

TITLE FOUR - Taxation

Chap. 880. Earned Income Tax.
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CHAPTER 880 Earned Income Tax

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CROSS REFERENCES

Power to tax - see Ohio Const., Art. XVIII, Sec. 3
Taxation generally - see CHTR. Art. XII
Payroll deductions - see Ohio R.C. 9.42
Municipal income taxes - see Ohio R.C. Ch. 718
Income Tax Department - see ADM. Ch. 250

ORDINANCE NO. 4093 - 2005

AN ORDINANCE AMENDING SECTIONS 880.01, 880.02, 880.03, 880.04, 880.05, 880.06, 880.07, 880.08, 880.09, 880.10, 880.11, 880.12, 880.13, 880.14, 880.15, 880.16, and 880.99 OF THE CODIFIED ORDINANCES OF THE CITY OF NORTH RIDGEVILLE, OHIO, IN ORDER REFLECT CHANGES TO THE PROVISIONS OF THE OHIO REVISED CODE THAT GOVERN MUNICIPAL INCOME TAXATION AND DECLARING AN EMERGENCY.

WHEREAS, it is necessary to amend provisions of the Municipal Income Taxation provisions in order to reflect changes to the provisions of the Ohio Revised Code that govern municipal income taxation and to clarify, simplify, and harmonize the existing Municipal Income Taxation provisions of the Codified Ordinances;

NOW, THEREFORE, be it ordained by the Council of the City of North Ridgeville, County of Lorain, State of Ohio, that:

880.01 PURPOSE.

SECTION 1. Section 880.01 of the Codified Ordinances of the City of North Ridgeville, Ohio, as established by Ordinance No. 2698-92, passed December 21, 1992, is hereby amended to read as follows:

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 City, there is hereby levied a tax on taxable income as hereinafter provided.

880.02 DEFINITIONS.

As used in this Chapter, the following words shall have the meanings ascribed to them in this section, except as and if the context clearly indicates or requires a different meaning:

(a) "Administrator" means the individual designated by the provisions of this Chapter, appointed by the City Auditor and approved by Council, to administer and enforce the provisions of this Chapter.

(b) "Board of Review" means the Board established by and constituted as provided in Section 880.13.

(c) "Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, pass-through entity, corporation or any other entity. "Business" conducted within the City includes the direct or indirect ownership of an interest in a pass-through entity that conducts business within the City.

(d) "Chapter" means Chapter 880 of the Codified Ordinances of the City.

(e) "City" means the City of North Ridgeville, Ohio.

(f) "Compensation" means all salaries, wages, commissions and other remuneration for work done or services performed. For taxable years beginning on or after January 1, 2004, "compensation" of an employee means "qualifying wages," within the meaning of Ohio Revised Code section 718.03, including any amendments or successor provisions thereto.

(g) "Corporation" means a corporation, S corporation or joint stock association organized under the laws of the United States, the State of Ohio or any other state, territory or foreign country or dependency, or any unincorporated entity treated as a corporation for federal income tax purposes. The term "corporation" does not include a limited liability company that is treated as a partnership for federal income tax purposes. For taxable years beginning on or after January 1, 2004, "corporation" includes a "combined company," an "electric company" and a "telephone company," all as defined in Ohio Revised Code section 5727.01, including any amendments or successor provisions thereto.

(h) "Deferred compensation" means earned compensation the receipt of which is delayed to a later date.

(i) "Domicile" means a principal residence that the taxpayer intends to use for an indefinite time and to which whenever he is absent he intends to return. A taxpayer has only one domicile even though he may have more than one residence.

(j) "Employee" means one who works for compensation in the service of an employer.

(k) "Employer" means a person, governmental body, unit, agency or any other entity, whether or not organized for profit, who or that employs one or more persons on a compensation basis.

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

(m) "Intangible income" means that income specified in Ohio Revised Code Section 718.01(A)(5), including any amendments or successor provisions thereto, and includes of any of the following types of income: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code, including any amendments or successor provisions thereto, and patents, copyrights, trademarks, trade names, investments in real estate investment trusts,

investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings or other similar games of chance.

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

(o) "Limited liability company" means a limited liability company formed under Ohio Revised Code Chapter 1705, including any amendments or successor provisions thereto, or under the laws of any other state.

(p) "Net operating loss" means the negative adjusted federal taxable income recognized by a taxpayer from the operation of a business for the taxable year.

(q) "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, or a system approved by the Administrator, without deduction of taxes imposed by this Chapter and federal, state and other taxes based on income and, in the case of a pass-through entity, without deduction of salaries paid to owners, and otherwise adjusted to the requirements of this Chapter. For taxable years beginning on or after January 1, 2004, "net profits" means, in the case of a corporation, the corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

(1) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.

(2) Add an amount equal to five percent of intangible income deducted under Section 880.02(q)(1), but exclude that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code.

(3) Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;

(4) Deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code. This deduction does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.

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

(6) In the case of a real estate investment trust and regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors allowed as a deduction in the computation of federal taxable income.

For taxable years beginning on or after January 1, 2004, the "net profits" of a pass-through entity shall be computed as if the pass-through entity were a corporation, except: (i) guaranteed payments and other similar amounts paid or accrued to a partner, former partner, member or former member shall not be allowed as a deductible expense; and (ii) amounts paid or accrued to a qualified self-employed retirement plan with respect to an owner or owner-employee of the pass-through entity, amounts paid or accrued to or for health insurance for an owner or owner-employee, and amounts paid or accrued to or for life insurance for an owner or owner-employee shall not be allowed as a deduction. For taxable years beginning on or after January 1, 2004, "net profits" means, in the case of a sole proprietorship, the profit shown by the individual on Internal Revenue Service Schedule C, Schedule E, and/or Schedule F. "Net profits" shall be determined in accordance with (i) the accounting method used by the taxpayer for federal income tax purposes and (ii) the Internal Revenue Code, Treasury Regulations, federal case law interpreting these authorities and administrative authorities promulgated by the Internal Revenue Service.

(r) "Nonqualified deferred compensation plan" means a compensation plan described in Section 3121(v)(2)(c) of the Internal Revenue Code.

(s) "Nonresident" means an individual domiciled outside the City.

(t) "Nonresident owner" means an individual domiciled outside the City who has a direct or

indirect ownership interest in a pass-through entity that conducts business in the City and a corporation that has a direct or indirect ownership interest in a pass-through entity that conducts business in the City.

(u) "Owner" means an individual, partner, member, or any other person having an ownership interest in a pass-through entity.

(v) "Pass-through entity" means a partnership, a limited liability company that is treated as a partnership for federal income tax purposes, a trust, an estate, or any other class of entity, excluding S corporations, the income or profits from which are given pass-through treatment under the Internal Revenue Code.

(w) "Person" means every natural person, pass-through entity, fiduciary, or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to a pass-through entity shall mean the owners thereof and, as applied to corporations, the officers thereof.

(x) "Place of business" means any bona fide office, other than a mere statutory office, factory, warehouse or other space that is occupied and used by the taxpayer in carrying on any business activity individually or through one or more agents or employees regularly in attendance.

(y) "Qualifying wages" means wages, as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted in accordance with Section 718.03(A) of the Ohio Revised Code, including any amendments or successor provisions thereto, to (i) deduct any amount included in such wages if the amount constitutes compensation attributable to a plan or program described in Section 125 of the Internal Revenue Code (i.e., a cafeteria plan), (ii) add any amount not included in such wages for the taxable year solely because the employee was employed by the employer prior to April 1, 1986, (iii) add any amount not included in such wages if the amount is an employee contribution or deferral described in Section 401(k) or 457 of the Internal Revenue Code, and (iv) add any amount that constitutes supplemental unemployment compensation benefits described in Section 3402(a)(2) of the Internal Revenue Code and that was not included in such wages. Qualifying wages includes compensation attributable to a nonqualified deferred compensation plan or program described in Section 3121(v)(2)(c) of the Internal Revenue Code and compensation from employment arising from the sale, exchange or other disposition of a stock option, the exercise of a stock option, or the sale, exchange or other disposition of stock purchased under a stock option. Qualifying wages does not include compensation deferred before January 1, 2004, to the extent that such deferred compensation would not be treated as wages within the meaning of Section 3121(a) of the Internal Revenue Code at the time such deferred compensation is paid or distributed.

(z) "Rental income" means income received by a taxpayer from the rental of real estate, which shall be included in the computation of net profits from business activities 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 two hundred fifty dollars (\$250.00) per month, it shall be prima-fade 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, provided that, 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 two hundred fifty dollars (\$250.00) per month; provided further that 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 such two hundred fifty dollars (\$250.00) per month; and provided further that a person who operates a licensed rooming house shall be considered in business, whether or not the gross income exceeds two hundred fifty dollars (\$250.00) per month.

(aa) "Resident" means an individual domiciled in the City.

(bb) "Resident owner" means an individual domiciled in the City who has an ownership interest in a pass-through entity.

(cc) "S corporation" means a corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.

(dd) "Taxable income" means the income specified in Section 880.03(a) as subject to the tax imposed under this Chapter.

(ee) "Taxable year" means the calendar year or the fiscal year upon the basis of which the net profits and other taxable income 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. The taxable year of an individual shall be the calendar year, unless the individual has received approval for and uses a different taxable year for federal income tax purposes.

(ff) "Taxing municipality" means any municipal corporation, other than the City, that levies a municipal income tax on compensation earned by individuals and on the net profits earned from the operation of a business.

(gg) "Taxpayer" means a person required hereunder to file a return or pay tax pursuant to this Ordinance. "Taxpayer" does not include any person that is a disregarded entity or a qualifying subchapter S subsidiary for federal income tax purposes, but "taxpayer" includes any other person who owns the disregarded entity or qualifying subchapter S subsidiary.

As set forth in this Chapter, the singular shall include the plural, the masculine shall include the feminine and the neuter, and all periods set forth shall be inclusive of the first and last mentioned dates.

880.03 IMPOSITION OF TAX.

SECTION 3. Section 880.03 of the Codified Ordinances of the City of North Ridgeville, Ohio, as established by Ordinance No. 2698-92, passed December 21, 1992, is hereby amended to read as follows:

(a) Subject to the provisions of Section 880.16, an annual tax for the purposes specified in Section 880.01 shall be imposed on and after January 1, 1993, at the rate of one percent (1%) per annum upon the following:

(1) On all compensation and on net profits from the operation of a business earned during the effective period of this Chapter by a resident.

(2) On all qualifying wages earned or received by a nonresident for work done or services performed or rendered in the City, and on net profits earned or received by a nonresident from the operation or conduct of business in the City. Where a nonresident is employed at a place of business in the City, the qualifying wages of such nonresident for the performance of employee services will be treated as earned outside the City only for those services which of necessity, as distinguished from convenience, obligate such nonresident to duties outside the City in the service of the nonresident's employer.

(3) On a resident owner's distributive share of the net profits of a pass-through entity earned during the effective period of this Chapter from business conducted by the pass-through entity regardless of where such business is conducted, subject to the relief and reciprocity provisions of Section 880.15.

(4) On a nonresident owner's distributive share of the net profits of a pass-through entity attributable to the City and earned during the effective period of this Chapter from business conducted in the City, whether or not such pass-through entity has an office or place of business in the City.

(5) On the portion attributable to the City of the net profits earned during the effective period of this Chapter of a corporation derived from business conducted in the City, whether or not such corporation has an office or place of business in the City. The tax imposed by this Section 880.03(a)(5) on the net profits of an electric company, combined company, or telephone company shall be subject to, and shall accord with, Ohio Revised Code chapter 5745, including any amendments or successor provisions thereto.

(6) On all income in excess of \$25,000 derived anywhere from prizes, awards, gaming, wagering, lotteries, or schemes of chance by a resident, and on all income in excess of \$25,000 derived from prizes, awards, gaming, wagering, lotteries, or schemes of chance by a nonresident when such income is won or received from sources within the City. This Section 880.03(a)(6) shall apply only to income from prizes, awards, gaming, wagering, lotteries or schemes of chance won by the taxpayer on or after January 1, 2005.

(b) The City income tax imposed by Section 880.03(a)(4) upon nonresident owners shall be collected and remitted pursuant to Section 880.06(k).

(c) The portion of the net profits attributable to the City of a taxpayer conducting business both within and without the boundaries of the City shall be determined as provided in Ohio Revised Code Section 718.02, including any amendments or successor provisions thereto, and in accordance with rules and regulations adopted by the Administrator pursuant to this Chapter. Pursuant to Ohio Revised Code Section 718.02, net profits from a business or profession conducted both within and without the boundaries of the City shall be considered as having a taxable situs in the City in the same proportion as the average ratio of:

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

(2) Wages, salaries, and other taxable income paid during the taxable period to persons employed in the business or profession for services performed in the City (including all qualifying wages subject to tax under Section 880.03(a)(2)) to wages, salaries, and other taxable income paid during the same period to persons employed in the business or profession, wherever their services are performed, excluding compensation that is not taxable by the City under Ohio Revised Code Section 718.011 and Section 880.03(f)(11) of this Chapter.

(3) Gross receipts of the business or profession from sales made and services performed during the taxable period in the City to gross receipts of the business or profession during the same period from sales and services, wherever made or performed. Sales of tangible personal property are considered made in the City when: (i) the tangible personal property is delivered within the City, regardless of where title passes, if such property is shipped or delivered from a stock of goods within the City; (ii) the tangible personal property is delivered within the City, regardless of where title passes, even though transported from a point outside the City if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City and the sales result from such solicitation or promotion; or (iii) the tangible personal property is shipped from a place within the City to purchasers outside the City, regardless of where title passes, if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

In the event an equitable result cannot be obtained under the apportionment formula provided for in this Section 880.03(c), the Administrator shall have the authority to substitute other factors or methods of apportionment calculated to produce an equitable result.

(d) Operating Loss Carry-Forward.

(1) The portion of a net operating loss of a taxpayer sustained in any taxable year allocable to the City may be applied against the portion of the net profit of the taxpayer allocable to the City in succeeding years until exhausted, but in no event for more than five taxable years. No portion of a net operating loss shall be carried back against net profits of any prior year.

(2) The portion of a net operating loss allocable to the City shall be determined in the same

manner as provided herein for allocating net profits to the City.

(3) Net operating losses may not be combined with qualifying wages.

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

(e) Filing of Consolidated Returns.

(1) The Administrator shall accept for filing a consolidated return from an affiliated group of corporations subject to the tax imposed by this Chapter if the affiliated group filed for the same taxable year a consolidated return for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code. If an affiliated group of corporations subject to the tax imposed by this Chapter files a consolidated return in accordance with this Section 880.03(e)(1) for any taxable year, the affiliated group must file a consolidated return for each succeeding taxable year in which it files a consolidated return for federal income tax purposes unless, on or before the due date (taking into account extensions of time properly granted) of the return for a taxable year, the affiliated group obtains the permission of the Administrator to cease filing a consolidated return for that year. If an affiliated group of corporations subject to the tax imposed by this Chapter files a consolidated return in accordance with this Section 880.03(e)(1) for any taxable year, the group must include a copy of its consolidated federal income tax return for the same taxable year with its consolidated City income tax return.

(2) 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 City constituting only a portion of its total business, the Administrator shall require such additional information as the Administrator deems necessary to ascertain whether net profits are properly allocated to the City. If the Administrator finds the net profits are not properly allocated to the City by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates or transactions with a division, branch, factory, office, laboratory or activity, or by some other method, the Administrator shall make an allocation of net profits to the City in such manner as the Administrator deems fair and reasonable.

(f) Exemptions. The tax provided for herein shall not be levied on the following:

(1) 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.

(2) Proceeds from welfare benefits, unemployment insurance benefits, social security benefits, and qualified retirement plans as defined by the Internal Revenue Service.

(3) Proceeds of insurance, annuities, workers' compensation insurance, permanent disability benefits, compensation for damages for personal injury and like reimbursements, not including damages for loss of profits and wages.

(4) Receipts from seasonal or casual entertainment, amusements, sports events and health and welfare activities when conducted by a bona fide charitable, religious or educational organizations and associations, recognized as such under Section 501(c)(3) of the Internal Revenue Code.

(5) Alimony received.

(6) Personal earnings of any natural person under eighteen years of age.

(7) Compensation for damage to property by way of insurance or otherwise.

(8) Interest, dividends, gains and other revenue from intangible property, except as defined in the computation of "net profits" under Section 880.02(q). Intangible property includes, but is not

limited to, investments, deposits, money or credits, as those terms are defined in Ohio Revised Code Chapter 5701, and patents, copyrights, trademarks, trade names, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation.

(9) Gains from involuntary conversion, cancellation of indebtedness, interest on federal obligations, items of income already taxed by the State from which the City is specifically prohibited from taxing, and income of a decedent's estate during the period of administration, except income from the operation of a business or other activities conducted in the City.

(10) An S corporation shareholder's distributive share of net profits or losses of the S corporation, except to the extent that the distributive share of net profits represents wages as defined in Section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in Section 1402(a) of the Internal Revenue Code.

(11) Pursuant to Ohio Revised Code Section 718.011, compensation paid to a nonresident individual for personal services performed by the individual in the City on 12 or fewer days in a calendar year, unless: (i) the individual is an employee of another person, such individual's employer has its principal place of business in another taxing municipality in Ohio, and such individual is not liable to the other taxing municipality for tax on the compensation paid for the services performed in the City; or (ii) the individual receives such compensation as a professional entertainer or professional athlete, the promoter of a professional entertainment of sporting event, or an employee of such a promoter.

(12) Compensation, net profits and other items of income 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.

(13) Compensation, net profits and other items of income the taxation of which is prohibited by the Constitution of the State of Ohio or any other act of the Ohio General Assembly limiting the power of a municipality to impose net income taxes.

(14) Generally the above noted items in this Section 880.03(f) are the only forms of income not subject to the tax imposed by this Chapter. Any other income, economic benefit or other form of compensation earned or received by a taxpayer shall be subject to the tax imposed by this chapter.

(g) Deductions of Employee Business Expenses. If a taxpayer's taxable income for a taxable year includes income against which the taxpayer has taken a deduction for federal income tax purposes reported on Form 2106 and attached to the taxpayer's federal income tax return filed for that taxable year, the taxpayer may be allowed to determine his or her taxable income to the City by deducting the same amount deducted for federal income tax purposes. If the taxpayer claims such a deduction, the taxpayer shall attach to his or her City income tax return a copy of Form 2106 and Schedule A as filed with the taxpayer's federal income tax return for that taxable year. The total of such expenses deducted pursuant to this Section 880.03(g) cannot exceed the employee's related W-2 wage income from the same employer.

880.04 EFFECTIVE PERIOD.

SECTION 4. Section 880.04 of the Codified Ordinances of the City of North Ridgeville, Ohio, as established by Ordinance No. 2698-92, passed December 21, 1992, is hereby amended to read as follows:

The tax imposed by this Chapter shall take effect beginning January 1, 1993 and shall continue indefinitely.

880.05 RETURN AND PAYMENT OF TAX; AMENDED RETURNS.

SECTION 5. Section 880.05 of the Codified Ordinances of the City of North Ridgeville, Ohio, as established by Ordinance No. 2698-92, passed December 21, 1992, is hereby amended to read as follows:

(a) Each taxpayer having taxable income subject to tax under this Chapter, whether or not a tax is

due thereon, shall make and file a City income tax return no later than the fifteenth (15th) day of the fourth (4th) month following the end of the taxpayer's taxable year. A City income tax return shall be deemed filed when postmarked by the United States Postal Service or on the date delivered other than by the United States Postal Service during normal business hours to the Administrator. Notwithstanding anything in this Chapter to the contrary, the return of an employer or employers that shows the amount of City income tax deducted by the employer or employers from the compensation of a nonresident employee and paid by the employer or employers to the Administrator shall be accepted as the City income tax return required of any employee whose sole income subject to City income tax consists of such compensation.

(b) The return shall be filed with the Administrator on a form or forms furnished by or obtainable upon request from the Administrator, or on any form that comports with Ohio Revised Code Section 718.05©, including any amendments or successor provisions thereto, setting forth:

(1) The aggregate amounts of compensation and other taxable income earned or received by the taxpayer, and/or the gross income from the taxpayer's operation of a business less allowable expenses incurred in the acquisition of such gross income earned during the taxpayer's taxable year and subject to City income tax;

(2) The amount of tax imposed by this Chapter on such compensation, net profits and other taxable income;

(3) Any credits to which the taxpayer may be entitled under the provisions of Sections 880.06, 880.07 and 880.15; and

(4) Such other pertinent statements, returns or other information as the Administrator may require, including a statement that the figures used in the City income tax return are the figures used in the taxpayer's federal income tax return for that taxable year, adjusted to set forth only such income as is taxable under the provisions of this Chapter.

(c) Extensions.

(1) Any taxpayer that has requested an extension for filing a federal income tax return may request an extension for the filing of the City income tax return for the same taxable year by filing a copy of the taxpayer's federal extension request for such taxable year with the Administrator. Any taxpayer not required to file a federal income tax return may make a written request for an extension to file a City income tax return. The request for extension must be filed on or before the original due date for the City income tax return, as set forth in Section 880.05(a). If the request is granted, the extended due date of the City income tax return shall be the last day of the month following the month to which the due date of the taxpayer's federal income tax return for the same taxable year has been extended. For taxable years beginning on or after January 1, 2005, a taxpayer who is subject to City income tax on its net profits and who receives an extension for filing the federal income tax return will receive an extension for filing the City income tax return for the same taxable year by filing a notice of such extension through the Ohio business gateway in compliance with Ohio Revised Code Section 718.051(B), including any amendments or successor provisions thereto, but such taxpayer must pay any City income tax owed by the unextended due date for filing the City income tax return, as provided in Section 880.05(d).

(2) The Administrator may deny a taxpayer's request for an extension of the due date to file the City income tax return if the taxpayer:

(i) fails to timely file the request;

(ii) fails to file a copy of the federal extension request, if applicable;

(iii) owes the City any delinquent income tax, penalty, interest or other charge for the late payment or nonpayment of City income tax; or

(iv) has failed to file any required City income tax return, report, or other related document for a prior taxable year.

(3) The granting of an extension of the due date for filing a City income tax return does not extend the due date as provided in this Section 880.05 for payment of the tax; hence, penalty and interest may apply to any unpaid City income tax during the period of extension at the rate set out by Section 880.10. No penalty shall be assessed in those cases in which the City income tax return is filed and the final tax paid within the extended period for filing such return provided all other filing and payment requirements of this Chapter have been met. The Administrator shall grant any extension of the due date for filing the City income tax return upon the condition that all City income tax declaration filing and payment requirements have been fulfilled; however, if, upon further examination it then becomes evident that such declaration filing and payment requirements have not been fulfilled, penalty and interest may be assessed in full and in the same manner as though no extension of the due date for filing the City income tax return had been granted.

(d) The taxpayer making the City income tax return shall, at the time of the filing thereof, pay to the Administrator the amount of taxes shown as due thereon. However, where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of Section 880.06, or where any portion of such tax has been paid by the taxpayer pursuant to the provisions of Sections 880.05 and 880.07, credit for the amount so paid shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing the City income tax return.

(e) An amended return must be filed to report additional income and pay any additional tax due, or claim a refund of tax overpaid subject to the requirements and/or limitations contained in Sections 880.11 and 880.15. An amended return shall be filed on a form obtainable upon 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.

(f) Subject to the limitation on the period for assessment of City income tax and claims for refund thereof prescribed by Ohio Revised Code Section 718.12, including any amendments or successor provisions thereto, within three months from the final determination of any federal tax liability affecting the taxpayer's City income tax liability for the same taxable year(s), such taxpayer shall make and file an amended City income tax return for such year(s) showing income subject to City income 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.

(g) All taxpayers who owe income tax to the City must file the return required by Section 880.05(a) regardless of whether their entire City income tax obligation has been withheld and paid by their respective employers or by a pass-through entity.

(h) Should the City income tax return or the records of the Administrator indicate an overpayment of the tax to which the City is entitled under the provisions of this Chapter, such overpayment shall first be applied against any existing liability of the taxpayer to the City, and the balance, if any, at the election of the taxpayer indicated on the return, shall be refunded or transferred against any subsequent liability of the taxpayer to the City, provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded.

880.06 COLLECTION AT SOURCE; CONTRACT SERVICES AND RENTAL INCOME.

SECTION 6. Section 880.06 of the Codified Ordinances of the City of North Ridgeville, Ohio, as established by Ordinance No. 2698-92, passed December 21, 1992, is hereby amended to read as follows:

(a) Each employer within or doing business within the City who or that employs one or more persons shall, at the time of payment of compensation, deduct the City income tax from the gross compensation paid to a taxpayer for work done or services performed or rendered in the City by the taxpayer. Over the road drivers who report to a terminal located in the City shall have a minimum of twenty-five percent (25%) of their compensation allocated to the City on which City income tax shall be deducted.

(b) Each employer shall, on or before the last day of the month, make a return and remit to the Administrator the City income tax withheld from employee compensation in the previous month.

Such return shall be on a form or forms prescribed by or acceptable to the Administrator and shall be subject to the rules and regulations prescribed therefore by the Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in fact been withheld. However, if the amount of City income tax so deducted by an employer in any one month is less than one hundred dollars (\$100), 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 occurs.

(c) For taxable years beginning on or after January 1, 2007, any employer subject to this Section 880.06 may use the Ohio business gateway both to report the amount of City income tax withheld from compensation and to remit such amounts.

(d) An employer is not required to make any withholding with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of the corporation with respect to whose stock the option has been issued.

(e) An employee is not relieved from liability for City income tax by the failure of the employer to withhold the tax as required by this Section 880.06 or by the employer's exemption from the requirement to withhold City income tax.

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

(g) On or before each January 31, each employer subject to the provisions of this Section 880.06 shall file with the Administrator an information return for each employee from whom city income tax has been or should have been withheld, showing the name, address and Social Security number of the employee, the total amount of compensation paid during the year to such employee and the amount of City income tax withheld from such employee and shall provide a copy of such information return to the employee.

(h) The employer, in collecting City income tax, shall be deemed to hold the same as a trustee for the benefit of the City until payment is made by such employer to the City, and such tax collected by such employer from its employees shall be deemed a trust fund in the hands of such employer until the same is paid to the City.

(i) On or before each January 31, any person, business or other entity who contracts or otherwise engages another person, business or other entity to perform services or conduct business activities for remuneration in any form, including, but not limited to, the sale of real estate, the sale of insurance, construction, transportation or other contract or subcontract services, shall file with the Administrator an information return, which shall include the proper name, address, federal identification number and the amount of such remuneration paid during the prior calendar year to such person, business or other entity.

(j) On or before each January 31 and each July 31, any person engaged in the rental of real estate and that receives rental income shall file with the Administrator a list of tenants as of December 31 and June 30, respectively, including the name and address of each tenant.

(k) Except as otherwise provided in this Section 880.06(k), a pass-through entity that conducts business within the City and that has a nonresident owner must: (i) withhold City income tax at the rate specified in Section 880.03(a) on the nonresident owner's distributive share of the pass-through entity's net profits attributable to the City; and (ii) remit such tax to the City by the applicable dates provided in Section 880.07. A pass-through entity subject to this Section 880.06(k) that fails to collect or remit City income tax as provided in this Section 880.06(k) shall be liable for the tax that it should have withheld or remitted and shall be subject to the interest and penalty provisions of Section 880.10. The nonresident owner shall receive a credit against its City income tax liability in the amount of City income tax so withheld by the pass-through entity. All claims for refund of City income tax withheld by a pass-through entity pursuant to this Section 880.06(k) must be made by the nonresident owner within the period set forth in Section

880.11(b). A pass-through entity is not required to withhold and remit City income tax to the extent that its nonresident owners both: (i) file City income tax returns and declarations as provided in Sections 880.05 and 880.07, respectively, that report their distributive shares of the pass-through entity's net profits attributable to the city; and (ii) pay City income tax thereon.

(l) Any return or form required to be filed under this Section 880.06 is considered filed on the date postmarked by the United States Post Office or on the date delivered other than by the United States Postal Service during normal business hours to the Administrator.

880.07 DECLARATIONS.

SECTION 7. Section 880.07 of the Codified Ordinances of the City of North Ridgeville, Ohio, as established by Ordinance No. 2698-92, passed December 21, 1992, is hereby amended to read as follows:

(a) Every person who anticipates any taxable income that is not subject to the provisions of Section 880.06, or who engages in any business, profession, enterprise or activity subject to City income tax shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity, together with the estimated City income tax due thereon, if any. For taxable years beginning on or after January 1, 2005, declarations of estimated net profits from any business conducted within the City and payment of estimated City income tax thereon may be made by using the Ohio business gateway, as described in Ohio Revised Code Section 718.051, including any amendments or successor provisions thereto. The declaration and payment of estimated tax described in this Section 880.07 are required only where City income tax of \$50 or more is owed for the taxable year.

(b) Such declaration of estimated City income tax for a taxable year that is a calendar year shall be filed on or before April 15 of each year during the life of this chapter, or within four months of the date the taxpayer becomes subject to City income tax for the first time.

(c) Such declaration of estimated tax shall be filed on a form or forms furnished by or obtainable from the Administrator or on a generic form prescribed by Ohio Revised Code Section 718.05, including any amendments or successor provisions thereto, which form or forms may require a statement that the taxpayer's declaration of estimated City taxable income equals the taxpayer's estimated federal taxable income as adjusted so that City taxable income includes only those items that are taxable under this chapter.

(d) (1) Such declaration of estimated tax for a taxable year that is a calendar year shall be accompanied by payment of at least twenty-two and one-half percent of the estimated annual tax and, in the case of individuals, at least a similar amount must be paid on or before July 31 and October 31 of that taxable year and January 31 of the subsequent taxable year. A calendar year taxpayer having net profits subject to City income tax must file the declaration of estimated tax by April 15 and pay at least twenty-two and one-half percent of the estimated annual tax by that date, and at least a similar amount must be paid by June 15, September 15 and December 15 of such taxpayer's taxable year. The estimate may be amended at any time prior to the due date of the taxpayer's annual City income tax return for the taxable year for which the estimated payments are made. The annual City income tax return must be filed and any balance of City income tax that may be due must be paid on or before the due date set forth in Section 880.05. If the taxpayer has paid more than the amount of tax to which the City is entitled, a refund of the amount so overpaid shall be made or the same may be applied toward the declaration of tax due for the ensuing taxable year. Claims for refunds shall be made on forms prescribed or approved by the Administrator and within the time provided in Section 880.11.

(2) An amended declaration must be filed on or before January 31 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 Administrator, if it appears that the original declaration made for the preceding taxable year underestimated the taxpayer's income by twenty percent (20%) or more. At such time a payment that, together with prior payment is sufficient to pay taxpayer's entire estimated liability, shall be made. If upon the filing of the annual City income tax return required by Section 880.05 hereof, it appears that the taxpayer did not pay at least eighty percent (80%) of the City income tax liability shown on such return on or before January 31 or the date fixed by regulation, whichever is

applicable, the difference between eighty percent (80%) of the taxpayer's City income tax liability and the amount of estimated tax actually paid on or before January 31 or the date fixed by regulation, whichever is applicable, shall be subject to the interest and penalty provisions of Section 880.10. However, the interest and penalty provision of Section 880.10 shall not apply where either: (i) the taxpayer is a resident but was not domiciled in the City on January 1 of the calendar year; or (ii) the taxpayer has remitted on a timely basis an amount of estimated City income tax at least equal to one hundred percent (100%) of the taxpayer's City income tax liability for the preceding taxable year, provided that the return for the preceding taxable year reflected a 12-month period and the taxpayer filed a City income tax return for the preceding taxable year.

(3) Such declaration shall indicate that the estimated tax is being withheld under the provisions of Section 880.06 or is being paid to another municipality.

(e) Those taxpayers having a taxable year other than the calendar year shall file a declaration on or before the fifteenth day of the fourth month after the start of each fiscal year or period, accompanied by a payment of at least twenty-two and one-half percent of the estimated annual tax shown due thereon, and shall make quarterly payments of at least a similar amount each on the fifteenth day of the sixth month, ninth month and twelfth month of the taxpayer's taxable year.

(f) An annual City income tax return shall be filed by the date prescribed by Section 880.05(a) and any balance that may be due the city shall be paid therewith in accordance with the provisions of Section 880.05.

880.08 DUTIES OF THE ADMINISTRATOR.

SECTION 8. Section 880.08 of the Codified Ordinances of the City of North Ridgeville, Ohio, as established by Ordinance No. 2698-92, passed December 21, 1992, is hereby amended to read as follows:

(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 City, to keep accurate records for a minimum of six years, showing the amount due from each taxpayer required to file a declaration and/or make any return, including taxes withheld, and to show the dates and amounts of payments thereof.

(c) Such Administrator is hereby charged with the enforcement of the provisions of this Chapter and is hereby empowered 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 the provisions of this Chapter, including provisions for the re-examination and correction of returns.

The Administrator is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments when the taxpayer has proved to the Administrator that, due to certain hardship conditions, he or she is unable to pay the full amount of the tax due. Such authorization shall not be granted until the taxpayer files proper returns 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 880.11, 880.12 and 880.99 shall apply.

(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 Administrator may determine the amount of tax appearing to be due the City 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.

(e) Subject to the consent of the Board of Review or pursuant to regulations approved by such Board, the Administrator shall have the power to compromise any interest or penalty, or both, imposed by Section 880.10.

880.09 INVESTIGATIVE POWERS OF THE ADMINISTRATOR; DIVULGING CONFIDENTIAL INFORMATION.

SECTION 9. Section 880.09 of the Codified Ordinances of the City of North Ridgeville, Ohio, as established by Ordinance No. 2698-92, passed December 21, 1992, is hereby amended to read as follows:

(a) 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 for making such examinations and investigations as are hereby authorized.

(b) 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.

(c) The refusal to produce books, papers, records and federal income tax returns, 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 the provisions of this Chapter or with an order or subpoena of the Administrator authorized hereby, shall be deemed a violation of this Chapter, punishable as provided in Section 880.99.

(d) Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this Chapter shall be confidential, except for official purposes, for disclosure and exchange of information with other federal, state or local taxing authorities for tax collection purposes, or except in accordance with proper judicial order. Any person divulging such information in violation of this subsection shall be subject to the penalty provided in Section 880.99.

(e) Every taxpayer shall retain all records necessary to compute his or her tax liability for a period of five years from the due date of his or her City income tax return or the date such return is filed, whichever is later, or in the case of a person required to withhold and remit City income tax pursuant to Section 880.06, the date the withholding taxes are paid.

880.10 INTEREST AND PENALTIES.

SECTION 10. Section 880.10 of the Codified Ordinances of the City of North Ridgeville, Ohio, as established by Ordinance No. 2698-92, passed December 21, 1992, is hereby amended to read as follows:

(a) Interest. All taxes imposed and all moneys withheld or required to be withheld by employers under the provisions of this Chapter, and remaining unpaid after they become due, shall bear interest at the rate of one percent (1%) per month of the unpaid balance.

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

(1) For failure to pay City income tax due, other than City income tax withheld, ten percent (10%) per annum, but not less than twenty-five dollars (\$25.00);

(2) For failure to remit City income tax withheld for employees, ten percent (10%) per month or fraction thereof, but the accumulated penalty shall not exceed fifty percent (50%) upon any

unpaid amount and shall not be less than twenty-five dollars (\$25.00).

(c) Exceptions. 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, and provided further that in the absence of fraud, a penalty shall not be assessed on any additional tax assessment resulting from a federal audit, provided that an amended return is filed and the additional tax, if any, is paid within three months after final determination of the federal tax liability. Interest on any additional City income tax due may be assessed from the original due date of the City income tax return at the rate of one percent (1%) per month on the unpaid balance.

(d) Abatement. The Administrator hereunder may abate a penalty or interest or both for good cause shown.

880.11 COLLECTION OF UNPAID TAXES; REFUND OF OVERPAYMENT.

SECTION 11. Section 880.11 of the Codified Ordinances of the City of North Ridgeville, Ohio, as established by Ordinance No. 2698-92, passed December 21, 1992, is hereby amended to read as follows:

(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. An additional assessment of City income tax shall not be made after three years from the date the City income tax return was due or filed, whichever is later.

(b) Prosecutions for an offense made punishable under this Chapter shall be commenced within three years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five percent (25%) or more of the compensation or net profits required to be reported, prosecutions may be commenced within six years after the commission of the offense. City income tax erroneously paid or withheld shall not be refunded unless a claim for refund is made within the time specified in Ohio Revised Code Section 718.12(c) including any amendments or successor provisions thereto.

880.12 VIOLATIONS.

SECTION 12. Section 880.12 of the Codified Ordinances of the City of North Ridgeville, Ohio, as established by Ordinance No. 2698-92, passed December 21, 1992, is hereby amended to read as follows:

(a) Every taxpayer having taxable income and failing, neglecting or refusing to make any return or declaration required by this Chapter shall be subject to a penalty of twenty-five dollars (\$25.00) for such failure, neglect or refusal, such fine to be imposed by the City Tax Administrator.

(b) The following shall be considered violations of this Chapter:

(1) Failure, neglect or refusal to make any return or declaration required by this Chapter;

(2) Making any incomplete, false or fraudulent return;

(3) Failure, neglect or refusal to pay the tax, penalties or interest imposed by this Chapter;

(4) Failure, neglect or refusal of an employer to withhold the tax from his or her employees or to remit such withholding to the Administrator;

(5) Refusal 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;

(6) Failure of an employer 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 upon order or subpoena of the Administrator;

(7) Refusal of an employer to disclose to the Administrator any information with respect to the income or net profits of a taxpayer;

(8) Failure to comply with the provisions of this Chapter or any order or subpoena of the Administrator authorized hereby;

(9) Giving to an employer false information as to his or her true name, correct Social Security number and residence address, or failing to promptly notify an employer of any change in residence address and date thereof;

(10) Failure to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and City income tax withheld, or knowingly giving the Administrator false information;

(11) Attempting to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this Chapter.

(c) Whoever violates any provision of this section shall be subject to the penalty provided in Section 880.99.

(d) All prosecutions under this Section 880.12 must be commenced within three years from the time of the offense complained of, except as otherwise provided in Section 880.11(b).

(e) The failure of any employer or person to receive or procure a City income tax 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 City income tax.

880.13 BOARD OF REVIEW; APPEALS.

SECTION 13. Section 880.13 of the Codified Ordinances of the City of North Ridgeville, Ohio, as established by Ordinance No. 2698-92, passed December 21, 1992, is hereby amended to read as follows:

(a) A Board of Review, consisting of a Chairperson and two other individuals, each to be appointed by the Mayor and approved by Council, is hereby established. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Such records are not public records available for inspection under Ohio Revised Code Section 149.43, including any amendments or successor provisions thereto. Any hearing by the Board shall be conducted privately, and the provisions of Section 880.09, 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. Hearings requested by a taxpayer before the Board of Review are not meetings of a public body that are subject to Ohio Revised Code Section 121.22, including any amendments or successor provisions thereto.

(b) 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 empowered to substitute alternative methods of allocation.

(c) The Administrator, in issuing any ruling or decision for which authority has been conferred upon it by this Chapter, shall at the same time notify the taxpayer of both the taxpayer's right to appeal such ruling or decision and the manner in which the taxpayer may appeal such ruling or decision. Any person dissatisfied with any ruling or decision of the Administrator, which is made under the authority conferred by this Chapter, may appeal therefrom to the Board within thirty (30) days from the announcement of such ruling or decision by the Administrator, and the Board, on hearing, shall have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof. An appeal of a ruling or decision of the Administrator must be in writing and must state why such ruling or decision is deemed incorrect or unlawful. The Board shall schedule any hearings and issue its decision within the periods prescribed by Ohio Revised Code Section 718.11, including any amendments or successor provisions thereto. If the taxpayer does not waive a hearing before the Board, the taxpayer may appear before the Board and be represented

as provided by law. All appeals of decisions of the Board of Review shall be made in accordance with Ohio Revised Code Sections 718.11 and 5717.011, including any amendments or successor provisions thereto.

880.14 ALLOCATION OF FUNDS.

SECTION 14. Section 880.14 of the Codified Ordinances of the City of North Ridgeville, Ohio, as established by Ordinance No. 2698-92, passed December 21, 1992, is hereby amended to read as follows:

The funds collected under the provisions of this Chapter shall be deposited in the Income Tax Fund, and such funds collected shall be disbursed in the following order:

(a) Refunds of over-collected taxes and other refund claims.

(b) Such part thereof as shall be necessary to defray all costs of collecting the taxes and the cost of administering and enforcing the provisions thereof, including the costs of personnel, supplies, equipment and other necessary operating costs.

(c) Transfers to the General Fund and Capital Projects Fund as follows:

(1) Not more than eighty-five percent (85%) of the net available City income tax receipts (after the disbursements provided for in subsections (a) and (b) hereof) shall be transferred to the General Fund and used to defray operating expenses of the City.

(2) At least fifteen percent (15%) of the net available City income tax receipts (after the disbursements provided for in subsections (a) and (b) hereof) shall be transferred to the Capital Projects Fund and used for capital improvements for the City. Capital improvements shall include, but not be limited to, development and constructing of storm sewers and street improvements, public buildings, parks and playgrounds and for equipment necessary for the Police, Fire, Street, Traffic and Safety Departments.

880.15 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

SECTION 15. Section 880.15 of the Codified Ordinances of the City of North Ridgeville, Ohio, as established by Ordinance No. 2698-92, passed December 21, 1992, is hereby amended to read as follows:

(a) Residents. When a resident of the City is subject to and has paid, or has acknowledged liability for, a municipal income tax in another municipality on the same income taxable under this Chapter, and such other municipality does not allow a credit to its nonresidents, the City resident may claim a credit of ten percent of the tax due such other municipality. In no case shall the credit authorized by this subsection (a) exceed ten percent of the City income tax assessed under this Chapter on such income.

(b) A resident owner of a pass-through entity that does not conduct business in the City and that has paid, or has acknowledged liability for, an income tax in another municipality may claim a credit equal to the lesser of the following amounts:

(1) The resident owner's proportionate share of the amount, if any, of income tax paid by the pass-through entity to another municipal corporation in the State of Ohio; or

(2) The resident owner's proportionate share of the amount of tax that would be imposed on the pass-through entity by the City if the pass-through entity conducted business in the City.

In no case shall the credit authorized by this subsection (b) exceed ten percent of the City income tax assessed under this Chapter on such income.

(c) Where applicable, the credits provided by Ohio Revised Code Sections 718.021 and 718.121 shall be available to residents.

(d) Nonresidents. Except as provided in Section 880.06(k) and in Ohio Revised Code Sections 718.021 and 718.121, when a nonresident is subject to the tax imposed by this Chapter and is also subject to tax on the same income in the municipal corporation in which the nonresident resides, such nonresident shall not be allowed any credit against or claim of refund for City income tax, and the City will not acknowledge or allow any claim for refund of any portion of the City income tax so levied.

(e) The credits provided for in this Section 880.15 will not be allowed unless the same are claimed in a timely return or form acceptable to, and filed with, the Administrator, unless reasonable cause for late filing and payment of City income tax as acceptable by the Administrator can be shown. In the event a taxpayer fails, neglects or refuses to file such timely return or form, he or she shall not be entitled to such credit and shall be liable for the full amount of tax assessed by this Chapter, together with such interest and penalties, both civil and criminal, as prescribed in this Chapter.

(f) The credits provided for in this Section 880.15 apply only to individuals and do not apply to corporations or pass-through entities.

880.16 SEPARABILITY.

SECTION 16. Section 880.16 of the Codified Ordinances of the City of North Ridgeville, Ohio, as established by Ordinance No. 2698-92, passed December 21, 1992, is hereby amended to read as follows:

If any sentence, clause, section or part of this Chapter or any City income 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.

880.99 PENALTY.

SECTION 17. Section 880.99 of the Codified Ordinances of the City of North Ridgeville, Ohio, as established by Ordinance No. 2698-92, passed December 21, 1992, is hereby amended to read as follows:

(a) Whoever violates any of the provisions of this Chapter is guilty of a misdemeanor of the first degree and shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months, or both, for each offense.

(b) In addition to the penalty provided in subsection (a) hereof, any employee of the City who violates Section 880.09(d), relative to the disclosure of confidential information, shall be guilty of an offense punishable by immediate dismissal.