

CITY OF BROADVIEW HEIGHTS, OHIO

ORDINANCE NO. 108-10

INTRODUCED BY MAYOR AND ENTIRE COUNCIL

AN ORDINANCE AMENDING VARIOUS SECTIONS
OF CHAPTER 880 OF THE CODIFIED ORDINANCES
OF THE CITY OF BROADVIEW HEIGHTS, OHIO,
AND DECLARING AN EMERGENCY.

WHEREAS, Chapter of the Codified Ordinances of the City of Broadview Heights involves income tax; and

WHEREAS, the City Council has determined that it is in the best interest of the City to amend various sections of Chapter 880.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BROADVIEW HEIGHTS, COUNTY OF CUYAHOGA AND STATE OF OHIO:

SECTION 1. Section 880.17(a) shall be amended as follows:

880.17(a) COLLECTION AT SOURCE:

In accordance with rules and regulations prescribed by the Administrator, each employer within or doing business within the City shall deduct, at the time of the payment thereof, the tax called for in Section 880.03 of this Ordinance on the gross salaries, wages, commissions or other compensation due from such employer to his employees and shall, on or before the last day of each month, make a return and pay to the Director of Finance the amount of taxes so deducted during the previous month. However, if the amount of the tax so deducted by any employer in any one month is less than One Hundred Dollars (\$100.00), the employer may defer the filing of a return and payment of the amount deducted until the last day of the month following the end of the calendar quarter in which such month occurred.

SECTION 2. Section 880.24 shall be amended as follows:

880.24 SURCHARGES ON UNPAID TAX:

In addition to interest as provided in Section 880.23, surcharges based on the unpaid tax are imposed as follows:

- (a) For failure to file a return, eight percent (8%) per year, but not less than Twenty-Five Dollars (\$25.00);
- (b) For failure to pay taxes, including estimated payments, when due, other than taxes withheld, eight percent (8%) per year with a minimum penalty of not less than Twenty-Five Dollars (\$25.00).
- (c) For failure to remit taxes withheld from employees, ten percent (10%) per month or fraction thereof, but the accumulated surcharge shall not exceed fifty percent (50%) upon any unpaid amount and shall not be less than Twenty-Five Dollars (\$25.00).

SECTION 3. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public health, safety and welfare and for the further reason stated in the Preamble hereof, and provided it receives the affirmative vote of six (6) or more of the members of Council and the signature of the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

PASSED: September 7-2010 Y Helen Dunlap
PRESIDENT OF COUNCIL

DATE FILED WITH MAYOR: Sept. 7-10 APPROVED: Samuel J. Alai
SAMUEL J. ALAI, MAYOR

ATTEST: Sandra Hidach DATE APPROVED: 9-7-10
CLERK OF COUNCIL

CHAPTER 880
Earned Income Tax

- 880.01 Purpose.
- 880.02 Definitions.
- 880.03 Imposition of tax; rate and income taxable.
- 880.04 Effective period.
- 880.05 Determination of allocation of tax; method of determination.
- 880.06 Sales made in the City.
- 880.07 Total allocation.
- 880.08 Rentals.
- 880.09 Operating loss carry-forward.
- 880.10 Exemptions; sources of income not taxed.
- 880.11 Returns; when return required to be made.
- 880.12 Form and content of return.
- 880.13 Extension of time for filing returns.
- 880.14 Consolidated returns.
- 880.15 Amended returns.
- 880.16 Payment of tax; payment on filing of return.
- 880.17 Collection at source.
- 880.18 Declaration of income; payment of estimated tax.
- 880.19 Filing declaration.
- 880.20 Form of declaration.
- 880.21 Payment to accompany declaration.
- 880.22 Annual return.
- 880.23 Interest on unpaid tax.
- 880.24 Surcharges on unpaid tax.
- 880.25 Exceptions.
- 880.26 Abatement of interest and surcharge.
- 880.27 Violations.
- 880.28 Limitation on prosecution.
- 880.29 Failure to procure forms no excuse.
- 880.30 Collection of unpaid taxes.
- 880.31 Refunds of taxes erroneously paid.
- 880.32 Amounts of less than one dollar.
- 880.33 Relief and reciprocity provisions; nonresident taxpayers.
- 880.34 Resident taxpayers.
- 880.35 Claim for credit or refund.
- 880.36 Disbursement of funds collected.
- 880.37 Duties and authority of the Administrator; duty to receive tax imposed.
- 880.38 Duty to enforce collection.
- 880.39 Authority to make and enforce regulations.
- 880.40 Authority to arrange installment payments.
- 880.41 Authority to determine amount of tax due.
- 880.42 Authority to make investigations.

- 880.43 Authority to compel production of records.
- 880.44 Refusal to produce records.
- 880.45 Confidential nature of information obtained.
- 880.46 Taxpayer required to retain records.
- 880.47 Authority to contract for central collection facilities.
- 880.48 Board of Review established.
- 880.49 Duty to approve regulations and to hear appeals.
- 880.50 Right of appeal.
- 880.51 Separability.
- 880.52 Collection of tax after termination of chapter.
- 880.53 Amendments.
- 880.99 Penalty.

CROSS REFERENCES

- Limitation on levying an income or receipts tax - see CHTR. Art. XI, § 2
- Payroll deductions - see Ohio R.C. 9.42
- Income taxes - see Ohio R.C. Ch.718
- Registration of contractors with Income Tax Administrator - see B. & H. 1446.01, 1446.03

880.01 PURPOSE.

To provide funds for the purposes of general Municipal functions of the City there is hereby levied a tax on all salaries, wages, commissions and other compensation, and on net profits, as hereinafter provided.

(Ord.66-67. Passed 12-18-67.)

880.02 DEFINITIONS.

As used in this chapter:

- (a) "Administrator" means the individual appointed by the Mayor and approved by Council and designated to 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 880.48.
- (d) "Business" means any enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity, excluding, however, all nonprofit corporations which are exempt from the payment of Federal income tax.

(e) "Corporation" means a corporation or joint stock association organized under the laws of the United States, the State or any other state, territory or foreign country or dependency.

(f) "Employee" means one who works for wages, salary, commission or other type of compensation in the service of an employer.

(g) "Employer" means an individual, partnership, association, corporation, government 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 basis of compensation.

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

(i) "Gross receipts" means the total income from any source whatever.

(j) "Net profits" means a net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for Federal income tax purposes without deduction of taxes imposed by this chapter or Federal, State or other taxes based on income, and, in the case of an association, without deduction of salaries paid to partners and other owners.

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

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

(m) "Person" means every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, the word "person," as applied to any unincorporated entity, means the partners or members thereof, and as applied to corporations, the officers thereof.

(n) "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 a taxpayer in carrying on any business activity individually or through one or more of his regular employees regularly in attendance.

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

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

(q) "Taxable income" means wages, salaries and other compensation paid by an employer before any deduction 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. "Taxable income" shall also mean lottery winnings and income derived from gaming, wagering, lotteries or schemes of chance in the amount of ten thousand dollars (\$10,000.00) or more.

(r) "Taxable year" means the calendar year or the fiscal year upon the basis of which the 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.

(s) "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.

(Ord. 66-67. Passed 12-18-67; Ord. 17-04. Passed 2-17-04.)

880.03 IMPOSITION OF TAX; RATE AND INCOME TAXABLE.

An annual tax for the purposes specified in Section 880.01 shall be imposed on and after January 1, 1986, at the rate of two percent per year upon the following:

(a) On all salaries, wages, commissions and other compensation, including but not limited to lottery winnings and income derived from gaming, wagering, lotteries or schemes of chance in the amount of ten thousand dollars (\$10,000.00) or more earned on and after January 1, 1986, by residents of the City;

(b) On all salaries, wages, commissions and other compensation, including but not limited to lottery winnings and income derived from gaming, wagering, lotteries or schemes of chance earned on and after January 1, 1986, by nonresidents of the City for work done, lottery winnings received or income received from gaming, wagering, lotteries or schemes of chance in the amount of ten thousand dollars (\$10,000.00) or more or services performed or rendered within the City;

(c) On the portion attributable to the City of the net profits earned on and after January 1, 1986, of all resident unincorporated business entities or professions or other activities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the City;

(d) On the portion of the distributive share of the net profits earned on and after January 1, 1986, of a resident partner or owner of a resident unincorporated business entity not attributable to the City and not levied against such unincorporated business entity by the City;

(e) On the portion attributable to the City of the net profits earned on or after January 1, 1986, of all nonresident unincorporated business entities, professions or other activities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the City, whether or not such unincorporated business entity has an office or place of business in the City;

(f) On the portion of the distributive share of the net profits earned on and after January 1, 1986, of a resident partner or owner of a nonresident unincorporated business entity not attributable to the City and not levied against such unincorporated business entity by the City; and

(g) On the portion attributable to the City of the net profits earned on and after January 1, 1986, 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.

(Ord.12-86. Passed 2-10-86; Ord. 17-04. Passed 2-17-04.)

880.04 EFFECTIVE PERIOD.

The 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, 1968. (Ord.66-67. Passed 12-18-67.)

880.05 DETERMINATION OF ALLOCATION OF TAX; METHOD OF DETERMINATION.

In the taxation of income which is subject to City income tax, if the books and records of a taxpayer conducting a business or profession both within and without the boundaries of the City disclose with reasonable accuracy what portion of its net profit is attributable to that part of the business or profession conducted within the boundaries of the City, then only such portion shall be considered as having a taxable situs in the City for the purposes of Municipal income taxation. The portion of the entire net profits of a taxpayer to be allocated as having been derived from within the City, in the absence of actual records thereof, 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 net book value 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 net book value of all 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 subsection, real property includes property rented or leased by the taxpayer and the value of such property 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.

(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.

In the event that the foregoing allocation formula does not produce an equitable result, another basis may, under uniform regulations, be substituted so as to produce such result.

(Ord.66-67. Passed 12-18-67.)

880.06 SALES MADE IN THE CITY.

As used in subsection (c) of Section 880.05, "sales made in the City" means:

(a) All sales of tangible personal property which is delivered within the City regardless of where title passes if shipped or delivered from a stock of goods within the City;

(b) All sales of tangible personal property which is delivered within the City regardless of where title passes even though transported from a point outside the City if the taxpayer is regularly engaged, through its own employees, in the solicitation or promotion of sales within the City and the sales result from such solicitation or promotion; and

(c) All sales of tangible personal property which is shipped from a place within the City to purchasers outside the City regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

(Ord.66-67. Passed 12-18-67.)

880.07 TOTAL ALLOCATION.

Add together the percentages determined in accordance with subsections (a), (b) and (c) of Section 880.05 or such of the aforesaid percentages as are applicable to the particular taxpayer and divide the total so obtained by the

number of percentages used in deriving such total in order to obtain the business allocation percentage referred to in Section 880.05.

A factor is applicable even though it may be allocable entirely in or outside the City.
(Ord.66-67. Passed 12-18-67.)

880.08 RENTALS.

Rental income received by a taxpayer shall be included in the computation of net profits from business activities under Section 880.03 (c) through (g) only if and to the extent that the rental, ownership, management or operation of the real estate from which such rentals are derived (whether so rented, managed or operated by a taxpayer individually or through agents or other representatives) constitutes a business activity of the taxpayer in whole or in part.

Where the gross monthly rental of any and all real properties, regardless of number and value, aggregates in excess of two hundred fifty dollars (\$250.00) per month, it shall be prima-facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental property shall be subject to tax, provided that in the case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds two hundred fifty dollars (\$250.00) per month, and provided, further, that the person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds two hundred fifty dollars (\$250.00) per month.
(Ord.15-72. Passed 1-3-72.)

880.09 OPERATING LOSS CARRY-FORWARD.

(a) The portion of a net operating loss sustained in any taxable year subsequent to January 1, 1968, allocable to the City may be applied against the portion of the profit of succeeding tax years allocable to the City until exhausted but in no event for more than five taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.

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

(c) The Administrator shall provide by rules and regulations the manner in which such net operating loss carry-forward shall be determined.
(Ord.66-67. Passed 12-18-67.)

880.10 EXEMPTIONS; SOURCES OF INCOME NOT TAXED.

The tax provided for herein shall not be levied on the following:

(a) Pay or allowance of active members of the Armed Forces of the United States or the income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities;

(b) 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;

(c) 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;

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

(e) Alimony received;

(f) Personal earnings of any natural person under eighteen years of age;

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

(h) Interest, dividends and other revenue from intangible property;

(i) Gains from involuntary conversion, cancellation of indebtedness, interest on 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);

(j) 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; and

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

(Ord.66-67. Passed 12-18-67.)

880.11 RETURNS; WHEN RETURN REQUIRED TO BE MADE.

Each taxpayer shall, whether or not a tax is due thereon, make and file a return on or before April 30 of the year following the effective date of this section (Ordinance 15-72, passed January 3, 1972) and on or before April 30 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.
(Ord.15-72. Passed 1-3-72.)

880.12 FORM AND CONTENT OF RETURN.

The return shall be filed with the Administrator on a form or forms furnished by or obtainable upon request from such Administrator, setting forth:

(a) The aggregate amounts of salaries, wages, commissions and other compensation earned and gross income from a business, profession or other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to the tax;

(b) The amount of the tax imposed by this chapter on such earnings and profits; and

(c) Such other pertinent statements, information returns or other information as the Administrator may require.
(Ord.66-67. Passed 12-18-67.)

880.13 EXTENSION OF TIME FOR FILING RETURNS.

The Administrator may extend the time for filing the annual return, upon the request of the taxpayer, for a period 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 or interest shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended.
(Ord.66-67. Passed 12-18-67.)

880.14 CONSOLIDATED RETURNS.

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

(b) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, or in the case of a person who operated 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 some other method, or transactions with such division, branch, factory, office, laboratory or activity, he shall make such allocation as he deems appropriate to produce a fair and proper allocation of net profits to the City.
(Ord.66-67. Passed 12-18-67.)

880.15 AMENDED RETURNS.

(a) Where necessary, an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements, limitations, or both, contained in Sections 880.30 through 880.35. Such amended return 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.

(b) 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 pay any additional tax shown due thereon or make a claim for refund of any overpayment.
(Ord.66-67. Passed 12-18-67.)

880.16 PAYMENT OF TAX; PAYMENT ON FILING OF RETURN.

(a) The taxpayer making a return shall, at the time of filing thereof, pay to the Administrator the amount of taxes shown as due thereon, provided, however, that

(1) Where any portion of the tax so due has been deducted at the source pursuant to Section 880.17, or

(2) Where any portion of the tax has been paid by the taxpayer pursuant to Section 880.18, or

(3) Where an income tax has been paid on the same income to another municipality, credit for the amount so deducted or paid, or credit to the extent provided for in Sections 880.33 through 880.35, shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing such return.

(b) A taxpayer who has overpaid the amount of tax to which the City is entitled under the provisions of this chapter may have such overpayment applied against any subsequent liability hereunder or, at his election, indicated on the return, such overpayment (or a part thereof) shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded.

(Ord.15-72. Passed 1-3-72.)

880.17 COLLECTION AT SOURCE.

(a) In accordance with rules and regulations prescribed by the Administrator, each employer within or doing business within the City shall deduct, at the time of the payment thereof, the tax of one percent per year of the gross salaries, wages, commissions or other compensation due from such employer to his employees and shall, on or before the last day of each month, make a return and pay to the Director of Finance the amount of taxes so deducted during the previous month. However, if the amount of the tax so deducted by any employer in any one month is less than one hundred dollars (\$100.00), the employer may defer the filing of a return and payment of the amount deducted until the last day of the month following the end of the calendar quarter in which such month occurred.

(b) Such returns shall be on a form or forms prescribed 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 tax required to be deducted and withheld whether or not such taxes have, in fact, been withheld.

(c) Such employer, in 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.

(d) No person shall be required to withhold the tax on wages or other compensation paid to domestic servants employed by him exclusively in or about such person's residence, even though such residence is in the City, but such employee shall be subject to all of the requirements of this chapter.

(Ord.15-72. Passed 1-3-72.)

880.18 DECLARATION OF INCOME; PAYMENT OF ESTIMATED TAX.

Except as otherwise provided in this section, every person shall file a declaration setting forth taxable income, including distributive shares of net profits of unincorporated business entities, estimated to be earned by the taxpayer during the current tax year, together with the estimated tax due thereon, less tax withheld within the City, and less the tax credit allowed in Sections 880.33 through 880.35, unless such taxpayer anticipates that such tax will be fully withheld within the City and any income earned outside the City will be fully taxed at the same or a higher rate of tax in another municipality. If the estimated tax for the current year, less the tax to be withheld and less such tax credit, amounts to not more than ten dollars (\$10.00), no declaration or payment of estimated tax is required.

(Ord.76-73. Passed 11-19-73.)

880.19 FILING DECLARATION.

(a) The declaration required by Section 880.18 shall be filed on or before April 30 of each year during the effective period set forth in Section 880.04 or within four months of the date the taxpayer becomes subject to tax for the first time.

(b) Those taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year or period.
(Ord.66-67. Passed 12-18-67.)

880.20 FORM OF DECLARATION.

(a) The declaration required by Section 880.18 shall be filed upon a form furnished by or obtainable from the Administrator. As provided in Section 880.18, credit shall be taken for the City tax to be withheld from any portion of such income, and credit shall be taken for tax to be paid or withheld and remitted to another taxing municipality in accordance with the provisions of Sections 880.33 through 880.35.

(b) The original declaration or any subsequent amendment thereof may be increased or decreased on or before any subsequent quarterly payment date as provided herein.
(Ord.15-72. Passed 1-3-72.)

880.21 PAYMENT TO ACCOMPANY DECLARATION.

The declaration of estimated tax to be paid to the City shall be accompanied by a payment of at least one-fourth of the estimated annual tax and at least a similar amount shall be paid on or before the last day of the seventh and tenth months after the beginning of the taxable year, and on or before the last day of the first month of the succeeding year following the taxable year. However, in case an amended declaration has been filed, the unpaid balance shown to be due thereon shall be paid in equal installments on or before the remaining payment dates.
(Ord.76-73. Passed 11-19-73.)

880.22 ANNUAL RETURN.

On or before the last day of the fourth month of the year following that for which a 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 880.16. However, any taxpayer may file, on or before the last day of the first month of the year following that for which such declaration or amended declaration was filed, an annual return and pay any balance due at such time in lieu of filing such declaration or an amended declaration and in lieu of paying the final quarterly installment based upon a declaration or amended declaration of estimated tax.
(Ord.15-72. Passed 1-3-72.)

880.23 INTEREST ON UNPAID TAX.

All taxes imposed and all moneys withheld or required to be withheld by employers and all installments of estimated taxes required to be paid under the provisions of this chapter and remaining unpaid after they become due shall bear interest at the rate of fourteen percent per year.

(Ord.19-85. Passed 3-18-85.)

880.24 SURCHARGES ON UNPAID TAX.

In addition to interest as provided in Section 880.23, surcharges based on the failure to file a return or installments of estimated tax due are hereby imposed as follows:

(a) For failure to file a return, eight percent per year, but not less than twenty-five dollars (\$25.00); and

(b) For failure to remit taxes withheld from employees, ten percent per month or fraction thereof, but the accumulated surcharge shall not exceed fifty percent upon any unpaid amount and shall not be less than twenty-five dollars (\$25.00).

(Ord.19-85. Passed 3-18-85.)

880.25 EXCEPTIONS.

A surcharge 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. Further, in the absence of fraud, neither a surcharge 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 a final determination of the Federal tax liability.

(Ord.66-67. Passed 12-18-67.)

880.26 ABATEMENT OF INTEREST AND SURCHARGE.

Upon recommendation of the Administrator, the Board of Review may abate a surcharge or interest, or both, or upon an appeal from the refusal of the Administrator to recommend abatement of a surcharge or interest, the Board may nevertheless abate a surcharge or interest, or both, for good cause shown.

(Ord.66-67. Passed 12-18-67.)

880.27 VIOLATIONS.

No person shall:

(a) Fail, neglect or refuse to make any return or declaration required by this chapter;

(b) Make any incomplete, false or fraudulent return;

(c) Fail, neglect or refuse to pay the tax, surcharges or interest imposed by this chapter;

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

(e) Refuse to permit the Administrator or any duly authorized agent or employee to examine books, records, papers and Federal Income Tax Returns relating to the income or net profits of a taxpayer;

(f) Fail to appear before the Administrator and to produce 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;

(g) Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer;

(h) Fail to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized hereby;

(i) 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;

(j) 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; or

(k) Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, surcharges or interest imposed by this chapter.
(Ord.66-67. Passed 12-18-67.)

880.28 LIMITATION ON PROSECUTION.

All prosecutions under this chapter must be commenced within the periods stipulated in Ohio R.C. 718.06.

880.29 FAILURE TO PROCURE FORMS NO EXCUSE.

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.66-67. Passed 12-18-67.)

880.30 COLLECTION OF UNPAID TAXES.

All taxes imposed by this chapter shall be collectible, together with any interest and surcharges thereon, by suit, as other debts of like amount are recoverable. Except in the case of fraud, of omission of a substantial portion of income subject to the 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, provided, however, that in those cases in which a 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.
(Ord.66-67. Passed 12-18-67.)

880.31 REFUNDS OF TAXES ERRONEOUSLY PAID.

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 the final determination of the Federal tax liability, whichever is later.
(Ord.66-67. Passed 12-18-67.)

880.32 AMOUNTS OF LESS THAN ONE DOLLAR.

Amounts of less than one dollar (\$1.00) shall not be collected or refunded.
(Ord.66-67. Passed 12-18-67.)

880.33 RELIEF AND RECIPROCITY PROVISIONS; NONRESIDENT TAXPAYERS.

Notwithstanding any other provision of this chapter, when a taxpayer who is a nonresident of the City, but who is domiciled in the County or in any county immediately contiguous to the County, is subject to the tax imposed by this chapter and is also subject to tax on the same income in the municipality of his residence, a credit of twenty-five percent of the tax due under this chapter or twenty-five percent of the tax due under the ordinance of such other municipality, whichever is less, shall be allowed against the tax due under this chapter, provided, however, that such credit shall not be allowed unless such other municipality imposes on its residents a tax on the same income and reciprocal provision is made in the ordinance of such other municipality granting to nonresidents thereof a credit of not less than the percentage provided for herein against the tax levied thereby, and provided further that such reciprocal credit shall not be allowed unless such nonresident is liable and has acknowledged such liability in the municipality of his residence for any tax due after such reciprocal credit is allowed, and the municipality of his residence furnishes evidence of payment of tax therein or evidence of assignment by the taxpayer of his claim for reciprocal credit to such other municipality.

The credit allowed under this section to a taxpayer who is a nonresident of the City but who is domiciled in the County or in any county immediately contiguous to the County may be assigned to the municipality of his residence and the

amount of such credit paid to such other municipality in such manner as the Administrator designated by the City may prescribe.
(Ord.66-67. Passed 12-18-67.)

880.34 RESIDENT TAXPAYERS.

A resident of the City who is required to and does pay, or has acknowledged liability for, a municipal tax on or measured by income, to another municipality upon the same income taxable under the provisions of this chapter, may claim a credit of seventy-five percent of the amount of tax paid by him or her or on his or her behalf to such other municipality but not in excess of the tax assessed by this chapter on such income.

(Ord.88-98. Passed 8-15-88.)

880.35 CLAIM FOR CREDIT OR REFUND.

A claim for credit or refund under Sections 880.33 and 880.34 shall be made in such manner as the Administrator may by regulation provide. If the City resident fails, neglects or refuses to file an annual return or declaration on the form prescribed by the Administrator, he shall not be entitled to such credit or refund and shall be considered in violation of this chapter for failure to file a return.

(Ord.15-72. Passed 1-3-72.)

880.36 DISBURSEMENT OF FUNDS COLLECTED.

The funds collected under this chapter shall be disbursed in the following manner:

(a) First, such part thereof as is necessary to defray all expenses of collecting the tax and of administering and enforcing the provisions of this chapter shall be paid.

(Ord.66-67. Passed 12-18-67.)

(b) The balance remaining after payment of the expenses referred to in subsection (a) hereof shall be apportioned to the following funds beginning with the January, 1998, collections received by the City in February, 1998, using the following percentages:

General Fund	70.20%
Streets Capital Improvement Fund	23.00%
Safety Department Equipment Fund	2.40%
Fire Equipment Fund	2.40%
Service Equipment Fund	1.00%

Storm Sewer Fund 1.00%

(Ord.9-98. Passed 1-20-98.)

880.37 DUTIES AND AUTHORITY OF THE ADMINISTRATOR; DUTY TO RECEIVE TAX IMPOSED.

It shall be the duty of the Administrator to receive the tax imposed by this chapter, in the manner prescribed herein, from the taxpayer; to keep an accurate record thereof; and to report all moneys so received.

(Ord.66-67. Passed 12-18-67.)

880.38 DUTY TO ENFORCE COLLECTION.

It shall be the duty of the Administrator to enforce payment of all taxes owing to the City and to keep accurate records for a minimum of five years, showing the amount due from each taxpayer required to file a declaration and make any return, or both, including taxes withheld, and showing the dates and amounts of payments thereof.

(Ord.66-67. Passed 12-18-67.)

880.39 AUTHORITY TO MAKE AND ENFORCE REGULATIONS.

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 this chapter, including provisions for the re-examination and correction of returns.

(Ord.66-67. Passed 12-18-67.)

880.40 AUTHORITY TO ARRANGE INSTALLMENT PAYMENTS.

The Administrator is hereby authorized to arrange for the payment of unpaid taxes, interest and surcharges on a schedule of installment payments, when the taxpayer has proved to the Administrator that, due to certain hardship conditions, he 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 owned by him under this chapter.

Failure to make any deferred payment when due shall cause the total unpaid amount, including surcharge and interest, to become payable on demand and the provisions of Sections 880.27 and 880.30 shall apply.

(Ord.66-67. Passed 12-18-67.)

880.41 AUTHORITY TO DETERMINE AMOUNT OF TAX DUE.

In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Administrator may determine the amount of tax appearing to be due the City from the taxpayer and

shall send to such taxpayer a written statement showing the amount of tax so determined together with interest and surcharges thereon, if any.
(Ord.66-67. Passed 12-18-67.)

880.42 AUTHORITY TO MAKE INVESTIGATIONS.

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 duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

(Ord.66-67. Passed 12-18-67.)

880.43 AUTHORITY TO COMPEL PRODUCTIONS OF RECORDS.

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, 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, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.

(Ord.66-67. Passed 12-18-67.)

880.44 REFUSAL TO PRODUCE RECORDS.

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 chapter or with an order or subpoena of the Administrator authorized hereby, shall be deemed a violation of this chapter punishable as provided in Section 880.99.

(Ord.66-67. Passed 12-18-67.)

880.45 CONFIDENTIAL NATURE OF INFORMATION OBTAINED.

Any information gained as the result of any return, investigation, hearing or verification required or authorized by this chapter shall be confidential except for official purposes or except in accordance with proper judicial order. No person shall divulge such information in violation of this section.

(Ord.66-67. Passed 12-18-67.)

880.46 TAXPAYER REQUIRED TO RETAIN 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.66-67. Passed 12-18-67.)

880.47 AUTHORITY TO CONTRACT FOR CENTRAL COLLECTION FACILITIES.

The City, having already entered into an agreement for the establishment of a Regional Council of Governments pursuant to Section 210.01 of these Codified Ordinances, which Council has organized a municipal tax collection agency known as the Regional Income Tax Agency, hereby authorizes the Board of Trustees of such Regional Income Tax Agency to administer and enforce the provisions of this chapter as the agent of the City, and the duties and authorities of the Administrator hereunder may be performed by the Board of Trustees of such Agency through the Administrator of such Agency. However, the Administrator of such Agency shall have no authority to abate surcharges or interest provided for in Sections 880.23 and 880.24.

(Ord.15-72. Passed 1-3-72.)

880.48 BOARD OF REVIEW ESTABLISHED.

There is hereby established a Board of Review which shall consist of the Director of Finance, the Director of Law and an elected Councilman to be appointed by the Mayor and approved by Council. The Board shall select, each year for a one-year term, one of its members to serve as Chairman and one to serve as Secretary. 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 880.45 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.

(Ord.66-67. Passed 12-18-67.)

880.49 DUTY TO APPROVE REGULATIONS AND TO HEAR APPEALS.

All rules and regulations and amendments or changes thereof, 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 the Administrator, is authorized to substitute alternate methods of allocation.

(Ord.66-67. Passed 12-18-67.)

880.50 RIGHT OF APPEAL.

Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority of this chapter may appeal therefrom to the Board of Review within thirty days from the announcement of such ruling or decision by

the Administrator. The Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof.
(Ord.66-67. Passed 12-18-67.)

880.51 SEPARABILITY.

If any sentence, clause, section or part of this chapter, 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 chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or 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.66-67. Passed 12-18-67.)

880.52 COLLECTION OF TAX AFTER TERMINATION 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 and proceedings for collecting any tax so levied or enforcing any provision of this chapter are concerned, it shall continue effective until all of such taxes levied in the aforesaid period 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 have been fully terminated, subject to the limitations contained in Sections 880.27 through 880.29 and 880.30 through 880.32.

(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 Sections 880.11 and 880.17 as though the same were continuing.
(Ord.66-67. Passed 12-18-67.)

880.53 AMENDMENTS.

This chapter may be amended from time to time in the manner provided in Article IX of the City Charter. However, no amendment to this chapter which provides for a rate of tax other than that imposed by Section 880.03, or which imposes the tax provided for herein on persons or income other than as specified herein, shall be enacted unless approved by a majority of those voting upon such question at a general election as provided in Section 2, Article XI, of the City Charter.
(Ord.66-67. Passed 12-18-67.)

880.99 PENALTY.

(EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)

In addition to the penalty provided in Section 202.99, any employee of the City who violates Section 880.45 shall be subject to immediate dismissal.

(Ord.66-67. Passed 12-18-67.)