

TITLE FOUR - Taxation
Chap. 882. Earned Income Tax.
Chap. 886. Community Reinvestment Area.

CHAPTER 882
Earned Income Tax

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CROSS REFERENCES

Power to levy income tax - see Ohio Const., Art. XII, Sacs. 3, 5, Art. XVIII, Sec. 3

Payroll deductions - see Ohio R.C. 9.42

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

882.01 TITLE.

This chapter shall be known as the Income Tax Code of the Village of Brooklyn Heights, Ohio. (1974 Code ' 95.01)

882.02 PURPOSE; ALLOCATION OF FUNDS.

The purpose of the income tax is to provide for general Municipal functions of the Village of Brooklyn Heights. There shall be and is hereby levied a tax on all salaries, wages, commissions, and other compensation, and on net profits, as hereinafter provided. The amount so levied and collected, after expenses, shall be collected as follows:

- (a) 100% to the General Fund.
 - (b) 0% to the Capital Improvement Fund.
- Effective February 1, 2005

882.03 DEFINITIONS.

For the purposes of this chapter, the terms, phrases, words and their derivatives shall have the meaning given in this section. The singular shall include the plural, and the masculine shall include the feminine and the neuter.

- (a) AAdministrator.@ Administrator means the person appointed by the Mayor with the approval of Council, who shall administer and enforce the provisions of the Income Tax Code.
- (b) AAssociation.@ Association means any partnership, limited partnership, or any other form of unincorporated enterprise, owned by two or more persons.
- (c) ABoard of Review.@ Board of review means the Board created by and constituted as provided in Section 882.49.
- (d) ABusiness.@ 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) ACorporation.@ Corporation means a corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory, or foreign country or dependency.
- (f) AEmployee.@ Employee means one who works for wages, salary, commission or other type of compensation in the service of an employer.
- (g) AEmployer.@ 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) AFiscal year.@ Fiscal year means an accounting period of twelve months or less ending on any day other than December 31.

(Ord. 53-68. Passed 9-3-68; Ord. 29-70. Passed 4-7-70.)

- (i) **Fundamental change.** Fundamental change means any substantial alteration by an employer, including liquidation, dissolution, bankruptcy and reorganization, such as merger, consolidation, acquisition, transfer or change in identity, form or organization.
- (j) **Gross receipts.** Gross receipts means the total income from any sources whatever.
- (k) **Manager.** A Manager means any of the employer's officers, responsible persons, or employees having control or supervision of, and employees charged with, the responsibility of filing the returns, paying taxes, and otherwise complying with this chapter.
- (l) **Net profit.** 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, and other taxes based on income, and, in the case of an association, without deduction of salaries paid to partners and other owners.
- (m) **Nonresident.** Nonresident means an individual domiciled outside the Village of Brooklyn Heights.
- (n) **Nonresident unincorporated business entity.** Nonresident unincorporated business entity means an unincorporated business entity not having an office or place of business within the Village of Brooklyn Heights.
- (o) **Person.** Person means every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, the term **Person**, as applied to any unincorporated entity, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.
- (p) **Place of business.** Place of business means any bona fide office (other than a mere statutory office), factory, warehouse, or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his or her regular employees regularly in attendance.
- (q) **Resident.** Resident means an individual domiciled in the Village of Brooklyn Heights.
- (r) **Resident unincorporated business entity.** Resident unincorporated business entity means an unincorporated business entity having an office or place of business within the Village of Brooklyn Heights.
- (s) **Taxable income.** Taxable income means wages, salaries, and other compensation paid by an employer or employers before any deduction, and/or the net profits from the operation of a business, profession or other enterprise or activity, including but not limited to Ohio State lottery and/or any other lottery winnings, also income from wagering, gaming and schemes of chance in the amount of one hundred thousand dollars (\$100,000.00) or more, adjusted in accordance with the provisions of this chapter. Lottery losses are not deductible against lottery winnings.

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- (t) ATaxable year.@ 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) ATaxpayer.@ Taxpayer means a person, whether an individual, partnership, association, or any corporation or other entity, required hereunder to file a return or pay a tax.
(Ord. 89-96. Passed 11-6-96; Ord. 14-2004. Passed 2-17-04.)

882.04 IMPOSITION OF TAX.

An annual tax for the purposes specified in Section 882.02 shall be imposed on and after June 1, 1989, at the rate of two percent per annum upon the following:

- (a) On all salaries, wages, commissions and other compensation earned on and after June 1, 1989, by residents of the Village of Brooklyn Heights.
- (b) On all salaries, wages, commissions and other compensation earned on and after June 1, 1989, by nonresidents of the Village for work done or services performed or rendered within the Village.
- (c) (1) On the portion attributable to the Village on the net profits earned on and after June 1, 1989, 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 Village.
(2) On the portion of the distributive share of the net profits earned on and after June 1, 1989, of a resident partner or owner of a resident unincorporated business entity not attributable to the Village and not levied against such unincorporated business entity by the Village.
- (d) (1) On the portion attributable to the Village of net profits earned on or after June 1, 1989, of all nonresident unincorporated business entities, professions or other activities, derived from sales made, work done, services performed or rendered, and business and other activities conducted in the Village, whether or not such unincorporated business entity has an office or place of business in the Village.
(2) On the portion of the distributive share of the net profits earned on and after June 1, 1989, of a resident partner or owner of a non-resident unincorporated business entity not attributable to the Village and not levied against such unincorporated business entity by the Village.
- (e) On the portion attributable to the Village of the net profits earned on and after June 1, 1989, of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in the Village, whether or not such corporations have an office or place of business in the Village.

- (f) On the portion attributable to the Village pursuant to the terms of this chapter, and including:
- (1) Royalty income. Income earned by a taxpayer from a royalty interest in the production of an oil or gas well, whether managed, extracted or operated by the taxpayer, individually or through an agent or other representative, shall be included in the computation of net profits from a business activity to the extent that such royalty interest constitutes a business activity of the taxpayer. Where the gross income received by a taxpayer from a royalty interest in the production of an oil or gas well in a taxable year exceeds three thousand dollars (\$3,000), it shall be prima-facie evidence that the income was derived from a business activity of such taxpayer and the net income from such royalty interest shall be subject to tax.
 - (2) Finance and carrying charge income. The employer's income derived from finance and carrying charges associated with his or her consumers' accounts receivable.
(Ord. 89-96. Passed 11-6-96.)

882.05 EFFECTIVE PERIOD.

The Village income 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 October 1, 1968.
(1974 Code ' 95.11)

882.06 METHOD OF DETERMINATION OF TAX.

(a) In the taxation of income which is subject to Village income taxes, if the books and records of a taxpayer conducting a business or profession both within and without the boundaries of the Village shall disclose with reasonable accuracy what portion of its net profits is attributable to that part of the business or profession conducted within the boundaries of the Village, then only such portion shall be considered as having a taxable situs in the Village for the purpose of Municipal income taxation. The portion of the entire net profits of a taxpayer to be allocated as having been derived from within the Village, 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:

(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 Village during the taxable period to the average net book value 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 the preceding paragraph, real property shall include 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 profession for services performed in the Village 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 Village 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 so as to produce such result.
(Ord. 53-68. Passed 9-3-68.)

882.07 SALES MADE IN THE VILLAGE DEFINED.

As used in Section 882.06, Asales made in the Village@ means:

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

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

(c) All sales of tangible personal property which is shipped from a place within the Village to purchasers outside the Village, 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. 53-68. Passed 9-3-68.)

882.08 DETERMINATION OF BUSINESS ALLOCATION PERCENTAGE.

(a) Add together the percentages determined in accordance with Section 882.06, 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 said total in order to obtain the business allocation percentage referred to in Section 882.06.

(b) A factor is applicable even though it may be allocable entirely in or outside the Village. (Ord. 53-68. Passed 9-3-68.)

882.09 RENTALS.

(a) Rental income received by the taxpayer shall be included in the computation of net profits from business activities under Sections 882.04(c), (d) and (e), only if and to the extent that the rental, ownership, management or operations 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.

(b) Where the gross monthly rental of any and all real properties, regardless of the 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 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 in the case of farm property, the owner shall be considered engaged in a business activity when he or she shares in crops or when the rental is based on a percentage of the gross or net receipt derived from the farm, whether or not the gross income exceeds said 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.

(c) Property owners who are considered to have a business activity under the provisions of this section shall submit or cause to be submitted to the Administrator a list of names and addresses of all persons, firms, corporations, or other entities occupying, leasing or renting any premises within the Municipality. The required list shall be prepared as of December 31 of each year and submitted on or before January 31 of the following year.

(Ord. 53-68. Passed 9-3-68; Ord. 40-72. Passed 6-27-72.)

882.10 OPERATING LOSS CARRY-FORWARD.

(a) The portion of net operating loss sustained in any taxable year subsequent to October 1, 1968, allocable to the Village, may be applied against the portion of the profit of succeeding tax years allocable to the Village 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 Village in the same manner as provided herein for allocating net profits to the Village.

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

(Ord. 53-68. Passed 9-3-68.)

882.11 SOURCES OF INCOME NOT TAXED.

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

(a) Pay or allowances 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 or state governments or the Federal government or charitable, religious or educational organizations;

(c) Proceeds of insurance paid by reason of the death of the insured, and 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 damage 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 of Ohio from which the Village 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 of Ohio or any act of the Ohio General Assembly limiting the power of the Village to impose net income taxes. (Ord. 53-68. Passed 9-3-68.)

882.12 WHEN RETURN REQUIRED TO BE MADE.

Each taxpayer, except as herein provided, shall, whether or not a tax be due thereon, make and file a return on or before April 30 of the year following the effective date of this chapter 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. Any person who has no income need not file an annual return. Any person who has exempt income must file a return and declare to the Administrator the nature of his or her exemption. Any person who has taxable income must file a tax return with the Tax Administrator.

(Ord. 89-96. Passed 11-6-96.)

882.13 FORM AND CONTENTS OF RETURN.

A 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 business, profession or other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to said 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. 53-68. Passed 9-3-68.)

882.14 EXTENSION OF TIME FOR FILING RETURN.

The Administrator may extend the time for filing of the annual return upon the request of the taxpayer for a period of not to exceed six months, or one month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the Federal Income Tax Return. The Administrator may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon, by the date the return is normally due. No penalty 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. 53-68. Passed 9-3-68.)

882.15 CONSOLIDATED RETURN.

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

(Ord. 53-68. Passed 9-3-68.)

882.16 AMENDED RETURN.

(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 882.32 through 882.35. 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.

(b) Within three months from the final determination of any Federal tax liability affecting the taxpayer's Village tax liability, such taxpayer shall make and file an amended Village return showing income subject to the Village tax based upon such final determination of Federal tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment.

(Ord. 53-68. Passed 9-3-68.)

882.17 PAYMENT OF TAX 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 shall have been deducted at the source pursuant to the provisions of Section 882.18; or

(2) Where any portion of said tax shall have been paid by the taxpayer pursuant to the provisions of Section 882.19; or

(3) Where an income tax has been paid on the same income to another municipality;

Credit for the amount so deducted from the amount shown to be due shall be given, and only the balance, if any, shall be due and payable at the time of filing said return.

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

(c) If any employer who or that 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 penalties 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 said amount, then the successor and, in a personal manner, the successor's manager, shall be jointly and severally liable for the payment of said taxes, interest and penalties.

(Ord. 86-96. Passed 11-6-96.)

882.18 COLLECTION AT SOURCE.

(a) In accordance with the rules and regulations prescribed by the Administrator, each employer within or doing business within the Village shall deduct, at the time of the payment of salaries, wages, commissions or other compensation, the tax of two percent per annum of the gross salaries, wages, commissions or other compensation due by the employer to the employee, and shall, on or before the last day of each month, make a return and pay to the Administrator the amount of taxes so deducted during the previous month, provided, however, that 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 the tax required to be deducted and withheld, whether or not such taxes have, in fact, been withheld.

(c) Such employer in collecting said tax shall be deemed to hold the same until payment is made by such employer to the Village as a trustee for the benefit of the Village, and any such tax collected by such employer from his or her employees shall, until the same is paid to the Village, 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 domestic servants employed by him or her exclusively in or about such person's residence, even though such residence is in the Village, but such employee shall be subject to all of the requirements of this chapter.

(e) (1) Every manager is deemed to be a trustee of the Village 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 Village for payment of such funds, whether actually collected by such employer or not. Any tax deducted and withheld is to be considered paid to the Village, whether or not the employer actually remits the tax to the Village, for purposes of determining employee payments or credits.

(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 managers' failure to remit funds held in trust, to file a tax return or to pay taxes.

(Ord. 89-96. Passed 11-6-96.)

882.19 DECLARATION OF INCOME NOT COLLECTED AT SOURCE.

(a) Except as herein provided, any person whose income tax is not fully withheld in the Village or in another municipality in which taxes are withheld at a rate the same as or higher than the rate provided in Section 882.04 hereof shall file a declaration setting forth estimated 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:

- (1) The tax withheld within the Village; and
- (2) The tax credit allowed in Section 882.35.

(b) 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. 94-71. Passed 12-21-71; Ord. 94-73. Passed 12-18-73.)

882.20 FILING OF DECLARATION.

(a) The declaration required by Section 882.19 above shall be filed on or before April 30 of each year during the effective period set forth in Section 882.05 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. 53-68. Passed 9-3-68.)

882.21 FORM OF DECLARATION.

(a) The declaration required by Section 882.19 shall be filed upon a form furnished by or obtainable from the Administrator. As provided in Section 882.19, credit shall be taken for the Village 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 Section 882.35.

(b) The original declaration or any subsequent amendment thereof may be increased or decreased on or before any subsequent quarterly payment date as provided for herein.
(Ord. 53-68. Passed 9-3-68; Ord. 94-71. Passed 12-21-71.)

882.22 PAYMENT TO ACCOMPANY DECLARATION.

Such declaration of estimated tax to be paid to the Village 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, provided, however, that 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 date or dates. (Ord. 94-71. Passed 12-21-71; Ord. 5-74. Passed 1-15-74.)

882.23 ANNUAL RETURN.

On or before the last day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the Village shall be paid therewith in accordance with the provisions of Section 882.17, provided, however, that 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. 53-68. Passed 9-3-68; Ord. 94-71. Passed 12-21-71.)

882.24 EXTENSION OF FILING TIME.

The Administrator may extend the time for filing any return required, making any payment or performing any other act required by Sections 882.17 through 882.23, and this section, inclusive, for a period of not to exceed six months beyond the original required date.
(Ord. 53-68. Passed 9-3-68.)

882.25 INTEREST ON UNPAID TAX.

All taxes imposed and all monies 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 six percent per annum.
(Ord. 53-68. Passed 9-3-68; Ord. 94-71. Passed 12-21-71.)

882.26 PENALTIES ON UNPAID TAX.

In addition to interest as provided in Section 882.25, penalties based on the unpaid tax or installments of estimated tax are hereby imposed as follows:

- (a) For failure to pay taxes or estimated taxes due, other than taxes withheld: ten percent per annum, but not less than five dollars (\$5.00).
- (b) For failure to remit taxes withheld from employees: ten percent per month or fraction thereof, but an accumulated penalty shall not exceed fifty percent upon any unpaid amount and shall not be less than five dollars (\$5.00).

(Ord. 53-68. Passed 9-3-68; Ord. 94-71. Passed 12-21-71.)

882.27 EXCEPTIONS.

A penalty shall not be assessed on an additional tax assessment made by the Administrator against a taxpayer when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Administrator, provided that, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a Federal audit, provided that an amended return is filed and the additional tax is paid within three months after a final determination of the Federal tax liability. (Ord. 53-68. Passed 9-3-68.)

882.28 ABATEMENT OF INTEREST AND PENALTY.

Either the Administrator or the Board of Review may abate a penalty or interest, or both, for good cause shown.

(Ord. 53-68. Passed 9-3-68; Ord. 94-71. Passed 12-21-71.)

882.29 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) Intentionally or willfully fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter;
- (d) Fail, neglect or refuse to withhold the tax from his or her employees or remit such withholding to the Administrator;
- (e) Refuse to permit the Administrator, or any duly authorized agent or employee, to examine his or her books, records, papers and Federal Income Tax Returns relating to the income or net profits of a taxpayer;
- (f) Fail to appear before the Administrator, and to produce his or her books, records, papers or Federal Income Tax Returns relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator;
- (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 or her true name, correct social security number and residence address, or fail to promptly notify an employer of any change in his or her residence address and the date thereof;

- (j) Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and Village 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, penalties or interest imposed by this chapter.
- (Ord. 89-96. Passed 11-6-96.)

882.30 LIMITATION OF PROSECUTION.

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

882.31 FAILURE TO PROCURE FORMS NOT EXCUSE.

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

(Ord. 53-68. Passed 9-3-68.)

882.32 UNPAID TAXES RECOVERABLE AS OTHER DEBTS.

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. Except in the case of fraud, or omission of a substantial portion of income subject to this tax, or 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 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.

(Ord. 53-68. Passed 9-3-68.)

882.33 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. 53-68. Passed 9-3-68.)

882.34 AMOUNTS OF LESS THAN ONE DOLLAR.

Amounts of less than one dollar (\$1.00) shall not be collected or refunded.

(Ord. 53-68. Passed 9-3-68.)

882.35 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(a) When taxable income of a resident of the Village is subject to a municipal income tax in another municipality or in a Joint Economic Development District created pursuant to Ohio R.C. 715.70, as the same exists or may hereinafter be amended, on the same income taxable under this chapter, such resident shall be allowed a credit of the amount of income tax paid on such taxable income to such other municipality, equal to one hundred percent of the amount obtained by multiplying the lower of the tax rate of such other municipality or of the Village by the taxable income earned in or attributable to the municipality of employment or business activity. For the purposes of this section, taxable income includes the distributive share of net profits of a resident partner or owner of an unincorporated business entity.

(b) A claim for credit or refund under this section shall be made in such manner as the Administrator may by regulation provide. If a Village resident fails, neglects or refuses to file an annual return or declaration on the form prescribed by the Administrator, he or she 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. 65-95. Passed 9-19-95.)

882.36 DISBURSEMENT OF FUNDS COLLECTED.

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

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

(b) The balance remaining after payment of the expenses referred to in subsection (a) hereof shall be allocated and deposited as provided in Section 882.02, namely seventy-five percent to the General Fund and twenty-five percent to the Capital Improvement Fund.

(Ord. 53-68. Passed 9-3-68; Ord. 78-92. Passed 9-1-92.)

882.37 APPOINTMENT OF INCOME TAX ADMINISTRATOR.

The Income Tax Administrator shall be appointed by the Mayor and approved by Council.

(Ord. 31-72. Passed 5-4-72.)

882.38 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 taxpayers, to keep an accurate record thereof, and to report all monies so received.

(Ord. 53-68. Passed 9-3-68.)

882.39 DUTY TO ENFORCE COLLECTION.

It shall be the duty of the Administrator to enforce payment of all taxes owing to the Village, 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 to show the dates and amounts of payments thereof.

(Ord. 53-68. Passed 9-3-68.)

882.40 AUTHORITY TO MAKE AND ENFORCE REGULATIONS.

The Administrator is hereby charged with the enforcement of the provisions of this chapter, and is hereby empowered, subject to the approval of the Board of Review, to adopt, 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.

(Ord. 53-68. Passed 9-3-68.)

882.41 AUTHORITY TO ARRANGE INSTALLMENT PAYMENTS.

(a) The Administrator is hereby authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proved to the Administrator that, due to certain hardship conditions, he or she is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him or her under this chapter.

(b) Failure to make any deferred payment when due shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Sections 882.29 and 882.32 shall apply.

(Ord. 53-68. Passed 9-3-68.)

882.42 AUTHORITY TO DETERMINE AMOUNT OF TAX DUE.

(a) Preparation of Return by Administrator. If any taxpayer fails to file a tax return which is required by this chapter within the time prescribed therefor, but consents to disclose all information necessary to the preparation thereof, then the Administrator may prepare such return which, after being signed by such person, may be received by the Administrator as the return of such person.

(b) Execution of Return by Administrator. If any taxpayer fails to file a tax return which is required by this chapter within the time prescribed therefor, or makes, willfully or otherwise, a false or fraudulent return, then the Administrator shall make such return in a reasonable manner from his or her own knowledge and from such information as he or she can obtain through testimony or otherwise.

(c) Assessment of a Taxpayer by Administrator. The Administrator may calculate and assess any taxpayer for the amount of tax, penalties and interest which is imposed by this chapter and which is due and owing. Such assessment shall be made by the Administrator's issuing summary records of the assessment to the last known address of the taxpayer. This summary shall include the identification of the taxpayer, the character of the liability assessed, the taxation period, and the amount of the assessment.

(d) Status of Executed Returns and Assessments. Any return executed by, or any assessment made by, the Administrator pursuant to this chapter, shall be prima-facie good and sufficient for all legal purposes. The Administrator may execute supplemental tax returns and may issue supplemental assessments whenever the Administrator has knowledge derived from any source, including the taxpayer's financial data, that any executed tax return or assessment is imperfect or incomplete in any material respect.

(e) Limitation of Prosecutions. Neither the Tax Administrator's execution of a return nor the Tax Administrator's assessment of a taxpayer shall start the running of the period of limitations on prosecutions set forth elsewhere in this chapter.
(Ord. 89-96. Passed 11-6-96.)

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

(Ord. 53-68. Passed 9-3-68.)

882.44 AUTHORITY TO COMPEL PRODUCTION OF RECORDS.

The Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before him or her and may examine such person, under oath, concerning any income which was or should have been 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 or her, whether as parties or witnesses, whenever he or she believes such persons have knowledge of such income or information pertinent to such inquiry. (Ord. 53-68. Passed 9-3-68.)

882.45 REFUSAL TO PRODUCE RECORDS.

The refusal to produce books, papers, records and Federal Income Tax Returns, 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 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 882.99. (Ord. 53-68. Passed 9-3-68.)

882.46 CONFIDENTIAL NATURE OF INFORMATION.

Any information gained as the result of any returns, investigations, hearings or verification required or authorized by this chapter shall be confidential, except for official purposes or in accordance with a proper judicial order. No person shall divulge such information in violation of this section. (Ord. 53-68. Passed 9-3-68.)

882.47 TAXPAYER REQUIRED TO RETAIN RECORDS.

Every taxpayer shall retain all records necessary to compute his or her tax liability for a period of five years from the date his or her return is filed, or the withholding taxes are paid. (Ord. 53-68. Passed 9-3-68.)

882.48 AUTHORITY TO CONTRACT FOR CENTRAL COLLECTION FACILITIES.

The Village has entered into an agreement for the establishment of a Regional Council of Governments pursuant to Ordinance 53-68, passed September 3, 1968, which Council has organized a municipal tax collection agency known as the ARegional Income Tax Agency@. The Board of Trustees of said Regional Income Tax Agency is authorized to administer and enforce the provisions of this chapter as the agent of the Village, and the duties and authority of the Administrator hereunder may be performed by the Board of Trustees of said Agency through the Administrator of said Agency. However, the Administrator of said Agency shall have no authority to abate penalties or interest provided for in Sections 882.25 and 882.26. (Ord. 53-68. Passed 9-3-68; Ord. 94-71. Passed 12-21-71.)

882.49 BOARD OF REVIEW ESTABLISHED; COMPOSITION; CONFIDENTIALITY.

A Board of Review, consisting of the Mayor, or a person designated by him or her, the Village Law Director and a member of the Village Council to be elected by that body, is hereby created. The Board shall select, each year, for a one-year term, one of its members to serve as Chairperson 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 882.46, 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 of Appeals.

(Ord. 53-68. Passed 9-3-68.)

882.50 DUTY TO APPROVE REGULATIONS AND TO HEAR APPEALS.

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

(Ord. 53-68. Passed 9-3-68.)

882.51 RIGHT OF APPEAL.

Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this chapter may appeal therefrom to the Board of Review within thirty days from the announcement of such ruling or decision by the Administrator, and the Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof.

(Ord. 53-68. Passed 9-3-68.)

882.52 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 other parts of this chapter. It is declared to be the intention of the 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. 53-68. Passed 9-3-68.)

882.53 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 provisions of this chapter are concerned, it shall continue effective until all of said taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of said taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Sections 882.29 et seq. and Sections 882.32 et seq.

(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 882.12 and 882.18 as though the same were continuing. (Ord. 53-68. Passed 9-3-68.)

882.99 PENALTY.

(a) Whoever violates any of the provisions of this chapter, for which no penalty is otherwise provided, is guilty of a misdemeanor of the first degree and shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. (Ord. 89-96. Passed 11-6-96.)

(b) In addition to the penalty set forth in subsection (a) hereof, whoever violates Section 882.46 shall be guilty of an offense punishable by immediate dismissal. (Ord. 53-68. Passed 9-3-68.)