

CITY OF BRUNSWICK

INCOME TAX RULES & REGULATIONS RELATIVE TO CHAPTER 880 OF THE CODIFIED ORDINANCES

RULE 1 RE: 880.02 DEFINITIONS

Under the City Charter, the Director of Finance is responsible for the collection of all taxes, therefore, the Director of Finance **is** the TAX ADMINISTRATOR.

RULE 2

When a W-2 shows another city's full tax rate was NOT withheld on gross earnings, this indicates the full municipal tax rate for that city was withheld on only a portion of the gross earnings. Therefore, the amount of the other city's tax withheld must be divided by that city's tax rate to determine the amount of earnings on which municipal tax was in fact withheld.

The taxpayer is allowed a 1% credit for tax withheld in other cities, and earnings on which NO tax was withheld are subject to the City of Brunswick's tax rate in effect at the time the wages were earned. For the FY 2010, the rate is 1.85%.

RULE 3 RE: "TAXABLE INCOME" See Code Section 880.02(v) for definition

RULE 4 DEPRECIATION RECAPTURE

When rental property is sold, if it was rental property for less than one year, or when accelerated rate of depreciation has been taken, then depreciation recapture is in order.

RULE 5 RE: 880.04 (d) (1) Corporations

Premise: To file a consolidated return, the two (2) or more businesses must each be doing business in Brunswick so that they are both subject to the Brunswick City Income Tax. (One time election to file one way or the other, consolidated or separate.) Whatever method is employed when filing a Federal Return will be accepted by Brunswick City, consistently followed.

RULE 6 RE: "Military Pay"

When a taxpayer has been ordered to active duty, wages earned while on active duty are not taxable. The taxpayer must provide necessary data to substantiate the active duty status.

NOTE: R.O.T.C. scholarship is not subject to the Brunswick City Tax.

RULE 7 Deferred compensation or Modified Annuity

At the time the wages are EARNED, which the taxpayer is placing into a Deferred Compensation Plan or Modified Annuity, such wages ARE subject to the Brunswick City Tax. After the employee is retired or disabled, and eligible to receive money from the Plan, such money is not subject to the Brunswick City tax.

RULE 8 RE: 800.04 IMPOSITION OF TAX

When is a non-resident individual or non-resident unincorporated business subject to Brunswick Municipal Income Tax?

All taxpayers including non-resident individuals and non-resident unincorporated businesses are required to FILE A RETURN when they have gross income from salaries, wages, commissions and/or other compensation, gross income from sales made, work done, or services performed or rendered, and business or other activities conducted in the City of Brunswick, whether or not such individual or such unincorporated business entity has an office or place of business in the City of Brunswick.

A RETURN is required to substantiate that not all the gross income is subject to the tax since the ordinance permits a deduction of the expenses incurred in earning the gross income.

A RETURN is required even though calculations in arriving at net income discloses the fact that there is a loss, therefore no income is subject to the Brunswick City Tax.

RULE 9 RE: 880.06 (b) (6) NO EARNED INCOME

When a taxpayer who had income in the past, but has no earned income for a certain year, the taxpayer can indicate such on the tax return, sign it, and file it by the due date.

The taxpayer can also elect to sign an affidavit stating he/she had no earned income subject to the Brunswick City Income Tax.

RULE 10 RE: Retired Residents

Tax Office will not pursue retired people once our Tax Office is notified that they are retired, unless there is reason to believe they had earned income to report.

RULE 11 RE: 880.06 (e) Overpayments or Refunds

If the taxpayer has an outstanding balance, any payment(s) shall be applied first to the outstanding balance.

An overpayment, if any, at the election of the taxpayer communicated to the Administrator, shall be refunded or transferred against any subsequent liability.

Credit balances will remain on account for 3 years. If the taxpayer moves away and a forwarding address has been provided, the taxpayer will be notified. The taxpayer has 3 years from the time the return was filed, to claim it.

RULE 12 Auditing of Tax Returns

All returns are audited and the correct amount of tax established. If there is a correction, a copy of the corrected return will be mailed to the taxpayer. If the correction shows there is additional tax due, a past-due notice will accompany the copy of the corrected return.

RULE 13 Grace period for taxpayer to pay additional tax due without penalty.

When the audit reveals an error resulting in additional tax due on a return that was timely filed, a corrected copy of the return along with a past-due notice showing the additional tax due, will be mailed to the taxpayer with a **“due date”** by which to comply (at least two weeks)

If the taxpayer does not pay the additional tax due within the time allowed on the past-due notice, or bring in proof to show the tax return was figured correctly, then penalty and interest will be assessed as provided in section 880.11.

RULE 14 RE: 880.11 (a) (1) PENALTIES

The Employer is obligated to withhold and remit the municipal tax imposed by Chapter 880 of the Brunswick City Code. Therefore, the penalty will be assessed against the employer when the employer fails to withhold and remit the municipal tax.

RULE 15 RE: Divorced or Separated

When the divorced or separated couple file jointly, it makes no difference if both parties had taxable income or only one had taxable income, the City can collect the entire amount of tax due from the resident spouse.

If the return was filed jointly, and declared payments have been made throughout the year, the declared amount paid shall be split equally, giving half credit to each unless one party or the other states in writing that the other party may use it all.

Usually when a couple files jointly, they are expected to continue to file jointly. However, in the case where they are divorced or separated, even though they filed jointly in the prior year, the resident spouse can file separately as long as they notify the Tax Office of their new current status.

RULE 16 RE: Real Estate Agents

For a real estate agent(s) whether a RESIDENT or a NON-RESIDENT who is licensed in the City of Brunswick, and conducting their business from a Brunswick office or via the internet from their home, their NET PROFIT is subject to the City of Brunswick Income Tax on all sales.

RULE 17 RE: Extensions of time to file

It is assumed that all businesses will have acquired (if needed) a Federal extension of time to file if the return is not filed with the Tax Office by the due date.

It is further assumed that taxpayers with tax already paid (approximately 80% of an eventual amount due, or amount paid equal to last year's liability) will have acquired a Federal extension of time. Interest is applicable to the amount due on the filing date, accrued from the normal due date if different from April 30th.

RULE 18 RE: IRS Section 179- Election to expense depreciable business assets

The Capital Asset Purchase expense election applicable to Subchapter "S" corporations must be allowed to the "S" Corporation as a deduction to arrive at the correct taxable income.

RULE 19 RE: Earnings upon which NO city tax was withheld.

Earnings and/or portions of earnings which had no City Tax withheld are subject to the Brunswick City income tax rate.

The fact that another City may impose tax at a rate greater than the Brunswick rate

has no effect on the imposition of tax in accordance with Chapter 880 of the Brunswick City Code.

Furthermore, when Brunswick has allowed a credit for taxes paid to another city, and the resident obtains a refund of taxes paid to that other city, then the credit directly related to the amount of the refund is null and void. The taxpayer would owe additional tax to the City of Brunswick.

RULE 20 RE: 880.04 (e) 12 College Students

There is an exemption granted to the earnings of a college student (who is a dependent) attending a college or university while living outside the City of Brunswick.

To claim this exemption of earnings while living away at college, the dependent student must attach a copy of their student I.D. card and proof of enrollment, plus a copy of their first page of their federal return (front & back) showing they did not take an exemption for themselves.

If the student has no Federal Return, but still has earnings, the student must provide their parent's social security number so the tax office can cross-reference to ascertain that the parents of said student have claimed said student as a dependent. (In this case, the parents are required to attach the first page of their federal return (front & back) to their Brunswick City Tax Return and file by the due date.)

The Student must be in compliance for each year separately, as the exemption is ONLY good for one year.

The dependent student must also provide proof of residency outside the City of Brunswick while attending college or university, and provide proof of residency outside the City of Brunswick while earning any and all compensation in order for the exemption to be validly claimed.

RULE 21 RE: Schedule "C" income and/or Schedule "E" income.

Ruling by the Income Tax Board of Review: Chapter 880 of the Brunswick City Code views each of the following as separate entities:

1. Schedule "C" income
2. Schedule "E" income
3. W-2 Income

Because these are viewed as separate entities, losses from a business or rental property are NOT allowed to be applied against wage income or what is termed W-2 income.

Further, chapter 880 of the Code treats each of the aforementioned sources of income as separate entities, and as such, does not allow the loss from one Schedule "C" business to offset the profit on another Schedule "C" business.

The loss on the first Schedule "C" business can be carried forward for five (5) years and applied toward future income on this business. Likewise, the loss on rental property can be carried forward for five (5) years and applied against future years rental income.

To be consistent with this treatment, losses on Schedule “E” are disallowed toward offsetting wage (W-2) income, or offsetting Schedule “C” income. Nor is it allowed to use Schedule “C” losses to offset Schedule “E” income.

RULE 22 RE: “S” Corporations

The Shareholder(s) receive a K-1 from the “S” Corporation showing their distributive share of income and related expenses/deductions. Shareholders file their K-1 on a Schedule “E” to the IRS and pay any tax due thereon.

The same would hold true for the City of Brunswick’s income tax, however, where the shareholder can show the income is classified as “dividend income”, and said dividend income is not substituted for compensation for services performed, then such dividend income is not subject to the Brunswick City tax.

RULE 23 RE: PARSONAGES

Brunswick adopted this rule that permits the City to treat “an allowance for a Parsonage” similar to that of the Internal Revenue Service. The Income Tax Board of Review has established the following guidelines for the City to follow relative to an exclusion or allowance for providing a Parsonage. The Guidelines are as follows:

1. The Payment must come from a bona-fide Church.
2. Proof must be provided to show that the taxpayer is an ordained, commissioned or licensed minister of the gospel, or a bona fide Rabbi or Cantor of the Jewish Faith.

RULE 24 RE: Business Expenses on Form 2106

The City of Brunswick will allow the 2106 business expenses, except for the miscellaneous or “other” category, provided a copy of the Federal Form 2106 is attached to the City Tax Return.

When reducing the amount of the wages, the tax that was withheld must also be reduced accordingly.

Approved by Board of Review, October 17, 2002 to be added to Rules and Regulations

RULE 25 RE: Prior years payment due when estimated payments have been made

Taxpayer files return and during the audit process an error is found where additional tax is due

Taxpayer is currently paying estimated payments

The balance of taxes due from prior year can be deducted from estimated payment

The Income Tax Office to notify taxpayer in writing of the payment adjustment, stating additional taxes paid from estimated payment, and advising taxpayer of current estimated payment credited to their account.