, together with the estimated tax due thereon, less the tax withheld within the Municipality and less the tax credit allowed in Section 890.03, unless such taxpayer anticipates that such tax will be fully withheld within the Municipality, and any income earned outside of the Municipality will be fully taxed at the same or a higher rate of tax in another Municipality. If the estimated tax for the current year, less the tax to be withheld and less such tax credit, amounts to not more than fifty dollars (\$50.00), no declaration or payment of estimated tax is required. No penalties or interest shall be assessed on estimated a payments if the taxpayer has remitted an amount equal to 100% of the previous year's tax liability, provided that the previous year reflected a 12-month period, or if 90% of the actual tax liability has been received.



(b) Effective January 1, 2003, the declaration of estimated tax to be paid to the Municipality by taxpayers who are individuals shall be accompanied by a payment of at least one-fourth of the declaration amount and at least a similar amount shall be paid on or before July 31 and October 31 of the taxable year, and January 31 of the following year.

(c) Effective January 1, 2003, such declaration of estimated tax to be paid to the Municipality by corporations and associations shall be accompanied by a payment of at least one-fourth of the declaration amount and at least a similar amount shall be paid on or before June 15, September 15 and December 15. In the case of a fiscal year taxpayer, the second, third and fourth quarterly estimated payments shall be due on the fifteenth day of the sixth, ninth and twelfth months of the taxable year, respectively.

(Ord. 95-211. Passed 10-18-95; Ord. 05-14. Passed 2-2-05.)

#### **890.19 FILING OF DECLARATION.**

(a) The declaration required by Section 890.18 shall be filed on or before April 30 of each year during the effective period set forth in Section 890.04 or within four months of the date the taxpayer becomes subject to tax for the first time.

(b) Those taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year or period.

(Ord. 79-55. Passed 2-19-80.)

#### **890.20 FORM OF DECLARATION.**

(a) The declaration required by Section 890.18 shall be filed upon a form furnished by or obtainable from the Administrator, provided, however, that credit shall be taken for Municipal tax to be withheld from any portion of such income. In accordance with the provisions of Section 890.33, credit shall be taken for tax to be paid or to be withheld and remitted to another taxing municipality.

(b) The original declaration (or any subsequent amendment thereof) may be increased or decreased on or before any subsequent quarterly payment date as provided in this chapter.

(Ord. 79-55. Passed 2-19-80.)

#### **890.21 PAYMENT TO ACCOMPANY DECLARATION.**

The 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 fifteenth day of the seventh and tenth months after the beginning of the taxable year and on or before the fifteenth day of the first month of the succeeding year following the taxable year. However, in case 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.

(Ord. 79-55. Passed 2-19-80; Ord. 05-14. Passed 2-2-05.)

#### **890.22 FILING OF ANNUAL RETURN.**

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 the Municipality shall be paid therewith in accordance with the provisions of Section 890.16. However, any taxpayer may file, on or before the fifteenth day of the first month of the year following that for which such declaration or amended declaration was filed, an annual return and pay any balance due at such time, in lieu of filing a declaration or an amended declaration, and in lieu of paying the final quarterly installment based upon a declaration or amended declaration of estimated tax.

(Ord. 79-55. Passed 2-19-80; Ord. 05-14. Passed 2-2-05.)

#### **890.23 INTEREST ON UNPAID TAX.**

All taxes imposed and all moneys withheld or required to be withheld by employers and all installments of estimated taxes required to be paid under this chapter, and remaining unpaid after they become due, shall bear interest at the rate of six percent per year.

(Ord. 79-55. Passed 2-19-80.)

#### **890.24 INTEREST AND PENALTIES.**

In addition to interest as provided in Section 890.23, penalties based on the unpaid tax are hereby imposed as follows:

(a) For failure to pay taxes on estimated taxes due, other than taxes withheld: ten percent per year, but not less than five dollars (\$5.00); and

(b) For failure to remit taxes withheld from employees: ten percent per month or fraction thereof, but the accumulated penalty shall not exceed fifty percent of any unpaid amount and shall not be less than five dollars (\$5.00).

(Ord. 79-55. Passed 2-19-80.)

### **890.25 EXCEPTIONS TO PENALTIES.**

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

(Ord. 79-55. Passed 2-19-80.)

### **890.26 ABATEMENT OF INTEREST AND PENALTY.**

The Administrator may abate a penalty or interest, or both, for good cause shown, but in no event shall the abatement of the penalty exceed one thousand dollars (\$1,000) or the interest exceed one hundred dollars (\$100.00), respectively. The Board of Review may abate a penalty or interest, or both, for good cause shown.

(Ord. 95-217. Passed 11-15-95.)

### **890.27 VIOLATIONS.**

No person shall:

- (a) Fail, neglect or refuse to make any return or declaration required by this chapter;
- (b) Make any incomplete, false or fraudulent return;
- (c) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter;
- (d) Fail, neglect or refuse to withhold the tax from his or her employees or to remit such withholding to the Administrator;
- (e) Refuse to permit the Administrator or any duly authorized agent or employee to examine his or her books, records, papers and Federal Income Tax Returns relating to the income or net profits of a taxpayer;
- (f) Fail to appear before the Administrator and to produce his or her books, records, papers or Federal Income Tax Returns relating to the income or net profits of a taxpayer;

- (g) Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer;
- (h) Fail to comply with any of the provisions of this chapter or any order or subpoena of the Administrator authorized hereby;
- (i) Give to an employer false information as to his or her true name, correct Social Security number and residence address or fail to promptly notify an employer of any change in residence address and the date thereof;
- (j) Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and Municipal tax withheld, or knowingly give the Administrator false information; or
- (k) Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter.

(Ord. 79-55. Passed 2-19-80.)

#### **890.28 LIMITATION ON PROSECUTION.**

All prosecutions under this chapter must be commenced within five years from the time of the offense complained of, except in the case of failure to file a return or in the case of filing a false or fraudulent return, in which event the limitation of time within which prosecution must be commenced shall be ten years from the date the return was due or the date the false or fraudulent return was filed.

(Ord. 79-55. Passed 2-19-80.)

#### **890.29 FAILURE TO PROCURE FORMS.**

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. 79-55. Passed 2-19-80.)

#### **890.30 COLLECTION OF UNPAID TAXES; ADDITIONAL ASSESSMENTS.**

All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable. Except in the case of fraud, of omission of a substantial portion of income subject to the tax or of

failure to file a return, an additional assessment shall not be made after three years from the time the return was due or filed, whichever is later. However, in those cases in which a Commissioner of Internal Revenue and the taxpayer have executed a waiver of the Federal statute of limitations, the period within which an additional assessment may be made by the Administrator shall be one year from the time of the final determination of the Federal tax liability.

(Ord. 79-55. Passed 2-19-80.)

### **890.31 REFUNDS OF TAXES ERRONEOUSLY PAID.**

Taxes erroneously paid shall not be refunded unless a claim for refund is made within three years from the date on which such payment was made or the return was due, or within three months after the final determination of the Federal tax liability, whichever is later.

(Ord. 79-55. Passed 2-19-80.)

### **890.32 AMOUNTS OF LESS THAN ONE DOLLAR.**

Amounts of less than one dollar (\$1.00) shall not be collected or refunded.

(Ord. 79-55. Passed 2-19-80.)

### **890.33 TAX CREDIT.**

(a) When taxable income of a resident of the City is subject to a municipal income tax in another municipality or in a Joint Economic Development District created pursuant to Ohio R.C. 715.70, as the same exists or may hereafter be amended, on the same income taxable under this chapter, such resident shall be allowed a credit of the amount of income tax paid on such taxable income to such other municipality, equal to 100 percent of the amount obtained by multiplying the lower of the tax rate of such other municipality or of the City by the taxable income earned in or attributable to the municipality of employment or business activity. For purposes of this section, taxable income includes the distributive share of net profits of a resident partner or owner of an unincorporated business entity.

(b) A claim for credit or refund under this section shall be made in such manner as the Administrator may be regulation provide. If a City resident fails, neglects or refuses to file an annual return or declaration on the form prescribed by the Administrator, he or she shall not be entitled to such credit or refund and shall be considered in violation of this chapter for failure to file a return. (Ord. 94-154. Passed 12-7-94.)

#### **890.34 CLAIM FOR CREDIT.**

Any claim for credit for income taxes paid another municipality on the same income taxable under this chapter, or claim for an assignment of any refund due to the credit provided for herein, must be filed with the Administrator on or before December 31 of the year following that for which such credit is claimed, provided that if such claim for reciprocity refund has been assigned to the municipality of residence, such municipality of residence shall file a claim for refund with the Administrator of the Municipality on or before January 31 following. Failure to file such claim for reciprocity credit or refund or assignment thereof within the time prescribed herein shall render such credit, claim for refund or assignment null and void.

(Ord. 79-55. Passed 2-19-80.)

#### **890.35 DISBURSEMENT OF FUNDS COLLECTED.**

The funds collected under this chapter shall be disbursed in the following manner:

(a) First, such part thereof as is necessary to defray all expenses of collecting the tax and of administering and enforcing this chapter shall be paid.

(b) The balance remaining after payment of the expenses referred to in subsection (a) hereof shall be deposited in the General Fund for street construction, maintenance and repair, capital improvements and general Municipal operations, or in such other fund or funds as Council may from time to time establish or designate.

(Ord. 79-55. Passed 2-19-80.)

#### **890.36 DUTIES OF ADMINISTRATOR.**

(a) It shall be the duty of the Administrator to receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers, to keep an accurate record thereof and to report all moneys so received.

(b) It shall be the duty of the Administrator to enforce payment of all taxes owing to the Municipality and to keep accurate records for a minimum of five years showing the amount due from each taxpayer required to file a declaration and make any return, or both, including taxes withheld, and showing the dates and amounts of payments thereof.

(Ord. 79-55. Passed 2-19-80.)

#### **890.37 ENFORCEMENT.**

The Administrator 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.

(Ord. 79-55. Passed 2-19-80.)

### **890.38 INSTALLMENT PAYMENTS.**

The Administrator is hereby 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 Administrator that, due to certain hardship conditions, he or she is unable to pay the full amount of 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 payment when due shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Sections 890.27 and 890.30 shall apply. (Ord. 79-55. Passed 2-19-80.)

### **890.39 DETERMINATION OF TAX.**

In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Administrator may determine the amount of tax appearing to be due 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.

(Ord. 79-55. Passed 2-19-80.)

### **890.40 INVESTIGATIONS.**

The Administrator 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 whom the Administrator believes is subject to, the provisions of 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 Administrator or his or her duly authorized agent or employee, the means, facilities and opportunity to make such examinations and investigations as are hereby authorized.

(Ord. 79-55. Passed 2-19-80.)

#### **890.41 PRODUCTION OF RECORDS.**

The Administrator 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 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 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.

(Ord. 79-55. Passed 2-19-80.)

#### **890.42 REFUSAL TO PRODUCE RECORDS.**

No employer or person subject or presumed to be subject to the tax, or officer, agent or employee of a person subject to the tax or required to withhold tax, shall refuse to produce books, papers, records and Federal Income Tax Returns, or to submit to an examination authorized by this chapter, nor shall any such person fail to comply with any of the provisions of this chapter or with an order or subpoena of the Administrator hereby authorized.

(Ord. 79-55. Passed 2-19-80.)

#### **890.43 CONFIDENTIAL NATURE OF INFORMATION OBTAINED.**

Any information gained as the result of any return, investigation, hearing or verification required or authorized by this chapter shall be confidential except for official purposes, or except in accordance with proper judicial order. No person shall divulge such information.

(Ord. 79-55. Passed 2-19-80.)

#### **890.44 RETENTION OF RECORDS.**

Every taxpayer shall retain all records necessary to compute his or her tax liability for a period of five years from the date his or her return is filed or the withholding taxes are paid.

(Ord. 79-55. Passed 2-19-80.)

#### **890.45 CENTRAL COLLECTION.**



The Board of Trustees of the Regional Income Tax Agency is hereby authorized to administer and enforce this chapter as the agent of the Municipality, and the duties and authority of the Administrator hereunder may be performed by the Board of Trustees of the Agency through the Administrator of the Agency.

(Ord. 95-217. Passed 11-15-95.)

#### **890.46 ESTABLISHMENT OF BOARD OF REVIEW.**

A Board of Review, consisting of the Solicitor and two members of Council to be elected by that body, is hereby established. The Board shall select, each year for a one-year term, one of its members to serve as Chairman and one to serve as Secretary. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board may be conducted privately and the provisions of Section 890.43 with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as may be heard before the Board on appeal.

(Ord. 79-55. Passed 2-19-80.)

#### **890.47 BOARD TO APPROVE REGULATIONS AND TO HEAR APPEALS.**

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

(b) Any person dissatisfied with a ruling or decision of the Administrator which is made under the authority conferred by this chapter may appeal therefrom to the Board within 30 days from the announcement of such ruling or decision by the Administrator, provided the taxpayer making the appeal has filed with the Municipality the required return or other documents concerning the obligation at issue. The appeal shall be in writing and shall state why the decision should be deemed incorrect or unlawful.

(c) The Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof. Such hearing shall be scheduled within 45 days from the date of appeal. The Board's ruling must be made within 30 days from the date of the closing of the record, shall be in writing and filed with the Administrator, and within 15 days of its decision the Board shall send notice of its decision by ordinary mail to the taxpayer making the appeal.

(d) For matters relating to tax years beginning on or after January 1, 2004, any ruling or decision of the Board of Review may be appealed to a court of competent jurisdiction or to the State Board of Tax Appeals.

(Ord. 79-55. Passed 2-19-80; Ord. 05-14. Passed 2-2-05.)

#### **890.48 SEPARABILITY.**

If any sentence, clause, section or part of this chapter or any tax against any individual 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 thereof not been included herein. (Ord. 79-55. Passed 2-19-80.)

#### **890.49 COLLECTION AFTER TERMINATION OF CHAPTER.**

(a) This chapter shall continue effective insofar as the levy of taxes is concerned for the period set forth in Section 890.04 or until repealed. Insofar as the collection of taxes levied hereunder and actions and proceedings for collecting any tax so levied or enforcing any provision of this chapter are concerned, it shall continue effective until all of such taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of the taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitations contained in Sections 890.27 through 890.32.

(b) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Sections 890.11 and 890.17 as though the same were continuing.

(Ord. 79-55. Passed 2-19-80.)

#### **890.50 AGREEMENT WITH REGIONAL COUNCIL OF GOVERNMENTS FOR COLLECTION.**

The Village Manager is hereby authorized to execute and enter into, on behalf of the Village, an agreement for participation by the Village in a Regional Council of Governments to facilitate administration to income tax laws and collection of income taxes for the Village, in accordance with the terms, conditions and covenants of the Agreement for Participation, a copy of which is attached to original Resolution 80-29,

passed June 2, 1980, and made a part hereof as though fully rewritten herein. (Res. 80-29. Passed 6-2-80.)

#### **890.51 CIVIL ENFORCEMENT.**

In addition to all other remedies provided for in this chapter or provided by law, the Solicitor, or his or her designee, at the direction of the City Manager or the Finance Director, may institute a proper proceeding at law or in equity to enforce the provisions of this chapter and to collect monies owed to the City for back taxes, interest and/or penalties.

(Ord. 97-36. Passed 4-23-97.)

#### **890.99 PENALTY.**

(a) Whoever violates any of the provisions of this chapter, for which no penalty is otherwise provided, shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months, or both, for each offense.

(b) Whoever violates Section 890.43 shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months, or both, for each offense. Each disclosure shall constitute a separate offense.

In addition to the above penalty, any employee of the Village who violates Section 890.43 shall be guilty of an offense punishable by immediate discharge.

(Ord. 79-55. Passed 2-19-80.)