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CROSS REFERENCES

Power to levy income tax - see Ohio Const., Art. XVIII, Sec. 3

Payroll deductions - see Ohio R.C. 9.42

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

880.005 PURPOSES.

To provide funds for the purposes of general municipal operations, maintenance, acquisition of new equipment, extension and enlargement of municipal services and facilities and capital improvements of the City, there is hereby levied a tax on salaries, wages, commissions and other compensation at a rate of one percent (1.00%).

To provide funds for the purpose of operating and expanding the Safety Forces of the City, there is hereby levied an additional tax effective January 1, 1996 on salaries, wages, commissions and other compensation at a rate of thirty-five one-hundredths percent (0.35%).

During the period from January 1, 2010 through December 31, 2017, to provide funds for the purpose of maintaining staffing levels for the Safety Forces of the City, there is also hereby levied a tax on salaries, wages, commissions and other compensation at a rate of fifty one- hundredths percent (0.50%).

(Ord. 60-12. Passed 12-10-12.)

880.01 ALLOCATION OF REVENUES.

The funds collected under the provisions of this Chapter **880** shall be credited to the General Fund and applied for the following purposes and in the following order:

(a) Administration. Such part thereof as shall be necessary to defray all costs of collecting all income taxes levied and the cost of administering and enforcing the provisions of this Chapter, shall be appropriated by Council for that purpose.

(b) Allocation of Thirty-Five One-Hundredths Percent (0.35%) Tax Increase. The funds resulting from the additional 0.35% income tax rate, as provided in Ordinance No. 89-95, passed by City Council on July 24, 1995, and approved by the electors of the City at an election on November 7, 1995, shall be allocated and

transferred to the Police Fund and/or the Fire Fund and appropriated for the purpose of operating and expanding the Safety Forces of the City.

(c) Allocation of One-Half Percent (1/2%) Tax Increase. During the period from January 1, 2010 through December 31, 2017, the funds resulting from the additional 0.50% income tax rate, as provided in Ordinance No. 4-09, passed by the Council on January 26, 2009, and approved by the electors of the City at an election on May 5, 2009, and the continuation of that increase as provided in Ordinance No. 60-12, approved by the voters of the City at an election on November 6, 2012 and passed thereafter by the Council, shall be allocated and transferred to the Police Fund and/or the Fire Fund and appropriated for the purpose of maintaining staffing levels for the Safety Forces of the City.

(d) The balance of those funds shall be available for appropriation and allocation, as deemed necessary by the Council of the City of Brunswick, for the following purposes: general municipal operations, maintenance, acquisition of new equipment, extension and enlargement of Municipal services and facilities and capital improvements of the City.

(e) The Council shall, from time to time, pass Ordinances providing for the allocations required and permitted in this Section, which shall be on file with the Clerk of Council.

(Ord. 60-12. Passed 12-10-12.)

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 ordinance, whether appointed or elected, to administer and enforce the provisions of such ordinance, regardless of the particular title assigned such individual.

(b) "Association" means a partnership, limited liability partnership, Subchapter S Corporation or any other form of pass through entity as defined by the Internal Revenue Code.

(c) "Board of Review" means the Board created by and constituted as provided in Section [880.14](#).

(d) "Business" means an enterprise, cooperative activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity. The ordinary administration of a decedent's estate by the executor or administrator and the mere custody, supervision and management of trust property under passive trust, whether inter vivos or testamentary, unaccompanied by the actual operation of a business as herein defined, shall not be construed as the operation of a business.

(e) "Business allocation" means the portion of net profits to be allocated to the City as having been made in the City, under the three-factor formula as provided for in Section [880.04](#).

(f) "City" means the City of Brunswick, Ohio.

(g) "Corporation" means a corporation, including but not limited to C corporations, or joint stock association organized under Federal or State law or under the laws of any other state, territory or foreign country or dependency.

(Ord. 152-04. Passed 11-22-04.)

(h) "Employee" means a person who performs any service on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of the business. The fact that an employer is required to withhold either Federal income tax or social security or to make payments under the Ohio Workers' Compensation Law for any person shall be prima-facie evidence that such person is an employee.

(Ord. 69-07. Passed 7-23-07.)

(i) "Employer" means an individual, partnership, association, corporation (including a corporation not for profit), governmental agency, board, body, bureau, department, subdivision, unit or any other entity employing one or more persons on a salary, wage, commission or other compensation basis, whether or not

such employer is engaged in business. The term "employer" does not include a person who employs only domestic help for such person's private residence.

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

(k) "Fundamental change" means any substantial alteration by an employer including liquidation, dissolution, bankruptcy and reorganizations such as merger, consolidation, acquisition, transfer or change in identity, form or organization.

(l) "Gross receipts" means total income from any source whatsoever.

(m) "Manager" means the owner(s) or any of the employer's officers, responsible persons, employees having control or supervision, and employees charged with the responsibility of filing the return, paying taxes and otherwise complying with this chapter.

(n) "Net profits" See definition of "Adjusted Federal Taxable Income"

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

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

(q) "Person" means every natural person, partnership, fiduciary, association, corporation or other entity. When used in a clause prescribing or imposing a penalty, the term "person", as applied to any unincorporated entity, means the partners or members thereof and, as applied to a corporation, the officers thereof and, as applied to any unincorporated entity or corporation not having any partner, member or officer within the City, an employee or agent of such unincorporated entity or corporation who can be found within the City.

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

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

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

(Ord. 152-04. Passed 11-22-04.)

(u) "Tax credit" means the credit granted by a municipality to its residents, who are subject to a municipal income tax in another municipality.

(Ord. 7-09. Passed 2-23-09.)

(v) "Taxable Income" means all income except income prohibited by Ohio R.C. 718. By way of illustration and not limitation, "Taxable Income" means income as defined under letters (aa) and (ab) of this section for Adjusted Federal Taxable Income and/or Qualifying Wages (as defined by Ohio R.C. 718) including, but not limited to: bonuses, incentive payments, director's fees, property in lieu of cash, tips, dismissal or severance pay, contest prizes, lottery winnings, gambling winnings or other game prizes or winnings, awards, supplemental unemployment benefits, and any form of compensation paid by an employer to a person before any deductions and/or net profits from the operation of a business, profession or other enterprise or activity conducted and adjusted in accordance with the provisions of this chapter.

(w) "Taxing municipality" means any municipal corporation levying a municipal income tax on salaries, wages, commissions and other compensation earned by individuals and on the net profits earned from the operation of a business, profession or other activity.

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

(y) The singular includes the plural and the masculine includes the feminine and the neuter.

(z) "Business corporation(s) operating under Subchapter "S" means any business corporation which has elected to be an "S" Corporation under the provisions set forth under the Internal Revenue Code.

(Ord. 107-90. Passed 10-22-90.)

(aa) "Adjusted Federal Taxable Income" means a business's federal taxable income before net operating losses and special deductions as defined under the Ohio R.C. 718. The Tax Administrator shall

have full capacity to review and adjust the reported Adjusted Federal Taxable Income as under the provisions set forth in Section [880.09](#).

(bb) "Qualifying Wages" means wages, as defined under the Internal Revenue Code without regard to any wage limitations as defined under the Ohio R.C. 718. (Ord. 152-04. Passed 11-22-04.)

880.03 RENTALS.

(a) Rental income received by a taxpayer shall be included in the computation of Adjusted Federal Taxable Income from business activities under Section [880.04](#) as reported on the Federal Schedule E and/or as required under Ohio R.C. 718.

(b) Every property owner subject to this section shall, personally or through a management agent, submit to the Administrator a list of names and addresses of all persons, firms, corporations or other entities occupying, leasing, renting or otherwise using the premises within the City in such a manner as to produce economic benefit to the property owner, whether or not such benefit is called "rent" and whether or not such benefit results in a profit or loss. The required list shall be prepared by June 30, of each year and submitted on or before July 31, of each year and prepared by December 31, of each year and submitted on or before January 31, of the following year and at such other times as may be prescribed by the Administrator.

(Ord. 152-04. Passed 11-22-04.)

880.04 IMPOSITION OF TAX.

(a) Basis of Imposition. Subject to the provisions of Section [880.15](#), there shall be imposed (i) for the period commencing January 1, 2010 and ending December 31, 2013 and for the period commencing January 1, 2014 and ending December 31, 2017, an annual tax for the purposes specified in Section [880.005](#) at the rate of 1.85% per year, and (ii) thereafter, unless a separate Ordinance providing for a different rate or rate is approved by the voters of the City and this Council or otherwise passed in accordance with law, an annual tax for the purposes specified in the first two paragraphs of Section [880.005](#) at the rate of 1.35% per year, upon the following:

(1) Resident individuals. On all Taxable Income as defined in Section [880.02](#) of this Chapter earned, received, won or awarded during the effective period of this chapter by residents of the City;

(2) Nonresident individuals. On all Taxable Income as defined in Section [880.02](#) of this Chapter earned, received, won or awarded during the effective period of this chapter by nonresidents for work done, services performed or rendered, or winnings or awards received in the City;

(3) Resident unincorporated businesses, and/or business corporation operating under Subchapter "S".

A. On the portion attributable to the City of the net profits earned during the effective period of this chapter of all resident unincorporated businesses, and/or business corporations operating under subchapter "S", professions or other entities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the City; and

B. On the portion of the distributive share of the net profits earned during the effective period of this chapter of a resident partner, shareholder or owner of a resident unincorporated business entity, or business corporation operating under subchapter "S", not attributable to the City and not levied against such unincorporated business entity or business incorporated under subchapter "S"; (however, the liability of the individual partner, shareholder or owner taxable hereunder on income attributable to another taxing municipality shall be subject to the tax credit provisions of Section [880.15](#)). The distributive share of net profits from a resident shareholder from a subchapter "S" corporation is subject to City income tax only to the extent such distributive share of net profits would be allocated or apportioned to Ohio under Ohio R.C. 718.01(H)(9)(c).

(4) Nonresident unincorporated businesses, and/or business corporations operating under Subchapter "S".

A. On the portion attributable to the City of the net profits earned during the effective period of this chapter of all nonresident unincorporated businesses, and/or business corporations operating under

subchapter "S", professions or other entities, having gross income derived from sales made, work done or services performed or rendered and business or other activities conducted in the City, whether or not such unincorporated business under subchapter "S", has an office or place of business in the City; and

B. On the portion of the distributive share of the net profits earned during the effective period of this chapter of a resident partner, shareholder or owner of a nonresident unincorporated business entity or business corporations operating under subchapter "S", not attributable to the City and not levied against such unincorporated business entity or business incorporated under subchapter "S"; (However, the liability of an individual partner, shareholder or owner taxable hereunder on income attributable to another taxing municipality shall be subject to the tax credit provisions of Section [880.15](#)). The distributive share of net profits from a resident shareholder from a subchapter "S" corporation is subject to City income tax only to the extent such distributive share of net profits would be allocated or apportioned to Ohio under Ohio R.C. 718.01(H)(9)(c).

(5) Corporations. On the portion attributable to the City of the Adjusted Federal Taxable Income 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 City, whether or not such corporations have an office or place of business in the City.

(b) Allocation Formula.

(1) The portion of the entire Adjusted Federal Taxable Income of a taxpayer to be allocated as having been derived from within the City shall be determined as follows: Multiply the entire net profits by a business allocation percentage to be determined by a three- factor formula of property, payroll and sales, each of which shall be given equal weight, as follows:

A. The average 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 the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated; (as used in this subparagraph, real property includes property rented or leased by the taxpayer, the value of which shall be determined by multiplying the annual rental thereon by eight.)

B. Wages, salaries and other compensation paid during the taxable period to persons employed in the business or profession for services performed in the City to wages, salaries and other compensation 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 R.C. 718.011; and

C. 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.

(2) In the event that the foregoing allocation formula does not produce an equitable result, another basis may be substituted, under uniform procedures, so as to produce such result pursuant to Ohio R.C. Chapter 718.

(c) Operating Loss Carry Forward.

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

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

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

(d) Consolidated Returns.

(1) Filing of consolidated returns may be permitted or required in accordance with rules and regulations prescribed by the Administrator and with Ohio R.C. 718.06.

(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 the case of any person who operates a division, branch, factory, office, laboratory or activity within the City constituting a portion only of its total business, the Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to the City. If the Administrator finds that 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 such division, branch, factory, office, laboratory or activity, or by some other method, he shall make such allocation as he deems appropriate to produce a fair and proper allocation of the net profits to the City.

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

(1) The pay or allowance of the 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) Poor relief, unemployment insurance benefits, old age pensions or similar payments, including disability benefits received from local, State or Federal governments or charitable, religious or educational organizations;

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

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

(5) Alimony received;

(6) The personal earnings of any natural person under eighteen years of age;

(7) Compensation for personal injuries or for damages to property by way of insurance or otherwise;

(8) The interest, dividends and other revenue from intangible property;

(9) The gains from involuntary conversion, cancellation of indebtedness, interest of Federal obligations, items of income already taxed by the State which the City is specifically prohibited from taxing and income of a decedent's estate during the period of administration, except such income from the operation of a business.

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

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

(12) The qualifying wages of a student dependent attending a school or institution of higher learning outside the City and living outside the City while in attendance at such school or institution and/or on normal school breaks and vacations, to the extent that such income was earned while the dependent was not physically living in the City or working for a Brunswick employer. To qualify as a dependent, an individual must meet the Federal Dependency Tests.

(Ord. 60-12. Passed 12-10-12.)

880.045 CONTRACTOR AND SUBCONTRACTOR INCOME TAX REGISTRATION.

(a) Requirements. To assist in the enforcement of Chapter [880](#), the following requirements are established relative to Contractor and Subcontractor Registration with the Income Tax Office.

(1) Any individual, partnership, association, corporation or other entity engaged in the business of construction work, or performing construction work in the City of Brunswick, shall provide a Federal Tax Identification Number (TIN) and all necessary information required (including information on subcontractors) to establish an account in the Division of Income Tax, prior to beginning construction work. The Income Tax Division shall issue a Certificate, which shall be verified to the Division of Building Inspection and Permits, prior to issuance of a contractor registration.

(2) Failure to comply with the aforementioned requirements shall be cause to revoke the contractor's registration, and will require the contractor to immediately cease all work in the City of Brunswick until such time as the contractor complies with all the provisions of this chapter.

(3) Failure to comply with Chapter [880](#) of the Brunswick City Code shall result in revocation of the contractor's registration.

(b) City Awarded Construction Contract(s). Whenever the City awards a construction contract, the Contractor will be required to provide a Federal Tax Identification Number (TIN) together with the proper company name, address, home office location, subcontractors, plus all other required information to the City Income Tax Office.

(1) Where there has been a failure to comply with Chapter [880](#) of the Brunswick City Code, or specifically with Section [880.045](#), the City may hold in abeyance any payment by the City to the contractor until the contractor has complied with all provisions of Chapter 880 of the Brunswick City Code.

(c) Optional Income Tax Fee. All Contractors performing work within the City requiring a Contractor Registration will comply with the following provisions:

(1) An Income Tax fee may be set by the Income Tax Division which will bear a reasonable relationship to the size of the construction job, which would include employee withholdings, and also bear a reasonable relationship to the length of time required to complete said construction job.

(2) Any income tax fee shall be credited toward the contractor's tax liability which shall be determined in accordance with Chapter [880](#).

(d) Transient and Temporary Work. Transient or temporary contractors performing work in the City shall be subject to Chapter [880](#) and required to obtain a certificate from the Income Tax Division in order to obtain a contractor's registration. The Income Tax Division is authorized to charge a reasonable fee to cover the estimated tax liability that would be imposed in accordance with Sections [880.04](#) and [880.07](#), relative to employee withholding.

(1) If such taxpayer does not wish to pay the reasonable fee established by the Tax Division, said taxpayer shall be required to comply with Chapter [880](#) by filing all appropriate tax returns and remitting the tax due.

(e) Violations: Compliance Required. Whoever fails, neglects or refuses to comply with the requirements set forth herein, to obtain the written certificate current, and who nonetheless engages in the construction and/or repair activities covered by Chapter [880](#), shall be subject to fine or imprisonment or both pursuant to Section [880.99](#).

(1) Upon notice from the Income Tax Division to the Division of Permits and Inspections, the Chief of the Division of Permits and Inspections shall provide written notice ordering any person, firm, partnership or corporation in noncompliance with any provision of Chapter [880](#) of the Brunswick City Code, to cease and desist construction and/or repair work until that person, firm, partnership or corporation complies with the provisions of Chapter [880](#).

(2) Until compliance is attained, an injunction and/or restraining order may be granted by a court of competent jurisdiction, upon proper application by the Income Tax Office or by the Division of Permits and Inspections, to prevent further violations of appropriate sections of Chapter [880](#) under penalty of law as set

forth herein.

(Ord. 152-04. Passed 11-22-04.)

880.05 EFFECTIVE PERIOD.

The income tax provided for by this chapter shall be levied, collected and paid with respect to qualifying wages, commissions and other compensation and with respect to the Adjusted Federal Taxable Income of businesses, professions or other activities, earned from July 1, 1969, to and including the date of any repeal of this chapter.

(Ord. 152-04. Passed 11-22-04.)

880.06 RETURN AND PAYMENT OF TAX.

(a) Dates; Exemption. Each taxpayer eighteen years and older, except as herein provided, shall, whether or not a tax is due thereon, make and file a return on or before April 15, of the year following the effective date of this chapter and on or before April 15, of each year thereafter, unless April 15 falls on a weekend day or holiday, then the return is due on the federal individual due date. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within three and one-half months from the end of such fiscal year or period.

(b) Returns and Content Thereof. The return shall be filed with the Administrator on a form or forms furnished by or obtainable upon request from him setting forth:

(1) The aggregate amount of qualifying wages, commissions and other compensation earned;

(2) The adjusted federal taxable income from a business, profession or other activity less allowable expenses incurred in the acquisition of such adjusted federal taxable income; (such income shall include only income earned during the year, or portion thereof, covered by the return and subject to the tax imposed by this chapter.)

(3) The amount of tax imposed by this chapter on income reported;

(4) Any credits to which the taxpayer may be entitled under the provisions of Section [880.07](#), [880.08](#) and [880.15](#);

(5) Such other pertinent statements, information returns or other information as the Administrator may require; and

(6) If the taxpayer has no earned income, he shall indicate such on the income tax return; sign it, date it and file by the normal due date.

(c) Extensions. The Administrator will extend the time for the filing of the annual return for a period pursuant to provisions set forth by the Ohio R.C. 718. This extension will be granted by submitting a copy of Federal Extension Form (4868 or 7004) by the date provisions set forth in [880.06\(a\)](#) of this section and providing:

(1) Eighty percent (80%) of the tax due has been paid by the normal due date, or

(2) Payment of at least as much as was due the previous year has been paid by the normal due date. Failure to comply with provisions (1) or (2) will incur penalty and interest as provided for in Section [880.11](#) of this chapter.

(d) Payment With Returns. The taxpayer making a return shall, at the time of the filing thereof, pay to the Administrator the balance of the tax due, if any, pursuant to Section [880.12](#), after deducting:

(1) The amount of City income tax deducted or withheld at the source pursuant to Section [880.07](#);

(2) The portion of the tax paid on declaration by the taxpayer pursuant to Section [880.08](#); and

(3) Any credit allowance under the provisions of Section [880.15](#).

(e) Overpayments; Refunds. Should the 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. The balance, if any, at the election of the taxpayer communicated to the Administrator, shall be refunded or transferred against any subsequent liability. However, overpayments of less than five dollars (\$5.00) shall not be returned.

(f) Amended Returns.

(1) When necessary, an amended return shall be filed in order to report additional income and pay any additional tax due or to claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Sections [880.12](#) 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 City tax liability, such taxpayer shall make and file an amended City return showing income subject to the City tax based upon such final determination of Federal tax liability and shall pay any additional tax shown due thereon or make claim for refund of any overpayment, without incurring any penalty. If the taxpayer fails to make such an amended return within this three month period, the same penalties and interest provisions will apply as if the return was not timely filed as per Section [880.11](#).

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

(Ord. 152-04. Passed 11-22-04; Ord. 69-07. Passed 7-23-07.)

880.07 COLLECTION AT SOURCE.

(a) Each employer within or doing business within the City who employs one or more persons eighteen years or older on a qualifying wage basis shall, at the time of payment thereof, deduct the tax authorized by this Chapter from the qualifying wages, earned by City residents, regardless of where such compensation was earned, and shall deduct the tax authorized by this chapter from the qualifying wages earned within the City by nonresidents.

(b) Notwithstanding the provisions of subsection (a) hereof, when such employer employs a City resident in another taxing municipality requiring such employer to deduct its tax from all employees engaged therein, such employer shall withhold for and remit to the City only the difference, if any, between the tax imposed by such other taxing municipality and the tax imposed by this chapter.

(c) Each such employer shall, on or before the last day of the month following each calendar quarter, make a return and remit to the City the tax hereby required to be withheld. 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. Those employers withholding three hundred and fifty dollars (\$350.00) or more per month from their employees on a regular basis shall be required to remit to the City monthly rather than quarterly.

(d) On or before January 31, following any calendar year such employer shall file with the Administrator an information return for each employee for 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 and the amount of City income tax withheld from such employee.

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

(1) Every manager is deemed to be a trustee of the City in collecting and holding the tax required under this chapter to be withheld, and the funds so collected by such withholding are deemed to be trust funds. Every manager is liable directly to the City for payment of such trust, whether actually collected by such employer or not. Any tax deducted and withheld by employers in the City is to be considered paid to the City, whether or not the employer actually remits the tax to the City, for the purposes of determining employee credits. Refunds cannot be made until withholding is actually remitted to the City.

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

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

(Ord. 152-04. Passed 11-22-04; Ord. 72-12. Passed 6-25-12.)

880.08 DECLARATIONS.

(a) Requirement for Filing. Every person who engages in any business, profession, enterprise or activity subject to the tax imposed by Section [880.04](#), 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. Also, excepting those hereinabove set forth and those subject to Section [880.07](#), every person who anticipates any taxable income may, by election, file a declaration setting forth such estimated income or estimated profit or loss together with the estimated tax thereon, if any.

(b) Filing Dates.

(1) Calendar dates for filing such declaration shall be subject to the provisions set forth in Ohio Revised Code Section 718.08.

(c) Forms. Such declaration shall be filed upon a form furnished by or obtainable from the Administrator. Credit shall be taken for City income tax to be withheld, if any, from any portion of such income. In addition, credit may be taken for tax payable to other taxing municipalities in accordance with the provisions of Section [880.15](#).

(d) Amended Declarations. The original declaration, or any subsequent amendment thereof, may be increased or decreased on or before any subsequent quarterly payment date as provided for herein.

(e) Payment with Declarations. The taxpayer making the declaration shall, at the time of the filing thereof, pay to the Administrator at least 22.5% of the estimated annual tax due after deducting:

(1) Any portion of such tax to be deducted or withheld at the source pursuant to Section [880.07](#);

(2) Any credits allowable under the provisions of Section [880.15](#); and

(3) Any overpayment of the previous year's tax liability which the taxpayer has not elected to have refunded. At least a similar amount shall be paid on or before the last day of the sixth, ninth and twelfth month after the beginning of the taxpayer's taxable year, provided that in case an amended declaration has been duly filed or the taxpayer is taxable for a portion of the year only, the unpaid balance shall be paid in equal installments on or before the remaining payment dates.

(f) Lump Sum Payment. At the discretion of the taxpayer, the total sum due may be paid in one lump sum by the due date, or made in quarterly installments, as described in Section [880.08](#)(b). Any or all quarterly installments of the taxpayer's estimated tax may be paid in advance of the due date.

(g) Annual Return Required. On the dates required in Section [880.08](#) (b)(1) 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 City shall be paid therewith in accordance with the provisions of Section [880.06](#).

(Ord. 152-04. Passed 11-22-04; Ord. 72-12. Passed 6-25-12.)

880.09 DUTIES OF THE ADMINISTRATOR.

(a) Collection Responsibility. 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) Responsibility for Maintenance of Records. It shall be the duty of the Administrator to enforce payment of all taxes owing the City, to keep accurate records for a minimum of five 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) Enforcement Authority. The Administrator is hereby charged with the enforcement of the provisions of this chapter and is hereby authorized, subject to the approval of the Board of Review, to adopt, promulgate and enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and the administration and enforcement of the provisions of this chapter, including provisions for the re-examination and correction of returns.

(d) Determination of Taxes. 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 assessment so determined, together with interest and penalties thereon, if any.

(e) Compromise Authority. 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 [880.11](#).

(Ord. 152-04. Passed 11-22-04.)

880.10 INVESTIGATIVE POWERS OF THE ADMINISTRATOR; CONFIDENTIAL INFORMATION.

(a) Examination of Taxpayers Records. 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, to verify 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 duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

(b) Appearance Orders to Taxpayers. The Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before him 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. For this purpose the Administrator may compel the production of books, papers, records and Federal Income Tax Returns and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.

(c) Result of Refusal to Submit Information. The refusal to produce books, papers, records and Federal Income Tax Returns or 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 and shall be punishable as provided in Section [880.99](#).

(d) Confidential Nature of Information. 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 or except in accordance with proper judicial order, which includes the exchange of information between city departments for the purpose of collecting the city income tax. No person shall divulge such information.

(e) Retention of Records. Every taxpayer shall retain all records necessary to compute his tax liability for a period of five years from the date his return is filed or the withholding taxes are paid.
(Ord. 152-04. Passed 11-22-04.)

(f) Employer Submission of Quarterly List of Independent Contractors upon Request. Employers conducting business within City limits shall be required, upon request of the Tax Administrator, to submit a quarterly list of "employees" as defined in Section [880.02](#)(h) of this section to the Administrator.
(Ord. 69-07. Passed 7-23-07.)

880.11 INTEREST AND PENALTIES.

- (a) Penalties. Penalties based on the unpaid tax or tax withheld are hereby imposed as follows:
- (1) For failure to pay taxes due, other than taxes withheld, two percent (2%) per month or twenty-five dollars (\$25.00), whichever is greater, if not paid by the due date;
 - (2) For failure to remit taxes withheld from employees, a ten percent (10%) or twenty-five dollars (\$25.00) per month, whichever is greater;
 - (3) Failure to timely file a return twenty-five dollars (\$25.00); and
 - (4) For presented rare or hardship cases approved by the Income Tax Administrator and/or designee, payment plans can be established upon receipt of a fifty dollar (\$50.00) processing fee. All approved payment plans will require a minimum monthly payment of no less than fifty dollars (\$50.00) and cannot exceed a twelve month period. Payment plans do not preclude an individual or entity from the assessment of penalty and interest on the balance due at the time the payment plan is established. If at anytime during the duration of the approved payment plan that two monthly payments are not received by the required due dates, the payment plan will become null and void. Any remaining balance will then be due in full and must be remitted to the income tax department within two weeks of written notification of their payment plan termination. If the remaining balance of terminated payment plans are not received within two weeks of notification or any remaining unpaid income tax liabilities exceed twelve months, then the remaining balance will be penalized and assessed an interest rate at two times the amount established for in this said section back to the original filing due date.
 - (5) Immediately following the 2006 amnesty period any and all existing payment plans with an outstanding balance will be subject to the requirements provided for in this said section.

(b) 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. In the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a Federal audit, provided an amended return is filed and the additional tax is paid within three months after final determination of the Federal tax liability.

(c) Interest. Interest on all taxes not paid by the normal due date shall accrue at the rate of two percent (2%) per month.

(d) Abatement by Board of Review. Upon recommendation of the Administrator, the Board of Review may abate penalty or interest, or both. Upon an appeal from the refusal of the Administrator to recommend abatement of penalty and interest, the Board may nevertheless abate penalty or interest or both.

(Ord. 58-06. Passed 7-24-06.)

880.12 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

(a) All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable. Additionally, the Income Tax Administrator shall be responsible for establishing procedures for collection of delinquent taxpayer accounts and may outsource collections for said accounts. Except in the case of fraud, of omission of a substantial portion of income subject to this tax or of failure to file a return, an additional assessment shall not be made after three years from the time the return was due or filed, whichever is later. However, in those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the Federal statute of limitations, the period within which an additional assessment may be made by the Administrator shall be one year from the time of the final determination of the Federal tax liability.

(b) All fees assessed by outside collection agencies shall be paid by the delinquent taxpayer.

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

(d) Minimum Amounts. Amounts of less than five dollars (\$5.00) shall not be collected or refunded.
(Ord. 58-06. Passed 7-24-06.)

880.13 VIOLATIONS; LIMITATION ON PROSECUTION.

(a) No person 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) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter;

(4) Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator;

(5) Refuse to permit the Administrator or any duly authorized agent or employee to examine his 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 books, records, papers of 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 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 City tax withheld or knowingly give the Administrator false information;
- (11) Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter; or
- (12) Fail to make statements of rental listing as set forth in Section [880.03](#) or make incomplete or false statements thereof.

(b) All prosecutions under this section shall be commenced within the periods stipulated in Ohio Revised Code Chapter 718.

(c) The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, return or declaration, from filing such form or from paying the tax.

(Ord. 152-04. Passed 11-22-04; Ord. 72-12. Passed 6-25-12.)

880.14 BOARD OF REVIEW.

(a) Composition and Procedures. A Board of Review, consisting of three electors of the City to be appointed by the Mayor, with consent of a majority of Council, is hereby created. If any vacancy occurs beyond thirty days, it shall be filled by the Mayor, with the consent of a majority of Council. Each member shall serve a term of three years. No member shall be appointed to the Board who holds other public office or appointment. 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. Board members shall be compensated for attendance at qualified meetings. Any hearing by the Board may be conducted privately. The provisions of Section [880.10](#), with reference to the confidential character of information, shall apply to such matters as may be heard before the Board on appeal.

(b) Appeals; Alternative Method of Allocation. All rules and regulations and amendments or changes thereto which are adopted by the Administrator under the authority conferred by this chapter shall 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 pursuant to the time frames set forth in the Ohio Revised Code Chapter 718 and, at the request of the taxpayer or Administrator, is authorized to substitute alternate methods of allocation. The taxpayer or the tax administrator may appeal the Board of Review's decision as provided in section 5717.011 of the Ohio Revised Code.

(Ord. 152-04. Passed 11-22-04; Ord. 72-12. Passed 6-25-12.)

880.15 TAX CREDIT.

It is the intent of this section that a taxpayer subject to tax in more than one municipality on the same income, shall not be required by this chapter to pay a total municipal income tax on such income to the City.

(a) When taxable income of a City resident is subject to a municipal income tax in another municipality on the same income taxable under this chapter, such resident shall be allowed a credit of one percent (1%), or in cases where the tax rate of the other municipality is lower than one percent, then 100% of the actual tax withheld by the other municipality, on the taxable income earned in or attributed to the municipality of employment or business activity. For the purposes of this section, taxable income includes the distributive share of the adjusted federal taxable income of a resident partner or owner of an unincorporated business activity.

(b) To the extent not set forth in [880.15\(a\)](#), a taxpayer may claim any credit against City income tax that the City is required to grant under Ohio Revised Code Chapter 718.

(c) A claim for credit or refund under this section shall be made in such a manner as the Administrator may provide by regulation.

(Ord. 6-09. Passed 1-26-09; Ord. 72-12. Passed 6-25-12.)

880.16 SEPARABILITY.

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

(Ord. 152-04. Passed 11-22-04.)

880.17 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

(a) This chapter shall continue effective insofar as the levy of taxes is concerned until repealed.

(b) Annual returns due for all or any part of the last effective year of this chapter shall be due on the dates provided in Section [880.06](#) and [880.07](#) as though the same were continuing.

(Ord. 152-04. Passed 11-22-04.)

880.99 PENALTY.

(a) Whoever violates any of the provisions of Section [880.13](#) is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty days, or both, for each offense.

(b) Whoever violates any provision of Section [880.10](#) is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty days, or both. Each disclosure shall constitute a separate offense.

(c) In addition to the above penalty, any employee of the City who violates the provisions of Section [880.10](#) relative to the disclosure of confidential information shall be subject to immediate dismissal.

(Ord. 152-04. Passed 11-22-04.)