

**VILLAGE OF LOCKLAND, OHIO**  
**ORDINANCE #2010 - 60**

**AN ORDINANCE AMENDING CHAPTER 882 OF  
THE CODIFIED ORDINANCES OF THE VILLAGE  
OF LOCKLAND TO PROVIDE TAX CREDIT FOR  
TAXES PAID TO A JOINT ECONOMIC  
DEVELOPMENT DISTRICT, TREAT GAMBLING  
INCOME AS TAXABLE AND REDUCE  
ADMINISTRATIVE COST.**

**WHEREAS,** The Village of Lockland desires to provide a tax credit for income taxes paid to a Joint Economic Development District in the same manner that a tax credit is granted for income taxes paid to another municipality or county; and

**WHEREAS,** The Village of Lockland desires to include income from lottery, gambling and sports winnings, games of chance and prizes and/or awards as taxable income; and

**WHEREAS,** The Village of Lockland desires to reduce administrative costs in the collection of income taxes and the issuance of tax refunds; now, therefore,

**BE IT ORDAINED** by the Council of the Village of Lockland, State of Ohio, that:

**SECTION I** The Title of Chapter 882 of the Codified Ordinances of the Village of Lockland is hereby ordained to read as follows:  
Chapter 882: Income Tax

**SECTION II** The Title of Chapter 882, as it existed prior to the adoption of this Ordinance and all provisions inconsistent with this Ordinance are repealed.

**SECTION III** Section 882.02 of the Codified Ordinances of the Village of Lockland is hereby amended to add the following definition:

Joint Economic Development District (JEDD). A district created under Ohio Revised Code Sections 715.70 through 715.83 where one or more municipalities and a township agree to work together to develop township land for commercial or industrial purposes.

**SECTION IV** Section 882.03(a) of the Codified Ordinances of the Village of Lockland is hereby ordained to read as follows:

(a) On all salaries, wages (including sick and vacation pay), commissions, other earned compensation, income from lotteries, gambling, sports winnings, games of chance, prizes and/or awards during the effective

**SECTION V** Section 882.03(a), as it existed prior to the adoption of this Ordinance and all provisions inconsistent with this Ordinance are repealed.

**SECTION VI** Section 882.03(h) of the Codified Ordinances of the Village of Lockland is hereby ordained to read as follows:

(h) Rental of real estate for the purposes of the Village of Lockland Income Tax Code constitutes the operation of a business and net profits earned are subject to taxation hereunder. Landlords must also comply with the requirements of § 882.23 of this chapter.

**SECTION VII** Section 882.03(h), as it existed prior to the adoption of this Ordinance and all provisions inconsistent with this Ordinance are repealed.

**SECTION VIII** Section 882.10(d) of the Codified Ordinances of the Village of Lockland is hereby ordained to read as follows:

(d) The taxpayer making a return shall, at the time of the filing thereof, pay to the Tax Commissioner the amount of taxes shown as due thereon, provided, however, that where any portion of the tax so due has been deducted at the source, pursuant to § 882.12, or where any portion of such tax has been paid by the taxpayer pursuant to § 882.13, or where an income tax, creditable against the municipal tax pursuant to § 882.21 has been paid to another municipality, county or JEDD, credit for the amount so paid shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing such return.

**SECTION IX** Section 882.10(d), as it existed prior to the adoption of this Ordinance and all provisions inconsistent with this Ordinance are repealed.

**SECTION X** Section 882.10(e) of the Codified Ordinances of the Village of Lockland is hereby ordained to read as follows:

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 part thereof, shall be refunded, provided that no additional taxes or refunds of less than five dollars (\$5) shall be collected or refunded.

**SECTION XI** Section 882.10(e), as it existed prior to the adoption of this Ordinance and all provisions inconsistent with this Ordinance are repealed.

**SECTION XII** Section 882.12(f) of the Codified Ordinances of the Village of Lockland is

(f) Any officer or supervisor having control or supervision of, or charged with the responsibility of filing, any return or declaration required by this chapter, and with the responsibility for making payment of the tax or withheld income taxes, or any officer or supervisor of a corporation who is responsible for execution of the corporation's fiscal responsibilities, shall be personally liable for the failure to file any return or declaration or pay the tax or employer withholding due by the provisions of this chapter. The dissolution, termination or bankruptcy of a corporation does not discharge a responsible officer's or supervisor's liability for failure of the corporation to file returns or declarations or pay tax or employer withholding when due.

**SECTION XIII** Section 882.12(f), as it existed prior to the adoption of this Ordinance and all provisions inconsistent with this Ordinance are repealed.

**SECTION XII** Section 882.12 of the Codified Ordinances of the Village of Lockland is hereby ordained to read as follows:

**882.21 CREDIT FOR TAX PAID.**

(a) Where a resident of the municipality is subject to an income tax in another municipality, county and/or JEDD, 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 and who receives salaries, wages, commissions or other compensation, or net profits from sales made, work done or services performed or rendered outside of the municipality, if he or she has paid a municipal, county and/or JEDD income tax on income, taxable under this chapter, to another municipality, county and/or JEDD, he or she shall be allowed a credit against the tax imposed by this chapter in the amount of the tax so paid by him, her or in his or her behalf to such other municipality, county and/or JEDD. The credit shall not exceed the tax assessed by this chapter on the income earned in such other municipality, county and/or JEDD where the tax is paid.

(c) Notwithstanding the provisions of § 882.17, or any other provision inconsistent herewith, a claim for refund or credit under this section shall be made in the manner as the Tax Commissioner may by regulation provide. No claim for refund or credit shall be allowed unless it is made on or before the date of filing the taxpayer's final return, unless the taxpayer's employer files with the Tax Commissioner a list showing the tax withheld from the taxpayer's wages, salaries or commissions for other municipalities, counties and/or JEDDs.

(d) The Tax Commissioner is hereby authorized to provide by regulations that a resident who works in another municipality, county and/or JEDD

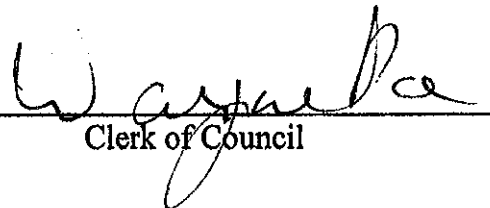
imposing a tax on earned income shall not be required to file a declaration under § 882.10 or a return under § 882.13 if the other municipality, county and/or JEDD certifies to the Tax Commissioner that a tax of two and one-tenth percent beginning on July 1, 1994, and thereafter as being deducted from the wages of the resident and is being paid to the other municipality county and/or JEDD and if the wages or other compensation subject to the withholding are such resident's only taxable income under this chapter.

**SECTION XIII** Section 882.21, as it existed prior to the adoption of this Ordinance and all provisions inconsistent with this Ordinance are repealed.

**SECTION XIV** This ordinance shall become effective upon the earliest time period allowed by law.

Passed this 21<sup>st</sup> day of September, 2010.

  
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Jim Brown, Mayor, Village of Lockland

Attested:   
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Clerk of Council

## CHAPTER 882: EARNED INCOME TAX

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Editor's note:

Pursuant to § 882.12, the Tax Commissioner has promulgated rules and regulations for the administration and enforcement of this chapter. These rules and regulations are separately published and copies of the same are available from the Tax Commissioner.

Cross-reference:

Tax Department, see Ch. 254

Statutory reference:

Payroll deductions, see Ohio R.C. § 9.42

Municipal income taxes, see Ohio R.C. Chapter 718

§ 882.01 PURPOSE.

To provide funds for the purposes of 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 hereinafter provided.

(Ord. 1455, passed 5-17-1967)

§ 882.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ASSOCIATION.** A partnership, limited partnership or any other form of unincorporated enterprise, owned by two or more persons.

**BOARD OF REVIEW.** The Board created by and constituted as provided in § 882.19.

**BUSINESS.** 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 any other entity including but not limited to the renting or leasing of property, real personal or mixed.

**CAPITAL GAINS.** The net profits from the sale of any real or personal property if such property has been owned by the taxpayer for more than one year and the taxpayer is not regularly engaged in the business of selling such kind or character of property.

**CORPORATION.** 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.

**EMPLOYEE.** A person who works for wages, salary, commission or other type of compensation in the services of an employer.

**EMPLOYER.** An individual, partnership, association, corporation, governmental 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 compensation basis.

**FISCAL YEAR.** An accounting period of 12 months ending on any day other than December 31.

**GROSS RECEIPTS.** Total income of taxpayers from whatever source derived.

**NET PROFITS.** The net gain from all operations, including those pertaining to capital gains and losses, of a business, profession or enterprise after provision for all ordinary and necessary expenses, except taxes imposed by this chapter and federal and other taxes based on income, paid or accrued in accordance with the accounting system used by the taxpayer for federal income tax purposes, and, in the case of an association, without deduction of salaries paid to partners or other owners.

**NONRESIDENT.** A person, whether an individual, association, corporation or other entity, domiciled outside the municipality.

**PERSON.** Every natural person, partnership, fiduciary, association, corporation or other entity. Whenever used in any clause prescribing and imposing a penalty, the term PERSON, as applied to any association, includes the partners or members thereof, and as applied to corporations, the officers thereof.

**PLACE OF BUSINESS.** 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 employees regularly in attendance.

**RESIDENT.** A person, whether an individual, association, corporation or other entity, domiciled in the municipality.

**TAX COMMISSIONER.** The Tax Commissioner of the municipality so designated and appointed by the Mayor with the approval of Council. In the absence of a specific designation by the Mayor and Council, the Village Administrator shall fill that role.

**TAX YEAR.** 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.

**TAXPAYER.** A person, whether an individual, partnership, association, corporation or other entity, required by this chapter to file a return or pay a tax.

(Ord. 1455, passed 5-17-1967; Am. Ord. 2007-40, passed 11-20-2007; Am. Ord. 2008-13, passed 3-18-2008)

#### § 882.03 IMPOSITION OF TAX.

Subject to the provisions of § 882.22, an annual tax for the purposes specified in § 882.01 is hereby levied on and after July 1, 1967, to June 30, 1994, at the rate of one and one-half percent per year and two and one-tenth percent beginning July 1, 1994 and thereafter upon the following:

(a) On all salaries, wages (including sick and vacation pay), commissions, other earned compensation and lottery winnings, during the effective period of this chapter, by residents;

(b) On all salaries, wages (including sick and vacation pay), commissions and other compensation earned during the effective period of this chapter by nonresidents for work done or service performed in the municipality, except that a taxpayer who is an individual 65 years or older on December 21 of each calendar year and has gross receipts of \$1,200 or less is exempted from imposition of the tax;

(c) On the portion attributable to the municipality of the net profits earned during the effective period of this chapter by all resident associations, unincorporated business, professions or other entities, derived from sales made, work done or services performed or rendered, or business or other activities conducted, in the municipality;

(d) On a resident partner's or owner's share of the net profits earned during the effective period of this chapter by a resident association or other unincorporated entity not attributable to the municipality and not levied against the association or other unincorporated entity;



(e) On the portion attributable to the municipality of the net profits earned during the effective period of this chapter by all nonresident associations, unincorporated businesses, professions or other entities, derived from sales made, work done or services performed or rendered, or business or other activities conducted, in the municipality, whether or not such association or other unincorporated entity has an office or place of business in the municipality;

(f) On a resident partner's or owner's share of the net profits earned during the effective period of this chapter by a nonresident association or other unincorporated entity not attributable to the municipality and not levied against such association or other unincorporated entity; and

(g) On the net profits earned during the effective period of this chapter by all corporations, derived from sales made, work done or services performed or rendered, and business or other activities conducted, in the municipality, whether or not the corporations have an office or place of business in the municipality.

(h) Rental of real estate for the purposes of the Village of Lockland Earned Income Tax Code constitutes the operation of a business and net profits earned are subject to taxation hereunder. Landlords must also comply with the requirements of § 882.23 of this chapter.

(Ord. 12-1976, passed 7-26-1976; Am. Ord. 92-20, passed 8-3-1992; Am. Ord. 94-11, passed 2-7-1994; Am. Ord. 95-9, passed 2-6-1995; Am. Ord. 2002-55, passed 12-17-2002; Am. Ord. 2007-40, passed 11-20-2007)

#### § 882.04 ALLOCATION OF NET PROFITS.

Where a person conducts a business both within and outside the municipality, the portion of the entire net profits of such business to be allocated as having been made within the municipality may be determined from the records of such business if such business has bona fide records which disclose with reasonable accuracy what portion of its net profits is attributable to that part of its activities conducted within the municipality, or, at the option of the taxpayer, may be determined by the following formula, which shall be used if the taxpayer has no bona fide records showing net profits from Lockland business activities, subject, however, to the provisions of division (b):

(a) Multiply the entire net profits of the business by a business allocation percentage to be determined by:

(1) Ascertaining the percentage which the average net book value of the real and tangible personal property owned or used in the business and situated within the municipality, during the period covered by the return, is of the average net book value of all the real and tangible personal property owned or used in the business, wherever situated, during such period;

(2) Ascertaining the percentage which the gross receipts of the business from sales made and services performed in the municipality, during the period covered by the return, is of the total gross receipts from all sales and services, wherever made or performed, during such period;

(3) Ascertaining the percentage which the total wages, salaries, commissions and other compensation paid during the period covered by the return, to employees for services performed in the municipality, is of the total wages, salaries, commissions and other compensation paid, during such period, to all employees within and outside the municipality;

(4) Adding together the percentages determined in accordance with divisions (a)(1) through (3), or such of the aforesaid percentages as are applicable to the particular taxpayer, and dividing the total so obtained by the number of percentages used in deriving such total.

(5) A factor is applicable even though it may be allocable entirely in or outside the municipality.

(b) However, if a just and equitable result cannot be obtained under the formula provided for herein, the Board of Review, upon application of the taxpayer, or the Tax Commissioner, shall, under uniform regulations adopted by the Board, have the authority to substitute other factors or methods calculated to effect a fair and proper allocation.

(Ord. 1455, passed 5-17-1967)

#### § 882.05 OPERATING LOSS CARRY-FORWARD.

(a) The portion of a net operating loss sustained in any taxable year, 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 the 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 a 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 Tax Commissioner shall provide by rules and regulations the manner in which such net operating loss carry-forward shall be determined.

(Ord. 1455, passed 5-17-1967)

#### § 882.06 CONSOLIDATED RETURNS.

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

(b) 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, the Tax Commissioner shall require such information, in addition to the return hereinafter provided for, as he or she may deem necessary to ascertain whether net profits are properly allocated to the municipality. If the Tax Commissioner finds 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 some other method, he or she may require the filing of a consolidated return or adjust such transactions so as to produce a fair and proper allocation of net profits to the municipality.

(Ord. 1455, passed 5-17-1967)

#### § 882.07 CAPITAL GAINS.

Capital gains from the sales of depreciable property shall be taxable to the extent of the aggregate amount of the depreciation taken on such property for municipal income tax purposes.

(Ord. 1455, passed 5-17-1967)

#### § 882.08 EXCEPTIONS.

The tax provided for in this chapter shall not be levied upon the military pay or allowances of members of the Armed Forces of the United States, or upon the net profits of any civic, charitable, religious, fraternal or other organization specified in Ohio R.C. § 718.01 to the extent that such net profits are exempted from municipal income taxes under such section.

(Ord. 1455, passed 5-17-1967)

#### § 882.09 EFFECTIVE PERIOD.

The tax imposed by this chapter shall be levied, collected and paid with respect to all income and net profits subject to the tax earned on or after July 1, 1967.

(Ord. 1455, passed 5-17-1967)

#### § 882.10 RETURN AND PAYMENT OF TAX.

(a) Each person who engaged in business, or whose salary, wages, commissions or other compensation is subject to the tax imposed by this chapter, shall, whether or not a tax is due thereon, make and file, on or before April 30 in each year, a return with the Tax Commissioner. A taxpayer on a fiscal year accounting basis for federal income tax purposes shall, beginning with his or her

first fiscal year, any part of which falls within the effective period of this chapter, file his or her return within four months from the end of such fiscal year or period. The Tax Commissioner 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, her or them to the Tax Commissioner shall be accepted as the return required of any employee whose sole income, subject to tax under this chapter, is such salary, wages, commissions or other compensation.

(b) The return shall be filed with the Tax Commissioner on a form or forms furnished by or obtainable upon request from the Tax Commissioner setting forth:

(1) The aggregate amounts of salaries, wages, commissions and other compensation earned, and gross income from any 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;

(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 Tax Commissioner may require, including a statement that the figures used in the return are the figures used in the return for federal income tax, adjusted to set forth only such income as is taxable under this chapter.

(c) The Tax Commissioner may extend the time for filing of the annual return upon the request of the taxpayer for a period of not to exceed six months, or one month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the federal income tax return. The Tax Commissioner 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.

(d) The taxpayer making a return shall, at the time of the filing thereof, pay to the Tax Commissioner the amount of taxes shown as due thereon, provided, however, that where any portion of the tax so due has been deducted at the source, pursuant to § 882.12, or where any portion of such tax has been paid by the taxpayer pursuant to § 882.13, or where an income tax, creditable against the municipal tax pursuant to § 882.21 has been paid to another municipality, credit for the amount so paid shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing such 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 hereunder 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 \$1 shall be collected or refunded.

(Ord. 1455, passed 5-17-1967) Penalty, see § 880.99

#### § 882.11 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 and limitations contained in §§ 882.17 and 882.21. Such amended returns shall be on a form obtainable on request from the Tax Commissioner.

(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 claim for refund of any overpayment.

(Ord. 1455, passed 5-17-1967) Penalty, see § 880.99

#### § 882.12 COLLECTION AT SOURCE.

(a) Each employer within, or doing business within the municipality, who employs one or more persons on a salary, wage, commission or other compensation basis, shall deduct, at the time of the payment of the salaries, wages, commissions or other compensation, the tax of two and one-tenth percent of the gross salaries, wages, commissions or other compensation due by the employer to each employee. Employers withholding, on average during the preceding calendar year not more than \$1,000 per month shall, on or before the last day of April, July, October, and January of each year, make a return and pay to the Tax Commissioner the amount of taxes so deducted during the preceding calendar quarter. Employers withholding, on average during the preceding calendar year more than \$1,000 per month shall, on or before the last day of the succeeding month make a return and pay to the Tax Commissioner the amount of taxes so deducted during the preceding month. The return shall be on a form or forms prescribed by or acceptable to the Tax Commissioner and shall be subject to the rules and regulations prescribed therefore by the Tax Commissioner.

(b) Each employer, in collecting the tax, shall be deemed to hold the same, until payment is made by the employer to the municipality, as a trustee for the benefit of the municipality and any tax collected by the employer from his or her employees shall, until the same is paid to the municipality, be deemed a trust fund in the hands of the employer. Each employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not the tax, in fact, has been withheld.

(c) It shall be the responsibility, jointly and severally, of the president and treasurer of each corporation required to withhold the tax from wages of its employees under this section, to see that all taxes so withheld are paid to the municipality in accordance with this section. If taxes withheld by a corporation from the salaries of its employees are not paid to the municipality in accordance with this section, the president and treasurer of the corporation shall each be criminally liable under §§ 882.18 and 882.99.

(d) On or before January 30 of each year, each employer shall file a reconciliation withholding return, on a form or forms prescribed by and obtainable from the Tax Commissioner, 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 the listed employees and such other information as may be required by the rules and regulations adopted by the Tax Commissioner.

(e) No person shall be required to withhold the tax on the wages or other compensation paid domestic servants employed exclusively in or about the person's residence.

(f) Any officer or supervisor having control or supervision of, or charged with the responsibility of filing, any return or declaration required by this chapter, and with the responsibility for making payment of the tax or withheld earned income taxes, or any officer or supervisor of a corporation who is responsible for execution of the corporation's fiscal responsibilities, shall be personally liable for the failure to file any return or declaration or pay the tax or employer withholding due by the provisions of this chapter. The dissolution, termination or bankruptcy of a corporation does not discharge a responsible officer's or supervisor's liability for failure of the corporation to file returns or declarations or pay tax or employer withholding when due.

(Ord. 1455, passed 5-17-1967; Am. Ord. 95-9, passed 2-6-1995; Am. Ord. 00-38, passed 10-17-2000; Am. Ord. 2005-39, passed 8-18-2005) Penalty, see § 880.99

#### § 882.13 DECLARATIONS.

(a) Every person who anticipates any taxable income which is not subject to § 882.12, or who engages in any business, profession, enterprise or activity, 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.

(b) Such declaration shall be filed on or before April 30 of each year during the life of this chapter, or within four months of the date the taxpayer first becomes subject to this section.

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

(d) Such declaration shall be filed upon a form furnished by or obtainable from the Tax Commissioner. Credit shall be taken in such declaration for the municipal tax to be withheld from any portion of such income and for income taxes to be paid to another taxing municipality for which credit is allowed against the municipal tax under § 882.21.

(e) A declaration of estimated tax to be paid the municipality shall be accompanied by a payment of at least one fourth of the estimated tax, less credit for taxes withheld or paid to another municipality, 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 tax year.

(f) A declaration may be amended at any time, provided, however, that in case an amended declaration is filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

(g) An amended declaration must be filed on or before April 15 of any year, or, in the case of a taxpayer on a fiscal year accounting basis, on or before the date fixed by regulation of the Tax Commissioner, if it appears that the original declaration made for such year underestimated the taxpayer's income by 30 percent or more. At such time, a payment which, together with prior payments, is sufficient to pay the taxpayer's entire estimated liability shall be made. If, upon the filing of the return required by § 882.10, it appears that the taxpayer did not pay 70 percent of his or her tax liability, as shown on such return, on or before April 15, or the date fixed by regulation, whichever is applicable, the difference between 70 percent of the taxpayer's liability and the amount of estimated tax he or she actually paid on or before April 15, or the date fixed by regulation, whichever is applicable, shall be subject to the interest and penalty provisions of § 882.16.

(h) On or before the last day of the fourth month of the calendar or fiscal year following that for which the 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 § 882.10.

(Ord. 1455, passed 5-17-1967; Am. Ord. 2006-78, passed 12-19-2006) Penalty, see § 880.99

#### § 882.14 DUTIES OF THE TAX COMMISSIONER.

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

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

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

(d) 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 Tax Commissioner may determine the amount of tax appearing to be due the municipality from the taxpayer and may send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.

(e) Subject to the consent of the Board of Review or pursuant to regulation approved by the Board, the Tax Commissioner shall have the power to compromise any liability imposed by this chapter.

(Ord. 1455, passed 5-17-1967)

**§ 882.15 INVESTIGATIVE POWERS OF THE TAX COMMISSIONER;  
DIVULGING CONFIDENTIAL INFORMATION.**

(a) The Tax Commissioner, or any of his or her authorized agents, is hereby authorized to examine the books, papers, records and federal income tax returns of any employer or taxpayer or any person subject to, or whom the Tax Commissioner 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 or withholdings due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish, upon written request of the Tax Commissioner, or his or her duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

(b) The Tax Commissioner is hereby authorized to order any person presumed to have knowledge of the facts to appear at the office of the Tax Commissioner and to examine such person, under oath, concerning any income which was or should have been returned for taxation, or withheld, 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, or 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 this section or with an order or subpoena of the Tax Commissioner authorized hereby, shall be deemed a violation of this chapter, punishable as provided in § 882.99.

(d) 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 from the date the taxes required to be withheld are paid.

(e) Any information gained as a result of any return, investigation, hearing or verification required or authorized by this chapter shall be confidential and no disclosure thereof shall be made except to municipal, county, state or federal taxing agencies, or except for official purposes, or except in accordance with proper judicial order. No person shall divulge such information.

(Ord. 1455, passed 5-17-1967) Penalty, see § 880.99

#### § 882.16 INTEREST AND PENALTIES.

(a) All taxes imposed and 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 ten percent per annum.

(b) In addition to interest as provided in division (a), penalties for failure to pay taxes and to withhold and remit taxes pursuant to this chapter are hereby imposed as follows:

(1) For failure to pay taxes or estimated taxes due, other than taxes withheld, ten percent per annum, but not less than \$25;

(2) For failure to remit taxes withheld from employees, ten percent per month or fraction thereof, but the accumulated penalty shall not exceed 50 percent upon any unpaid amount and shall not be less than \$25.

(c) A penalty shall not be assessed on an additional tax assessment made by the Tax Commissioner when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Tax Commissioner. 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 an appeal from the refusal of the Tax Commissioner to recommend abatement of penalty and interest, the Board of Review may abate such penalty or interest, or both.

(Ord. 1455, passed 5-17-1967; Am. Ord. 2002-55, passed 12-17-2002) Penalty, see § 880.99

#### § 882.17 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

(a) 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. No additional assessment shall be made after three years from the time of payment of any tax due hereunder. However, there shall be no period of limitation on an additional assessment in the case of a return that omits gross income in excess of 25 percent of that required to be reported, or in the case of filing a false or fraudulent return with intent to evade the tax, or in the case of failure to file a return. In those cases in which the 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 Tax Commissioner shall be extended one year from the time of the final determination of the federal tax liability.

(b) 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 final determination of the federal tax liability, whichever is later.

(Ord. 1455, passed 5-17-1967)

#### § 882.18 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) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter;

(4) Fail, neglect or refuse to withhold the tax from his or her employees and remit such withholding tax to the Tax Commissioner;

(5) Refuse to permit the Tax Commissioner or any duly authorized agent or employee to examine his or her or his or her employer's books, records, papers and federal income tax returns;

(6) Fail to appear before the Tax Commissioner and to produce his or her or his or her employer's books, records, papers or federal income tax returns upon order or subpoena of the Tax Commissioner;

(7) Refuse to disclose to the Tax Commissioner any information with respect to such person's or such person's employer's income or net profits;

(8) Fail to comply with any of the provisions of this chapter or any order or subpoena of the Tax Commissioner;

(9) Fail, neglect or refuse to make any payment on the estimated tax for any year as required by § 882.13;

(10) Fail, as president or treasurer of a corporation, to cause the tax withheld from the wages of the employees of such corporation pursuant to this chapter to be paid to the municipality in accordance with § 882.12; or

(11) 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.

(b) All prosecutions under this section must be commenced within the periods stipulated in Ohio R.C. § 718.06.

(c) The failure of any employer, taxpayer 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.

(d) The term PERSON, as used in this section, in addition to the meaning prescribed in § 882.02, includes, in the case of an association or corporation not having any partner, member or officer within the municipality, any employee or agent of such association or corporation who can be found within the corporate limits of the municipality.

Penalty, see § 880.99

#### § 882.19 BOARD OF REVIEW.

(a) A Board of Review, consisting of the Solicitor, the Village Clerk-Treasurer and a resident of the municipality to be appointed by the Mayor, is hereby established.

(b) 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. All hearings by the Board shall be conducted privately unless the taxpayer requests a public hearing. The provisions of § 882.15, 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.

(c) Any person dissatisfied with any ruling or decision of the Tax Commissioner which is made under the authority conferred by this chapter may appeal therefrom to the Board of Review within 30 days from the announcement of such ruling or decision by the Tax Commissioner. The Board shall, on hearing, have the authority to affirm, reverse or modify any such ruling or decision, or any part thereof.

(Ord. 1455, passed 5-17-1967; Am. Ord. 82-3, passed 1-4-1982)

#### § 882.20 ALLOCATION OF FUNDS.

The funds collected under this chapter shall be placed in the general operating fund of the village and shall be applied for the following purposes, and in the following order:

(a) Such part thereof as is necessary to defray the cost of collecting the taxes levied by this chapter, and the cost of administering and enforcing the provisions hereof, shall first be paid.

(b) Such part thereof, to be determined later, as is necessary for the purpose of obtaining any refunds payable under this chapter, shall then be paid.

(c) The balance of the funds so collected shall be used for such specific purposes as Council may appropriate moneys for from such fund, including, without limitation, the appropriation of funds for general municipal operations and debt retirement, extension, enlargement or improvement of municipal services and facilities, street improvement and repair and permanent improvements.

(Ord. 82-61, passed 6-21-1982)

#### § 882.21 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(a) Where a resident of the municipality is subject to a municipal income tax in another municipality or subject to a county income tax in a county, 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 and who receives salaries, wages, commissions or other compensation, or net profits from sales made, 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 or county

income tax on income, taxable under this chapter, to another municipality or to a county, shall be allowed a credit against the tax imposed by this chapter in the amount of the tax so paid by him, her or in his or her behalf to such other municipality. The credit shall not exceed the tax assessed by this chapter on the income earned in such other municipality or municipalities or county or counties where the tax is paid.

(c) Notwithstanding the provisions of § 882.17, or any other provision inconsistent herewith, a claim for refund or credit under this section shall be made in the manner as the Tax Commissioner may by regulation provide. No claim for refund or credit shall be allowed unless it is made on or before the date of filing the taxpayer's final return, unless the taxpayer's employer files with the Tax Commissioner a list showing the tax withheld from the taxpayer's wages, salaries or commissions for other municipalities or counties.

(d) The Tax Commissioner is hereby authorized to provide by regulations that a resident who works in another municipality or county imposing a tax on earned income shall not be required to file a declaration under § 882.10 or a return under § 882.13 if the other municipality or county certifies to the Tax Commissioner that a tax of one and one-half percent up to and including June 30, 1994, and two and one-tenth percent beginning on July 1, 1994, and thereafter as being deducted from the wages of the resident and is being paid to the other municipality and if the wages or other compensation subject to the withholding are such resident's only taxable income under this chapter.

(Ord. 1455, passed 5-17-1967; Am. Ord. 7-1977, passed 1-31-1977; Am. Ord. 95-9, passed 2-6-1995)

#### § 882.22 APPLICATION OF CHAPTER; SEPARABILITY.

This chapter shall not apply to any person or to any property as to whom or which it is beyond the power of Council to impose the tax herein provided for. If any sentence, clause, section or part of this chapter, or any tax against or exception granted any individual or any of the several groups of persons or forms of income specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such 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 or part thereof not been included herein.

(Ord. 1455, passed 5-17-1967)

#### § 882.23 RESPONSIBILITY OF RENTAL PROPERTY OWNERS TO REPORT ON OCCUPANTS.

(a) Beginning October 1, 1978, each person who rents apartments or rooms or has boarders or similar occupants shall file with the Tax Commissioner a report showing the name, address, telephone number and place of employment of each such tenant who occupies an apartment or a room in a rooming house and of each boarder or similar occupant, within the municipality.

(b) Beginning October 1, 1978, within 30 days after a new tenant occupies rental property of any kind within the municipality, all owners of rental property who rent to tenants of apartments or rooms, boarders or similar occupants, shall file with the Tax Commissioner a report showing the name, address, telephone number and place of employment of each such tenant who occupies an apartment or a room in a rooming house and of each boarder or similar occupant, within the municipality.

(c) Beginning October 1, 1978, within 30 days after a tenant vacates an apartment, room or other rental property in the municipality, the owner of such vacated rental property shall file with the Tax Commissioner a report showing the date of such vacation, identifying each such vacating tenant and advising of the former tenant's current address if known to such property owner.

(Ord. 32-1978, passed 8-29-1978) Penalty, see § 880.99

#### § 882.99 PENALTY.

(a) Whoever violates or fails to comply with any of the provisions of this chapter, for which no penalty is otherwise provided, is guilty of a misdemeanor of the third degree and shall be fined not more than \$500 or imprisoned not more than 60 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.

(b) Whoever violates § 882.13 is guilty of a misdemeanor of the third degree and shall be fined not more than \$500 or imprisoned not more than 60 days, or both, for each offense. Each disclosure shall constitute a separate offense. In addition, any employee of the municipality who violates § 882.13, relative to the disclosure of confidential information, is guilty of an offense punishable by immediate dismissal.

(c) Whoever violates or fails to comply with any of the regulations promulgated by the Tax Commission pursuant to this chapter is guilty of a minor misdemeanor and shall be fined not more than \$500 for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(Ord. 32-1978, passed 8-29-1978)