
CHAPTER 880
Earned Income Tax

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CROSS REFERENCES

Power to levy income tax - see Ohio Const., Art. XVIII, §3
 Payroll deductions - see Ohio R.C. 9.42
 Municipal income taxes - see Ohio R.C. Ch. 718

880.01 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 this Municipality, there shall be, and is hereby levied, a tax on salaries, wages, commissions and other compensation, and on net profits as hereinafter provided.

(Ord. 73-O-66. Passed 11-20-73.)

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 this chapter, whether appointed or elected, to administer and enforce the provisions of this chapter.
- (b) "Association" means a partnership, limited partnership or any other form of unincorporated enterprise, owned by two or more persons.
- (c) "Board of Review" means the Board created by and constituted as provided in Section 880.13.
- (d) "Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, limited partnership, fiduciary, trust, limited liability company, association, corporation or any other entity, including, but not limited to, the renting or leasing of property, real, personal or mixed.
- (e) "Corporation" means a 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. "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.
- (f) "Domicile" means a place where a person has his true and permanent residence to which whenever absent from he intends to return. Actually or legally a persons permanent and principal home.
- (g) "Employee" means one who works for wages, salary, commission or other type of compensation in the service of an employer. Any person upon whom an employer is required to withhold for either Federal Income Tax or Social Security, PERS or on whose account payments are made under the Workers' Compensation Law shall be an employee.
- (h) "Employer" means 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.
- (i) "Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31.
- (j) "Gross receipts" means the total income from any source whatsoever.
- (k) "Income from a pass-through entity" means partnership income of partners, distributive shares of shareholders of an "S" corporation, membership interests of members of a limited liability company or other distributive shares of pass-through entities.
- (l) "Limited Liability Company" means a limited liability company formed under of the Ohio Revised Code or under the laws of another state.

- (m) "Net profits" means a net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary, reasonable and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for Federal income tax purposes, without deduction of taxes imposed by this chapter, Federal, State and other taxes based on income, exclusive of the amount of Ohio franchise tax computed on the net worth basis; and, in the case of an association, without deduction of salaries paid to partners and other owners, and otherwise adjusted to the requirements of this chapter.
- (n) "Nonresident" means an individual domiciled outside the Municipality.
- (o) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Municipality.
- (p) "Other compensation" means compensation which includes, but is not limited to, tips, gratuities, fees, bonuses, incentive payments, prizes and lottery winnings in excess of \$5000.00 and awards.
- (q) "Owner" means a partner of a partnership, a shareholder of an "S" corporation, a member of a limited liability company or other person with an ownership interest in a pass-through entity.
- (r) "Pass-Through Entity" means a partnership, "S" corporation, limited liability company or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code.
- (s) "Person" means every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person", as applied to any unincorporated entity, means the partners or members thereof, and, as applied to corporations, the officers thereof.
- (t) "Place of business" means any bona fide office (other than a mere statutory office), factory, warehouse or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his or her regular employees regularly in attendance.
- (u) "Resident" means an individual domiciled in the Municipality.
- (v) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the Municipality.
- (w) "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.
- (x) "Taxable income" means wages, salaries and other compensation paid by an employer or employers before any deductions and/or the net profits from the operation of a business, profession or other enterprise or activity, adjusted in accordance with the provisions of this chapter.
- (y) "Taxable year" means the calendar year, or the fiscal year upon the basis of which net profits are to be computed under this chapter and, in the case of a return for a fractional part of a year, the period for which such return is required to be made.

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

The singular shall include the plural, and the masculine shall include the feminine and the neuter. (Ord. 73-O-66. Passed 11-20-73.)

880.03 IMPOSITION OF TAX.

(a) Applicability of Tax. An annual tax for the purposes specified in Section 880.01 shall be imposed on and after January 1, 1974, at the rate of one percent per year upon the following:

- (1) On all salaries, wages, commissions and other compensation earned during the effective period of this chapter by residents of the Municipality.
- (2) On all salaries, wages, commissions and other compensation earned during the effective period of this chapter by nonresidents for work done or services performed or rendered in the Municipality.
- (3) A. On the portion attributable to the Municipality of the net profits earned during the effective period of this chapter of all resident unincorporated businesses, professions or other entities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the Municipality.
B. On the portion of the distributive share of the net profits earned during the effective period of this chapter of a resident partner or owner of a resident unincorporated business entity not attributable to the Municipality and not levied against such unincorporated business entity by the Municipality.
- (4) On earnings, payments, bonuses, commissions and/or fees received by professional, brokers and others who are independent contractors and not employees.
- (5) A. On the portion attributable to the Municipality of the net profits earned during the effective period of this chapter of all nonresident unincorporated businesses, professions or other entities, derived from sales made, work done, or services performed or rendered and business or other activities conducted in the Municipality, whether or not such incorporated business entity has an office or place of business in the Municipality.
B. On the portion of the distributive share of the net profits earned during the effective period of this chapter of a resident partner or owner of a nonresident unincorporated business entity not attributable to the Municipality and not levied against such unincorporated business entity by the Municipality.

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

(b) The portion of the net profits attributable to this Municipality of a taxpayer conducting a business, profession or other activity both within and without the boundaries of this Municipality shall be determined as provided in Section of the Revised Code of Ohio and in accordance with the Rules and Regulations adopted by the Finance Director pursuant to this Ordinance.

(c) In the computation of any tax due under this Ordinance, a business loss of a previous tax year shall not be allowed or carried forward to reduce the tax due in any subsequent tax year.

(d) For no reason may a business loss be offset against salaries, wages, commissions or other personal service compensation.

(e) Determination of Taxable Income. The portion of the net profits attributable to the Municipality of a taxpayer conducting a business, profession or other activity both within and without the boundaries of the Municipality shall be determined as provided in Ohio R. C. 718.02 and in accordance with the rules and regulations adopted by the Administrator pursuant to this chapter.

(f) Consolidated Returns.

(1) Filing of consolidated returns may be permitted, required or denied in accordance with the rules and regulations prescribed by the Administrator. However, an affiliated group of corporations shall, subject to the provisions of this Chapter, have the privilege of making a consolidated return with respect to the income tax imposed for the taxable year in lieu of separate returns. The making of a consolidated return shall be upon the conditions that a consolidated return for the affiliated group is filed with the Internal Revenue Service, and that all corporations which at any time during the taxable year have been members of the affiliated group consent to all the consolidated return regulations prescribed by the laws prior to the last day prescribed by law for the filing of such return. the making of a consolidated return shall be considered as such consent. In the case of a corporation which is a member of the affiliated group for a fractional part of the year, the consolidated return shall include the income of such corporation for such part of the year as it is a member of the affiliated group.

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

(g) Other Taxable Income

- (1) Contributions to an IRA, SEP IRA, H.R. 10 Plan or any other deferred compensation program are taxable.
- (2) Income from Subchapter S Corporations, Limited Liability Companies and other Pass-Through Entities are taxable to a resident shareholder to the extent not subject to Columbiana Corporate Income Tax. If you are a shareholder or member in such an entity, you must include in your income your share of the corporation's taxable income whether or not the amount was actually distributed to you.
- (3) The premium value of group term life insurance coverage in excess of \$50,000.00 which is purchased with employer contributions is taxable. This income is referred to as "imputed income".
- (4) The ordinary income portion of a stock option or employee stock purchase plan is subject to the tax.
- (5) Supplemental Unemployment Benefit payments (SUB Payments) are subject to the tax.
- (6) Winnings over \$5,000.00 earned or derived from gaming, wagering, lotteries (including, but not limited to, Ohio State Lottery) or games of chance.
- (7) Early retirement incentives and wage continuation plans are taxable.
- (8) Executor, administrator and trustee fees are taxable.
- (9) Royalties are taxable.

(h) Exemptions

The provisions of this Ordinance shall not be construed as levying a tax upon the following:

- (1) Funds received from local, state, or federal governments because of service in the forces of the United States by the person rendering such service or as

a result of another person rendering such service.

- (2) Alimony payments, child support, poor relief, pensions, social security, unemployment compensation (but not including Supplemental Unemployment Benefits) and disability benefits received from private industry or local, state or federal governments or from charitable, religious or educational organizations.
- (3) Dues, contributions and similar payment received by charitable, religious, educational, or literary organizations or labor unions, lodges, and similar organizations.
- (4) Receipts from casual entertainment, amusements, sports events, and health and welfare activities conducted by bona fide charitable, religious and educational organizations and associations.
- (5) Any association, organization, corporation, club or trust, which is exempt from federal taxes on income by reason of its charitable, religious and educational organizations and associations.
- (6) Gains from involuntary conversions, cancellation of indebtedness, interest on federal obligations and income of a decedent's estate during the period of administration(except such income from the operation of a business).
- (7) Earnings and income of all persons under eighteen (18) years of age, whether residents or non-residents.
- (8) On or after January 1, 2001, compensation paid to an individual for personal services performed in this Municipality.
 - A. If the individual does not reside in this Municipality; and
 - B. If they perform such
 - C. If this individual is an employee and the principal place of business of the individual's employer is located outside this Municipal corporation, and the individual pays taxes on this compensation to the municipal corporation in which the employers' principal place of business is located and that no portion of that tax is refunded to this individual.
- (9) The rental value of a home furnished to a minister of the gospel as part of his/her compensation or the rental allowance paid to him/her as compensation to the extent used by the minister to rent or provide a home.

880.04 EFFECTIVE PERIOD.

Such tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professions or other activities, earned on and after January 1, 1974.

(Ord. 73-O-66. Passed 11-20-73.)

880.05 RETURN AND PAYMENT OF TAX.

(a) Each taxpayer, except as herein provided, shall, whether or not a tax be due thereon, make and file a return on or before April 15, 1975, and on or before April 15 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four months from the end of such fiscal year or period. The Administrator is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of tax deducted by such employer or employers from the salaries, wages, commissions or other compensation of an employee, and paid by him or her or them to the Administrator shall be accepted unless otherwise specified 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 Administrator on a form or forms furnished by or obtainable upon request from such Administrator setting forth:

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

(c) The Administrator 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 Administrator may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due. No penalty shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended.

- (d) (1) The taxpayer making a return shall, at the time of the filing thereof, pay to the Administrator 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 the provisions of Section 880.06, or where any portion of the tax has been paid by the taxpayer pursuant to the provisions of Section 880.07, or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with Section 880.15, shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing the return.

- (2) A taxpayer who has overpaid the amount of tax to which the Municipality is entitled under the provisions of 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 one dollar (\$1.00) shall be collected or refunded.

- (e)
 - (1) Where necessary, an amended return shall be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Sections 880.11 and 880.15. Such amended returns shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.
 - (2) Within three months from the final determination of any Federal tax liability affecting the taxpayer's tax liability to the Municipality, such taxpayer shall make and file an amended return showing income subject to the income tax of the Municipality based upon such final determination of Federal tax liability, and pay any additional tax shown due thereon or make claim for a refund of any overpayment. (Ord. 73-O-66. Passed 11-20-73.)

880.06 COLLECTION AT SOURCE.

(a) In accordance with the rules and regulations prescribed by the Administrator, each employer within or doing business within the Municipality shall deduct at the time of the payment of such salary, wage, commission or other compensation, the tax of one percent of the gross salaries, wages, commissions or other compensation due by the employer to the employee and shall, on or before the last day of the month following the close of each calendar quarter, make a return and pay to the Administrator the amount of taxes so deducted. Returns shall be on a form or forms prescribed by or acceptable to the Administrator and shall be subject to the rules and regulations prescribed therefor by the Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in fact been withheld.

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

(c) On or before January 31 of each year beginning with the year 1975, each employer shall file a withholding return setting forth the names and addresses of all employees from whose compensation the tax was withheld during the preceding calendar year and the amount of tax withheld from his or her employees and such other information as may be required by the Administrator. All payments not subject to withholding shall be reported on a form required by the Administrator.

(d) The Administrator, for good cause, may require immediate returns and payments to be submitted to his or her office. (Ord. 73-O-66. Passed 11-20-73.)

880.07 DECLARATIONS.

(a) Every person who anticipates any taxable income which is not subject to Section 880.06, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 880.03, shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity, together, with the estimated tax due thereon, if any, provided, however, if a person's income is wholly from wages from which the tax will be withheld and remitted to this Municipality in accordance with Section 880.06, such person need not file a declaration.

(b) (1) Such declaration shall be filed on or before April 15 of each year during the life of this chapter, or within four months of the date the taxpayer becomes subject to tax for the first time.

- (2) Those taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year or period.
- (c) (1) Such declaration shall be filed upon a form furnished by, or obtainable from the Administrator, provided, however, credit shall be taken for the Municipality's income tax to be withheld from any portion of such income. In accordance with the provisions of Section 880.15, credit may be taken for tax to be paid to or to be withheld and remitted to another taxing municipality.
- (2) The original declaration, or any subsequent amendment thereof, may be increased or decreased on or before any subsequent quarterly payment date and provided for herein.
- (d) An amended declaration must be made by January 31 for individuals and December 15 for all other taxpayers if it appears that the original declaration underestimated the income for the year by more than ten percent (10%) or if the original declaration is not equal to the taxpayer's prior year tax liability.
- (e) For individuals, such declaration of estimated tax to be paid this municipality shall be accompanied by a payment of at least one-fourth (1/4) of the estimated annual tax on or before April 30, July 31, and October 31 of the taxable year, and January 31 of the next year. for all other taxpayers, such declaration of estimated tax to be paid to this Municipality shall be accompanied by a payment of at least one-fourth (1/4) of the estimated annual tax on or before April 30 and at least a similar amount shall be paid on or before June 15, September 15 and December 15. A taxpayer reporting on a fiscal year shall make a payment of at least one-fourth(1/4) of the estimated tax on or before the 15th day of the fourth month of the taxpayer's taxable year and the 15th day of the sixth, ninth and twelfth months of the taxpayer's taxable year, provided, however, that in the case of an amended declaration having been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.
- (f) On or before the last day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the Municipality shall be paid therewith in accordance with the provisions of Section 880.05.
- (Ord. 73-O-66. Passed 11-20-73.)

880.08 DUTIES OF THE ADMINISTRATOR.

- (a) (1) It shall be the duty of the Manager, herein designated as the Administrator, and the Deputy Administrator, to be appointed by him or her, 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.
- (2) It shall be the duty of the Administrator to enforce payment of all 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

and/or to make any return, including taxes withheld, and to show the dates and amounts of payments thereof. The Administrator is hereby charged with the enforcement of the provisions of this chapter, and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to 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 proper returns are filed by the taxpayer for all amounts owed by him or her under this chapter. Failure to make any deferred payment when due, shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Sections 880.11 and 880.12 shall apply.

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

(c) Subject to the consent of the Board of Review or pursuant to regulation approved by such Board, the Administrator shall have the power to compromise any interest or penalty, or both, imposed by Section 880.10. (Ord. 73-O-66. Passed 11-20-73.)

**880.09 INVESTIGATIVE POWERS OF THE ADMINISTRATOR;
DIVULGING CONFIDENTIAL INFORMATION.**

(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 reported for taxation or any transaction tending to affect such income, and for this purpose may compel the production of books, papers,

records and Federal income tax returns and the attendance of all persons before him or her, whether as parties or witnesses, whenever he or she believes such persons have knowledge of such income or information pertinent to such inquiry. 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 the provisions of this section 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.

(c) Any information gained as a result of any returns, investigations, verifications or hearings before the Administrator, required by this chapter or authorized by the rules and regulations, shall be confidential and no disclosure thereof shall be made except for official purposes or as ordered by a court of competent jurisdiction. No person shall divulge such information.

(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 the withholding taxes are paid.

(Ord. 73-O-66. Passed 11-20-73.)

880.10 INTEREST AND PENALTIES.

(a) 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-half of one percent per month or fraction thereof.

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

- (1) For failure to pay taxes due other than taxes withheld: one and one-half percent per month or fraction thereof.
- (2) For failure to remit taxes withheld from employees: five percent per month or fraction thereof.

(c) 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, 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. Interest, penalty or other similar assessment or charge against a taxpayer for the late payment or nonpayment of estimated tax liability shall not be imposed in either of the following circumstances.

- (1) The taxpayer is an individual who resides in the municipal corporation but was not domiciled there on the first day of January of the current calendar year;
- (2) The taxpayer has remitted an amount at least equal to one hundred percent of the taxpayer's liability for the proceeding year as shown on the return filed by the taxpayer for the preceding year provided that the return for the preceding year reflected a twelve-month period and the taxpayer filed a return for the preceding year.

(d) Upon recommendation of the Administrator, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the Administrator to recommend abatement of penalty and/or interest, the Board may nevertheless abate penalty or interest, or both. (Ord. 73-O-66. Passed 11-20-73.)

880.11 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 a civil action at law. All additional assessments shall be made and all civil actions to recover Municipal income taxes and penalties and interest thereon shall be brought within three years after the tax was due or the return was filed, whichever is later.

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

(c) Amounts of less than one dollar (\$1.00) shall not be collected or refunded. (Ord. 73-O-66. Passed 11-20-73.)

880.12 VIOLATIONS.

(a) No person firm, corporation or other entity subject to the provisions of this Chapter 880 shall:

- (1) Fail, neglect or refuse to make any return or declaration required by this chapter;
- (2) Make any incomplete, false or fraudulent return;
- (3) Willfully fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter;
- (4) Willfully fail, neglect or refuse to withhold the tax from his or her employees or remit such withholding to the Administrator;
- (5) Refuse to permit the Administrator or any duly authorized agent or employee to examine his or her books, records, papers and Federal income tax returns relating to the income or net profits of a taxpayer;

- (6) Fail to appear before the Administrator and to produce his or her books, records, papers or Federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator;
- (7) Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer;
- (8) Fail to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized hereby;
- (9) Give to an employer false information as to his or her true name, correct Social Security number and residence address, or fail to promptly notify an employer of any change in residence address and the date thereof;
- (10) Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and the Municipality's income tax withheld, or to knowingly give the Administrator false information; or Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter.

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

(c) The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him or her from making any information return, return or declaration, from filing such form or from paying the tax. (Ord. 73-O-66. Passed 11-20-73.)

880.13 BOARD OF REVIEW.

(a) A Board of Review, consisting of a Chairperson and two other individuals to be appointed by Council, is hereby created. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board may be conducted privately, and the provisions of Section 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 on appeal.

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

(c) Whenever the Administrator's issues a decision regarding a municipal income tax obligation that is subject to appeals provided in this section or in an Ordinance or Regulation of this Municipality, the Administrator's shall notify the taxpayer at the same time of the taxpayers's right to appeal the decision and of the manner in which the taxpayer may appeal the action. Any person who is aggrieved by a decision by the Administrator and who has filed with this Municipality the required returns or other documents pertaining to this Municipal income tax obligation at issue in the decision, may appeal the decision to the Board created pursuant to this section by filing a request with the Board. The request shall be in writing, shall state why the decision should be deemed incorrect or unlawful and shall be filed within 30 days after the Administrator issues the decision complained of. The Board shall schedule a hearing withing 45 days after receiving the request unless the taxpayer waives a hearing. If the taxpayer does not waive a hearing, the taxpayer may appear before the Board and may be represented by an attorney-at-law, certified public accountant or other representative.

(d) The Board may affirm, reverse or modify the Administrator's decision or any part of that decision. The Board shall issue a decision on the appeal within 90 days after the Board's final hearing on the appeal and send notice of its decision by ordinary mail to the taxpayer within 15 days after issuing the decision.

880.14 ALLOCATIONS OF FUNDS.

(a) The funds collected under the provisions of this chapter shall be deposited in the General Fund, and funds collected for the tax period beginning January 1, 1996, and ending December 31, 1996, shall be disbursed in the following order:

- (1) Such part thereof as shall be necessary to defray all costs of collecting the taxes and the costs of administering and enforcing the provisions thereof; Not more than forty-five percent of the net available income tax received during said one-year period may be used to defray operating expenses of the Municipality.
- (2) At least fifty-five percent of net available income tax receipts received during said one-year period shall be set aside and used for capital improvements for the Municipality, including, but not limited to, development and construction of storm sewers and street improvements; for public buildings, parks and playgrounds; and for equipment necessary for the Police, Fire, Street, and Public Safety Departments.

(b) The funds collected under the provisions of this chapter shall be deposited in the General Fund, and funds collected for the tax period beginning January 1, 1997, and running indefinitely thereafter, shall be disbursed in the following order:

- (1) Such part thereof as shall be necessary to defray all costs of collecting the taxes and the costs of administering and enforcing the provisions thereof;
- (2) Not more than forty percent of the net available income tax receipts received

annually may be used to defray operating expenses of the Municipality.

- (3) At least sixty percent of the net available income tax receipts received annually shall be set aside and used for capital improvements for the Municipality, including, but not limited to, development and construction of storm sewers and street improvements; for public buildings, parks and playgrounds; and for equipment necessary for the Police, Fire, Street, and Public Safety Departments.

(Ord. 96-O-1533. Passed 3-19-96.)

880.15 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(a) Where a resident of the Municipality is subject to a municipal income tax in another municipality, he or she shall be entitled to a credit as hereinafter set forth.

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

(c) A claim for refund or credit under this section shall be made in such manner as the Administrator may by regulation provide. (Ord. 93-O-1345. Passed 3-16-93.)

880.16 COLLECTION OF TAX AFTER EFFECTIVE PERIOD OF CHAPTER.

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

(b) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Section 880.05 and 880.06 as though the same were continuing. (Ord. 73-O-66. Passed 11-20-73.)

880.17 **CHECK CHARGES**

A charge of twenty dollars(\$20.00) shall be added to any tax due when any check in payment of taxes, penalties or interest is returned unpaid by the bank or respective financial institution. Such charge shall offset the cost of additional bookkeeping and processing and shall be levied regardless of any charge which may be levied against the maker by his/her bank or respective financial institution. Notice by the Administrator or his/her duly authorized employee to the taxpayer that a check has been returned unpaid is not required nor is notice of the above charge required. The tender of payment of tax, penalties, fees, charges or interest shall no be considered as received so long as such remains unpaid.

880.18 **SAVING CLAUSE**

If any sentence, clause, section or part of this Ordinance, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this Ordinance and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this Ordinance. It is hereby declared to be the intention of the Council of the municipality that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof had not been included herein.

880.19 **REPEAL CLAUSE**

This Ordinance hereby repeals all past Income Tax Ordinances but shall not affect collection of taxes due as a result of said Ordinances.

880.99 **PENALTY.**

(a) Whoever violates any of the provisions of this chapter, for which no penalty is otherwise provided, 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. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

(b) In addition to the penalty set forth in subsection (a) hereof, whoever violates Section 880.09(d) shall be guilty of an offense punishable by immediate dismissal.