

TITLE FOUR- Taxation
 Chap. 880. Earned Income Tax.
 Chap. 884. Motor Vehicle License Tax.
 Chap. 886. Community Reinvestment Program.

CHAPTER 880
 Earned Income Tax

EDITOR'S NOTE: The City of Bexley contracts with the Regional Income Tax Agency for collection of the Earned Income Tax. Copies of the latest relevant legislation may be obtained from the Clerk of Council.

<p>880.01 Definitions.</p> <p>880.02 Imposition of tax.</p> <p>880.03 Allocation of net profits.</p> <p>880.04 Levy of tax.</p> <p>880.05 Return and payment of tax.</p> <p>880.06 Amended return and refunds for overpayment.</p> <p>880.07 Collection at source.</p> <p>880.08 Declarations.</p> <p>880.09 Duties of the City Auditor.</p> <p>880.10 Investigative powers of the Auditor.</p> <p>880.11 Tax information confidential.</p>	<p>880.12 Collection of unpaid taxes.</p> <p>880.13 Violations.</p> <p>880.14 Credit for tax paid to another municipality.</p> <p>880.15 Exemptions.</p> <p>880.16 Contract provisions.</p> <p>880.17 Interest and penalties.</p> <p>880.18 Allocation of funds.</p> <p>880.19 Interest on unpaid withheld taxes.</p> <p>880.20 Registration of tenants.</p> <p>880.21 Board of Tax Review; membership; rules.</p> <p>880.22 Right to appeal.</p> <p>880.99 Penalty.</p>
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CROSS REFERENCES

Power to levy income tax - see Ohio Const., Art. XII, Sec. 5, Art. XII, Sec. 8, Art. XVIII, Sec. 3
 Municipal income taxes - see Ohio R.C. Ch. 718
 Auditor - see ADM. Ch. 232
 Collection of delinquent taxes and assessments - see ADM. 232.02

880.01 DEFINITIONS.

As used in this chapter, unless the context clearly indicates or requires a different meaning:

- (a) "Association" means any form of unincorporated enterprise owned by two or more persons, other than a partnership or limited partnership.
- (b) "Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, fiduciary, trust, association, pass-through entity, S corporation, corporation or any other entity.

- (c) "Corporation" means a corporation or joint stock association organized under the laws of the United States, this State or any other state, territory or foreign country or dependency.
- (d) "Employee" means one who works for wages, salary, commissions or other type of compensation in the service of an employer.
- (e) "Employer" means an individual, partnership, association, pass-through entity, S corporation, corporation, governmental body, unit or agency or any other entity, whether or not organized for profit, that employs one or more persons on a salary, wage, commission or other compensation basis.
- (f) "Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31.
- (g) "Gross receipts" means the total income from any source whatsoever.
- (h) "Internal Revenue Code" means the "Internal Revenue Code of 1986", 100 Stat. 2085, 26 U.S.C.A. 1, as amended.
- (i) "Limited liability company" means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the similar laws of another state.
- (j) "Net profits" means the net gain from the operation of a business, profession or enterprise or other activity, whether or not such business, profession, enterprise or other activity is conducted for profit or is ordinarily conducted for profit, 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 and other taxes based on income, and, in the case of an association, without deduction of salaries paid to partners and other owners, and otherwise adjusted to the requirements of this chapter.
- (k) "Nonresident individual" means an individual who is not domiciled in the City and whose usual place of abode is outside the City.
- (l) "Nonresident unincorporated business entity" means an unincorporated business entity, including a pass-through entity, not having an office or place of business within the City.
- (m) "Pass-through entity" means a partnership, limited liability company, or any other class of entity, other than an S corporation, the income or profits from which are given pass-through treatment under the Internal Revenue Code.
- (n) "Person" means every natural person, partnership, fiduciary, association, pass-through entity, S corporation or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person," as applied to any unincorporated entity, means the parties or members thereof, and as applied to corporations, the officers thereof.
- (o) "Place of business" means any bona fide office (other than a mere statutory office), factory, warehouse or other place which is occupied and used by the taxpayer in carrying on any business activity individually or through any one or more of his regular employees regularly in attendance.
- (p) "Resident individual" means any individual who is domiciled in the City or whose usual place of abode is in the City.
- (q) "Resident unincorporated business entity" means an unincorporated business entity, including a pass-through entity, having an office or place of business within the City.
- (r) "S corporation" means a corporation for which an election under Subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code has been made for its taxable year.

- (s) "Taxable income" means wages, salaries, commissions and other compensation paid by an employer before any deductions and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this chapter.
- (t) "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.
- (u) The singular includes the plural and the masculine includes the feminine and the neuter. (Ord. 101-02. Passed 12-17-02.)

880.02 IMPOSITION OF TAX.

To provide for the purposes of general municipal operations, maintenance, new equipment and capital improvements of the City, there is hereby levied a tax at the rate of two percent (2%) per year commencing January 1, 1988, upon the following:
(Ord. 91-90. Passed 12-19-90.)

- (a) On all salaries, wages, commissions and other compensation, lottery winnings, and gambling winnings earned or received by residents of the City;
- (b) On all salaries, wages, commissions and other compensation, lottery winnings, or gambling winnings earned or received by nonresidents of the City for work done or services performed or rendered, or activities conducted in the City;
(Ord. 101-02. Passed 12-17-02.)
- (c) Net profits:
 - (1) On the net profits earned of all unincorporated businesses, professions or other activities conducted by residents of the City; and
 - (2) On the net profits earned of all unincorporated businesses, professions or other activities conducted in the City by nonresidents.
 - (3) For the purposes of paragraphs (c)(1) and (2) hereof, an association shall be taxed as an entity, on the net profits of the association derived from work done or services performed or rendered and business or other activities conducted in the City, whether or not such association has its principal or any place of business located in the City.
 - (4) For the purposes of subsection (c)(1) hereof, a resident of the City who is a member of an association is taxed individually on that resident's entire share, whether distributed or not, of the annual net profits of the association which are not subject to entity filing under subsection (c)(3) hereof.
- (d) On the net profits of all corporations, estates and trusts derived from work done or services performed or rendered and business or other activities conducted in the City, whether or not such corporations, estates and trusts have their principal or any place of business located in the City.
(Ord. 91-90. Passed 12-19-90.)
- (e)
 - (1) On and after January 1, 2003, on the entire distributive share, whether distributed or not, of the annual net profits of pass-through entities of a resident individual.
 - (2) On and after January 1, 2003, on the entire distributive share, whether distributed or not, of the annual net profits of S corporations of a resident individual, except to the extent such distributive share does not represent wages as defined in Section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in Section 1402(a) of the Internal Revenue Code and would not be allocated or apportioned to Ohio under Division (B)(1) and (2) of Section 5733.05 of the Ohio Revised Code if the S corporation were a corporation subject to the taxes imposed under Chapter 5733 of the Ohio Revised Code.

- (3) For purposes of divisions (e)(1) and (e)(2) of this section, if a resident has an ownership interest in two or more pass-through entities or S corporations, the resident's share of the net loss of one pass-through entity or S corporation (except any portion of a loss separately reportable for municipal income tax purposes to another taxing entity, or, in the case of an S corporation, that would not be allocated or apportioned to Ohio under Division (B)(1) and (2) of Section 5733.05 of the Ohio Revised Code if the S corporation were a corporation subject to the taxes imposed under Chapter 5733 of the Ohio Revised Code) may be used to offset the resident's share of the net profits of another pass-through entity or S corporation for purposes of arriving at overall net profits derived from pass-through entities or S corporations.
- (4) As provided in Section 880.14 of this chapter, a credit shall be allowed for tax paid to any other municipal corporation with respect to the individual's distributive share of the net profits of pass-through entities and S corporations, provided that the credit shall be reduced to the extent that the individual's distributive share of the net profits from pass-through entities and S corporations was offset by the individual's distributive share of the net losses from pass-through entities or corporations.
- (f) On and after January 1, 2003, on that portion of the distributive share, whether distributed or not, of that portion of the annual net profits of pass-through entities and S corporations derived from work done or services performed or rendered and business or other activities conducted in the City, of a nonresident individual. (Ord. 101-02. Passed 12-17-02.)

880.03 ALLOCATION OF NET PROFITS.

(a) In the taxation of income which is subject to the tax, if the books and records of a taxpayer who conducted a business or profession both within and without the boundaries of the City disclose with reasonable accuracy what portion of the 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 purposes of the tax. In the absence of such records, net profit from a business or profession conducted both within and without the boundaries of the City shall be considered as having a taxable situs in the City for purposes of the tax in the same proportion as the average ratio of:

- (1) 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 of 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 the preceding paragraph, 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.
- (2) Wages, salaries and other compensation paid during the taxable period to persons employed in the business or professions 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;
- (3) Gross receipts of the business or profession from sales made and services performed during the taxable period in the City to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

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

- (c) As used in this chapter, "sales made in the City" means:
- (1) 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;
 - (2) 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 his own employees in the solicitation or promotion of sales within the City and the sales result from such solicitations or promotion; and
 - (3) 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 his own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made. (Ord. 35-76. Passed 7-27-76.)

880.04 LEVY OF TAX.

The income tax at the rate of two percent shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation earned on and after January 1, 1988, and with respect to the net profits of businesses, professions or other activities earned on and after January 1, 1988. Where the fiscal year of the business, profession or other activity differs from the calendar year, the tax rate of two percent shall be applied to that portion of the fiscal year occurring on and after January 1, 1988.

Where the fiscal year of a business, profession or other activity is other than a calendar year, in computing the tax, the profits of such taxpayer shall be determined by dividing the annual profits by twelve and multiplying the quotient by the number of months of the fiscal year between January 1, 1988, and thereafter and applying the tax rate. (Ord. 53-87. Passed 7-28-87.)

880.05 RETURN AND PAYMENT OF TAX.

(a) Each person residing in the City and eighteen years of age or older shall be required to file with the City Auditor a City income tax return on or before April 15 of each year, whether or not such person has taxable income.

(b) Each taxpayer who engages in business, or whose salaries, wages, commissions and other compensation are subject to the tax imposed by this chapter, shall, whether or not a tax is due thereon, make and file a return on or before April 15 of each year with the City Auditor on a form furnished by or obtainable from the City Auditor, setting forth the aggregate amount of salaries, wages, commissions and other compensation earned and/or net profits earned and/or gross income from such business less allowable expenses in the acquisition of such gross income earned during the preceding year and subject to the tax, together with such other pertinent information as the City Auditor may require. However, when the return is made for a fiscal year or other period different from the calendar year, the return shall be made on or before the fifteenth day of the fourth month after the close of such fiscal year or other period.

(c) The net loss from an unincorporated business activity conducted in the City or elsewhere may not be used to offset salaries, wages, commissions or other compensation. However, if a taxpayer is engaged in two or more taxable business activities to be included in the same return, the net loss of one unincorporated business activity conducted in the City (except any portion of a loss separately reportable for municipal tax purposes to another taxing entity) may be used to offset the profits of another unincorporated business activity conducted in the City for purposes of arriving at overall net profits. A husband and wife, in any taxable year, may elect to file separate or joint returns.

(d) If a net operating loss has been sustained in any taxable year, such losses may not be carried forward or backward to any other taxable year.

(e) Affiliated corporations may not deduct a loss from any other corporation having a taxable profit, and operations of any affiliated corporation having a loss may not be taken into consideration in computing net profits or business allocation percentage formula.

(f) The taxpayer making a return shall, at the time of the filing thereof, pay to the City Auditor the amount of taxes shown as due thereon. However, where any portion of the tax so due has been deducted at the source pursuant to the provisions of Section 880.07, or where any portion of such tax has been paid by the taxpayer pursuant to the provisions of Section 880.08, or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with Section 880.14 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.

(g) A taxpayer who has overpaid his income tax in any taxable year may request a refund, provided there is no other tax liability and provided, further, that no amount of less than one dollar (\$1.00) will be refunded or collected.

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

(i) When the last day for filing a return falls upon a Saturday, Sunday or federal holiday, the taxpayer shall be permitted to file on or before the first business day following such Saturday, Sunday or federal holiday without penalty.
(Ord. 91-90. Passed 12-19-90.)

880.06 AMENDED RETURN AND REFUNDS FOR OVERPAYMENT.

Where 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 and/or limitations contained in Section 880.05(f), such amended return shall be on a form obtainable on request from the City Auditor. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

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.

No refund shall be allowed unless a written request is presented to the City Auditor within three years of the date the taxes were due. (Ord. 35-76. Passed 7-27-76.)

880.07 COLLECTION AT SOURCE.

Each employer within or doing business within the City shall deduct, at the time of payment of such salaries, wages, commissions or other compensation, the tax of two percent of the gross salaries, wages, commissions or other compensation due by such employer to such employee and shall, on or before the last day of the month following the close of each calendar quarter, make a return showing the amount of taxes so deducted and a record of payments showing that all taxes deducted during the quarter have been paid to the City in accordance with the payment schedule prescribed by subsections (a), (b) and (c) hereof. 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. Every employer or officer of a corporation is deemed to be a trustee for this Municipality 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.

Employers shall pay to the City all income taxes withheld or required to be deducted and withheld on either a semimonthly, monthly or quarterly basis depending on the amount of taxes involved according to the following payment schedule:

- (a) Semimonthly payments of the taxes deducted are to be made by an employer if the total taxes deducted in the prior calendar year were twelve thousand dollars (\$12,000) or more, or if the amount of taxes deducted for any month in the preceding quarter exceeded one thousand dollars (\$1,000). Such payment shall be paid to the City within five banking days after the fifteenth and the last days of each month.
- (b) Monthly payments of taxes withheld shall be made by an employer if the taxes withheld in the prior calendar year were less than twelve thousand dollars (\$12,000) but more than one thousand one hundred ninety nine dollars (\$1,199) or if the taxes withheld during any month for the preceding quarter exceeded one hundred dollars (\$100.00). Such payments shall be paid to the City within fifteen days after the close of each calendar month. However, those taxes accumulated for the third month of a calendar quarter by employers making monthly payments pursuant to this subsection need not be paid until the last day of the month following such quarter.
- (c) All employers not required to make semimonthly or monthly payments of taxes withheld under subsections (a) and (b) hereof shall make quarterly payments not later than the last day of the month following the end of each quarter.

Each employer who maintains a place of business in the City and another branch within the County must also withhold the tax from employees residing in the City but working at the employer's metropolitan area branch even though the payroll records and place of payment are outside the City.

The employer shall make and file a return on a form furnished by the City Auditor, showing the amount of tax deducted by such employer from the salaries, wages, commissions or other compensation of any employee and paid by the employer to the City Auditor. Such employer's return shall be accepted as the return required of an employee whose sole income subject to the tax under this chapter is the salaries, wages, commissions and other compensation returned by such employer.

Each employer, on or before January 31, unless written request for thirty days extension is made to and granted by the City Auditor, following any calendar year in which such deductions have been made, or shall have been made by an employer, shall file with the City Auditor an information return (Bexley Withholding Statement of Wages Paid and Bexley Income Tax Withheld) for each employee from whom income tax has been or should have been withheld showing the name and address of the employee, the total amount of salaries, wages, commissions and other compensation paid such employee during the year and the amount of City income tax withheld from each employee.

Where a resident of the City performs service for his employer in another municipality, which services are subject to withholding in the other municipality, the employer shall have the authority to reduce the withholding to the City to the extent of the tax liability in the other municipality.

The officer or the employee having control or supervision of or charged with the responsibility of filing the report and making payment is personally liable for failure to file the report or pay the tax due as required by this section. The dissolution of a corporation does not discharge an officer's or employee's liability for a prior failure of the corporation to file returns or pay tax due. (Ord. 53-87. Passed 7-28-87.)

880.08 DECLARATIONS.

Every person who anticipates any taxable income which is not subject to Section 880.07, or who engages in any business, profession, enterprise or activity subject to any tax imposed by Section 880.02(c) 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. However, if a person's income is wholly from wages, salaries, commissions or other compensation from which the tax will be withheld and remitted to the City in accordance with Section 880.07, such person need not file a declaration.

Such declarations shall be filed on or before April 15 of each year during the life of this chapter, or on or before the fifteenth day of the fourth month the taxpayer becomes subject to tax for the first time.

Those taxpayers reporting on a fiscal year basis shall file a declaration on or before the fifteenth day of the fourth month after the beginning of each fiscal year or period.

Such declaration shall be filed upon a form furnished by or obtainable from the City Auditor, provided that credit shall be taken for the City tax to be withheld from any portion of such income. In accordance with the provisions of Sections 880.07 and 880.14, credit may be taken for tax to be paid to or to be withheld and remitted to another taxing municipality.

The original declaration, or any subsequent amendment thereof, may be increased or decreased on or before any subsequent quarterly payment day as provided for herein.

Such declarations of estimated tax to be paid 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 fifteenth day of the sixth, ninth and twelfth months after the beginning of the taxable year. However, in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

On or before the fifteenth day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the City shall be paid therewith in accordance with the provisions of Section 880.05.

A declaration of estimated tax which is less than eighty percent (80%) of the tax shown on the final return shall not be considered filed in good faith. The difference shall be subject to penalties and interest as provided for in Section 880.17. (Ord. 91-19. Passed 12-19-90.)

880.09 DUTIES OF THE CITY AUDITOR.

The City Auditor shall collect and receive the tax imposed by this chapter in the manner prescribed by this chapter, and it shall also be his duty to keep an accurate record showing the payment received by him from each taxpayer and the date of such payment.

The City Auditor is hereby charged with the administration and enforcement of the provisions of this chapter and he is hereby authorized to adopt, promulgate and enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this chapter, including provisions for the re-examination and correction of returns and payments.

In any case where a taxpayer has failed to file a return or failed to pay the tax due on a return or has filed a return which does not show the proper amount of tax due, the City Auditor may determine the amount of tax appearing to be due the City from the taxpayer and shall send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any. (Ord. 35-76. Passed 7-27-76.)

880.10 INVESTIGATIVE POWERS OF THE AUDITOR.

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

The City Auditor is hereby authorized to order any person presumed to have knowledge of the facts to appear before the City Auditor, or an authorized employee or agent, and may examine such person, under oath, concerning any income which was or would 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, whether as parties or witnesses, whenever the City Auditor believes such persons have knowledge of such income or information pertinent to such inquiry. (Ord. 49-01. Passed 7-24-01.)

880.11 TAX INFORMATION CONFIDENTIAL.

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. The City Auditor may furnish the Bureau of Internal Revenue, Treasury Department of the United States, with copies of the returns filed. No person shall divulge such information. (Ord. 35-76. Passed 7-27-76.)

880.12 COLLECTION OF UNPAID TAXES.

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.

The City Auditor is authorized, in addition to his other duties, to institute civil law suits to collect delinquent taxes due and owing the City by virtue of the provisions of this chapter. The City Auditor is authorized to waive penalties and interest, to compromise tax liability and to accept a waiver of the statute of limitations applicable to violations of any of the provisions of this chapter. (Ord. 35-76. Passed 7-27-76.)

880.13 VIOLATIONS.

(a) No person shall:

- (1) Fail, neglect or refuse to make any return or declaration;
- (2) Fail, neglect or refuse to deduct and withhold the taxes or pay the taxes imposed by this chapter;
- (3) Fail, neglect or refuse to pay the tax, interest and penalties imposed by this chapter;
- (4) Refuse to permit the City Auditor or his duly authorized agent or employee to examine the books, records and papers of a taxpayer;
- (5) Knowingly make an incomplete, false or fraudulent return; or
- (6) Attempt to do anything whatever to avoid the payment of the whole or any part of the tax under this chapter.

(b) The failure of an employee or taxpayer to receive or procure a return or declaration form shall not excuse him from making a return or declaration or from paying the tax levied under this chapter. (Ord. 35-76. Passed 7-27-76.)

880.14 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

Every individual taxpayer who resides in the City but who received net profits, salaries, wages, commissions or other compensation for work done or services performed or rendered outside of the City, if it is made to appear that he or any person acting on his behalf (such as a partnership acting on behalf of its partners), has paid a municipal income tax or excise tax based on income on such net profits, salaries, wages, commissions or compensation in another municipality, shall be allowed a credit for the amount so paid by him or on his behalf, in such other municipality, this credit to be applied only to the extent of the tax assessed by this chapter, by reason of such net profits, salaries, wages, commissions or compensation earned in such other municipality where such tax is paid. Effective for taxable years, or portions thereof, commencing on or after January 1, 1993, and ending on or before December 31, 1995, the credit provided in this section shall not be allowed to the extent that the tax rate of the tax levied by such other municipality exceeds two percent (2%). Effective for taxable years, or portions thereof, commencing on or after January 1, 1996, the credit provided in this section shall not be allowed to the extent that it exceeds eighty percent (80%) of the amount obtained by multiplying the lesser of the tax rate of such other municipality or of the City times the taxable income the taxpayer earns in such other municipality. (Approved by voters 3-19-96.)

880.15 EXEMPTIONS.

The provisions of this chapter shall not be construed to tax the military pay or allowances of 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.

The tax provided for herein shall not be levied on the personal earnings of any natural person under eighteen years of age. (Ord. 35-76. Passed 7-27-76.)

880.16 CONTRACT PROVISIONS.

No contract on behalf of the City for works or improvements of the City shall be binding or valid unless such contract contains the following provisions:

"Said hereby further agrees to withhold all City income taxes due or payable under the provisions of Chapter 880 of the Codified Ordinances for wages, salaries and commissions paid to its employees and further agrees that any of its subcontractors shall be required to agree to withhold any such City income taxes due under such chapter for services performed under this contract."

(Ord. 35-76. Passed 7-27-76.)

880.17 INTEREST AND PENALTIES.

All taxes imposed by this chapter and remaining unpaid after they become due shall bear interest, in addition to the amount of the unpaid tax, at the rate of eighteen percent per year, and the taxpayers upon whom such taxes are imposed by this chapter shall be liable, in addition thereto, to a penalty of ten percent of the amount of the unpaid tax.

A penalty shall not be assessed on an additional tax assessment made by the City Auditor when a return has been filed in good faith and the tax paid thereon within the time prescribed by the City Auditor. Further, 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.

(Ord. 30-82. Passed 6-8-82.)

880.18 ALLOCATION OF FUNDS.

EDITOR'S NOTE: Section 880.18 was suspended for year 2007 by Ordinance 5-07, passed February 27, 2007.)

The funds collected on or after January 1, 2003, under the provisions of this chapter shall be applied for the following purposes and in the following order:

- (a) Such part thereof as is necessary to defray all costs of collecting the taxes levied by this chapter and enforcing the provisions hereof; and
- (b) Two and one-half percent (2.5%) of the funds shall be deposited in a special fund to be used for the purposes of providing new equipment and capital improvements; and
- (c) The balance of such funds shall be transferred to the General Fund.

(Ord. 6-03. Passed 2-25-03.)

880.19 INTEREST ON UNPAID WITHHELD TAXES.

All taxes deducted by an employer or required to be deducted and withheld by an employer and remaining unpaid after they become due pursuant to Section 880.07 shall bear interest on the amount of such unpaid taxes at the rate of eighteen percent per year and, in addition, a penalty of ten percent of the amount of the unpaid taxes.

(Ord. 30-82. Passed 6-8-82.)

880.20 REGISTRATION OF TENANTS.

Each owner, or the duly designated agent thereof, of one or more units of real property located within the City and which are rented or available for rent as of January 1, 1991, shall submit to the City Auditor, or the designee thereof, on or before September 30 of each year a list of tenants presently occupying those rental units and those units vacant. For the purposes of this section, "rented units" includes any unit of real property which is subject to a rental agreement, whether oral or written, for residential, commercial or industrial purposes. (Ord. 91-90. Passed 12-19-90.)

880.21 BOARD OF TAX REVIEW; MEMBERSHIP; RULES.

(a) There is hereby established a Board of Tax Review which shall consist of three members appointed by the Mayor and approved by Council. Each member so appointed by the Mayor shall be an elector of the City and shall serve for a term of three years.

(b) All rules and regulations and amendments or changes thereto, which are adopted by the City Auditor under the authority conferred by this chapter, must be approved by the Board before the same become effective. After such approval, such rules, regulations, amendments and changes shall be filed with the Clerk of Council and shall be open to public inspection.

(c) The Board shall elect from its members, a Chairman, a Vice-Chairman and a Secretary. A majority of the members shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its actions. All appeal hearings conducted by the Board shall be private, unless a public hearing is requested by the taxpayer, and the provisions of Section 880.11 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. 2-01. Passed 2-13-01.)

880.22 RIGHT TO APPEAL.

Any person dissatisfied with any ruling or decision of the City Auditor which is made under the authority conferred by this chapter may appeal therefrom to the Board within thirty days from the announcement of such ruling or decision by the City Auditor. The Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision or any part thereof. Such hearing shall be scheduled within thirty days from the date of the appeal. The Board's ruling must be made within fifteen days from the date of the hearing. Any person dissatisfied with any ruling or decision of the Board may appeal therefrom to a court of competent jurisdiction within sixty days from the announcement of such ruling or decision. (Ord. 2-01. Passed 2-13-01.)

880.99 PENALTY.

(a) Whoever violates any of the provisions of this chapter, for which no penalty is otherwise provided, is guilty of a minor misdemeanor and shall be fined not more than one hundred dollars (\$100.00) for the first offense, and is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned sixty days, or both, for a second or subsequent offense.

(b) Whoever violates Section 880.11 shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months, or both. Each disclosure shall constitute a separate offense. (Ord. 35-76. Passed 7-27-76.)