

1st Mar 22
2nd April 12
3rd April 26

ORDINANCE NO. 5-2010

**AN ORDINANCE AMENDING EAST PALESTINE CODIFIED
ORDINANCE SECTION 880.02**

WHEREAS the City Council desires to amend existing Codified Ordinance Section 880.02 to include all lottery, gambling and sports winnings, games of chance, and prizes and/or awards earned as subject to the City's 1% income tax.

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF EAST PALESTINE, OHIO:

SECTION ONE: That East Palestine Codified Ordinance Section 880.02 is hereby amended as follows:

880.02 IMPOSITION OF TAX.

(a) To provide funds for the purposes of general City operations, maintenance of equipment, new equipment, extension, enlargement and improvement of City services and facilities and capital improvements of the City, there is hereby levied a tax upon earnings at the rate of one percent upon the following:

(1) On all gross earnings, salaries, wages, bonuses, sick pay, subpay, commissions, deferred compensation, pension plans and other compensation earned on and after February 1, 1973, by resident individuals of the City;

(2) On all gross earnings, salaries, wages, bonuses, sick pay, subpay, commissions, deferred compensation, pension plans and other compensation earned on and after February 1, 1973, by nonresident individuals, for work done or services performed or rendered in the City;

(3) On the net profits attributable to the City earned on and after February 1, 1973, of all resident unincorporated businesses, professions and other activities, derived from work done or services rendered or performed and business or other activities conducted in the City;

(4) On the portion of the distributive share of the net profits earned on and after February 1, 1973, of a resident individual, partner or owner of a resident unincorporated business entity attributable to the City and not levied against such unincorporated business entity;

(5) On the net profits attributable to the City earned on and after February 1, 1973, of all nonresident unincorporated businesses, professions or other activities, derived from work done or services

rendered or performed and business or other activities conducted in the City;

(6) On the portion of the distributive share of the net profits earned on and after February 1, 1973, of a resident individual, partner or owner of a nonresident unincorporated business entity not attributable to the City and not levied against such unincorporated business entity; and

(7) On the net profits earned on and after February 1, 1973, of all corporations, derived from work done or services rendered or performed and business or other activities conducted in the City.

(8) On all lottery, gambling and sports winnings, games of chance, and prizes and/or awards earned on and after July 1, 2010. No deductions against this income are permitted. If the taxpayer is considered a professional gambler for federal income tax purposes, related deductions as permitted by the Internal Revenue Code shall be allowed against gambling and sports winnings.

(b) The portion of the net profits attributable to the City of a taxpayer conducting a business, profession or other activity, both within and without the boundaries of the City, shall be determined as provided in Section 880.03 and in accordance with the rules and regulations adopted by Council pursuant to this chapter.

SECTION TWO: All ordinances or parts of ordinances, in conflict herewith are hereby repealed.

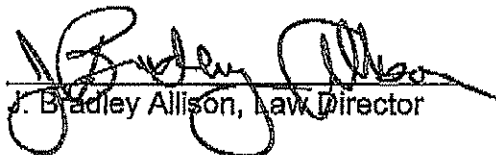
Passed by council this 26th day of April, 2010.


Mayor Raymond S. Hull

ATTEST:

APPROVED AS TO FORM:


Cindy Clark, Clerk of Council


J. Bradley Allison, Law Director

This is to certify that
this is a true and exact

Page 2 of 2

East Palestine

RESOLUTION 16-2009-R

**AN RESOLUTION AMENDING THE RULES AND REGULATIONS FOR THE
COLLECTION OF MUNICIPAL INCOME TAXES UNDER THE AUTHORITY OF
EAST PALESTINE CODIFIED ORDINANCE SECTION 880.05.**

Whereas, Council adopted rules and regulations for the collection of City income taxes by Resolution 22-92R, and

Whereas, Council desires to amend said rules and regulations to impose personal liability on the managers of employers who have an obligation to deduct and pay income taxes on behalf of their employees.

BE IT HEREBY RESOLVED BY THE COUNCIL OF THE CITY OF EAST PALESTINE, COUNTY OF COLUMBIANA, STATE OF OHIO:

SECTION ONE: The rules and regulations for the collection of municipal income taxes are amended to add the following language:

Manager's Obligation:

1. For purposes of this Resolution, "manager" means any of the employer's officers, responsible persons, employees having control or supervision and employees charged with the responsibility of filing the return, paying the taxes, and otherwise complying with this Chapter.
2. Every manager is deemed to be a trustee of this municipality in collecting and holding the tax required under Ordinance to be withheld, and the funds so collected by such withholding are deemed to be trust funds.
3. Every manager is liable directly to this municipality for payment of such trust, whether actually collected by such employer or not. Any tax deducted and withheld is to be considered paid to this municipality, whether or not the employer actually remits the tax to this municipality for purposes of determining employee payments or credits.
4. 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 Ordinance.
4. No change in structure by an employer, including a fundamental change, discharges its managers from liability for the employees' or

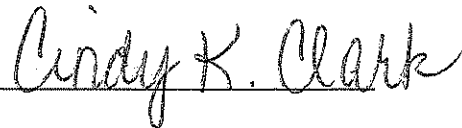
manager's failure to remit funds held in trust, to file a tax return or to pay taxes.

PASSED BY COUNCIL THIS 28th DAY OF Sept, 2009.


MAYOR/PRESIDENT OF COUNCIL

ATTEST:

APPROVED AS TO FORM:

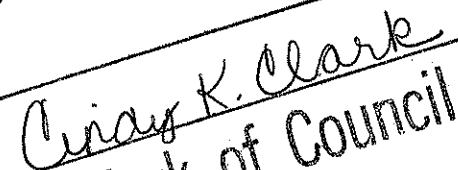


CINDY CLARK
CLERK OF COUNCIL



J. BRADLEY ALLISON
LAW DIRECTOR

This is to certify that
this is a true and exact
copy of Resolution 16-2009-R
passed by East Palestine
City Council on 9-28-09.


Clerk of Council

CHAPTER 880

Earned Income Tax

EDITOR'S NOTE: Resolution 22-92-R, passed December 21, 1992, adopted rules and regulations for the administration and enforcement of this chapter, pursuant to Section 880.05 of this chapter. Copies of these Regulations may be obtained, at cost, from the Clerk of Council.

- [880.01](#) Definitions.
- [880.02](#) Imposition of tax.
- [880.03](#) Determination of income subject to tax.
- [880.04](#) Effective date.
- [880.05](#) Powers and duties of the Director of Finance; Department of Taxation.
- [880.06](#) Investigations; confidentiality of information.
- [880.07](#) Allocation of funds.
- [880.08](#) Board of Review; appeals.
- [880.09](#) Applicability of chapter.
- [880.10](#) Exemptions.
- [880.11](#) Refunds.
- [880.12](#) Reciprocity; credit for tax paid to other municipalities. (Repealed)
- [880.13](#) Interest and penalties.
- [880.14](#) Violations.
- [880.15](#) Failure to obtain forms.
- [880.16](#) Effective period.

[880.17](#) Administration and enforcement.

[880.99](#) Penalty.

CROSS REFERENCES

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

Payroll deductions - see Ohio R.C. 9.42

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

Authority of Manager to sign income tax refund checks - see ADM. 231.01

880.01 DEFINITIONS.

As used in this chapter, unless the context clearly indicates:

(a) "Association" means a partnership, limited partnership or any other form of unincorporated enterprise owned by two or more persons.

(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, limited partnership, corporation, association or other entity.

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

(d) "Employee" means an individual whose earnings are subject to the withholding of Federal Income Tax or Social Security Tax.

(e) "Employer" means an individual, partnership, limited partnership, association, corporation, governmental 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 compensation basis.

(f) "Net profits" means a net gain from the operation of a business, profession or enterprise after provision for all costs and expenses incurred in the conduct thereof, including reasonable allowances for depreciation, depletion and amortization and reasonable additions to reserve for bad debts, either paid or accrued in accordance with recognized principles of accounting applicable to the method of accounting regularly employed and without deduction of Federal taxes based on income and without deducting taxes imposed by this chapter.

(g) "Nonresident" means an individual, partnership, limited partnership, corporation, association or other entity domiciled outside the City.

(h) "Other entity" means any person or unincorporated body not previously named or defined and includes, inter alia, fiduciaries located in the City.

(i) "Person" means a natural person, partnership, limited partnership, corporation, fiduciary or association. Whenever used in any clause prescribing and imposing a penalty, "person," as applied to an association, means the partners or members thereof, and as applied to a corporation, the officers thereof.

(j) "Resident" means an individual, partnership, limited partnership, corporation, association or other entity domiciled in the City.

(k) "Taxpayer" means a person, eighteen years of age or older, whether an individual, partnership, limited partnership, corporation, association or other entity, required under this chapter to file a return or to pay a tax.

(Ord. 39-92. Passed 12-21-92.)

880.02 IMPOSITION OF TAX.

(a) To provide funds for the purposes of general City operations, maintenance of equipment, new equipment, extension, enlargement and improvement of City services and facilities and capital improvements of the City, there is hereby levied a tax upon earnings at the rate of one percent upon the following:

(1) On all gross earnings, salaries, wages, bonuses, sick pay, subpay, commissions, deferred compensation, pension plans, lottery winnings and other compensation earned on and after February 1, 1973, by resident individuals of the City;

(2) On all gross earnings, salaries, wages, bonuses, sick pay, subpay, commissions, deferred compensation, pension plans and other compensation earned on and after February 1, 1973, by nonresident individuals, for work done or services performed or rendered in the City;

(3) On the net profits attributable to the City earned on and after February 1, 1973, of all resident unincorporated businesses, professions and other activities, derived from work done or services rendered or performed and business or other activities conducted in the City;

(4) On the portion of the distributive share of the net profits earned on and after February 1, 1973, of a resident individual, partner or owner of a resident unincorporated business entity attributable to the City and not levied against such unincorporated business entity;

(5) On the net profits attributable to the City earned on and after February 1, 1973, of all nonresident unincorporated businesses, professions or other activities, derived from work done or services rendered or performed and business or other activities conducted in the City;

(6) On the portion of the distributive share of the net profits earned on and after February 1, 1973, of a resident individual, partner or owner of a nonresident unincorporated business entity not attributable to the City and not levied against such unincorporated business entity; and

(7) On the net profits earned on and after February 1, 1973, of all corporations, derived from work done or services rendered or performed and business or other activities conducted in the City.

(b) The portion of the net profits attributable to the City of a taxpayer conducting a business, profession or other activity, both within and without the boundaries of the City, shall be determined as provided in Section 880.03 and in accordance with the rules and regulations adopted by Council pursuant to this chapter.

(Ord. 39-92. Passed 12-21-92.)

880.03 DETERMINATION OF INCOME SUBJECT TO TAX.

(a) In the taxation of income which is subject to taxation under this chapter, 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 purposes of income taxation. 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 income taxation 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 this paragraph, "real property" includes property rented or leased by the taxpayer. The value for 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 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; and

(3) The 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.

(b) As used in this section, "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 its own employees in the solicitation or promotion of sales within the City and the sales result from such solicitation 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 its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

(Ord. 39-92. Passed 12-21-92.)

880.04 EFFECTIVE DATE.

The tax imposed by this chapter shall be levied, collected and paid with respect to salaries, wages, commissions and other compensation earned on and after February 1, 1973, and with respect to the net profit of businesses, professions and other activities earned on and after February 1, 1973, provided, however, that where the fiscal year of the business, profession or other activity differs from the calendar year, the tax shall be applied to that part of the net profit for the fiscal year as is earned on and after February 1, 1973, to the close of the taxpayer's fiscal year. Thereafter, the taxpayer shall report on its fiscal year basis.

(Ord. 39-92. Passed 12-21-92.)

880.05 POWERS AND DUTIES OF THE DIRECTOR OF FINANCE; DEPARTMENT OF TAXATION.

(a) The Director of Finance shall receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers, keep an accurate record thereof and report

all moneys so received. All cashiers handling tax moneys shall be subject directly to the Director of Finance and shall give daily accountings to the Director.

(b) The Director shall enforce the payment of all taxes owed to the City and keep accurate records for a minimum of five years showing the amount due from each taxpayer required to file a declaration and/or make any return, including taxes withheld, and showing the dates and amounts of payments thereof.

(c) The Director is hereby charged with the enforcement of this chapter and shall enforce the rules and regulations of Council relating to any matter or thing pertaining to the collection of City income taxes and the administration and enforcement of this chapter, including provisions for the examination and correction of returns and payments.

(d) 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 Director may determine the amount of tax appearing to be due to the City from the taxpayer and shall send to such taxpayer a written statement showing the amount of tax so determined, together with the interest and penalties thereon, if any.

(e) Subject to the consent of the Board of Review, or pursuant to regulations approved by Council, the Director shall have the power to compromise any interest or penalty, or both, imposed by this chapter.

(f) A Department of Taxation is hereby established within the office of the Director of Finance. Such Department shall have such deputies, clerks and other employees as may be, from time to time, determined by Council, and shall receive such compensation as may be determined by Council. The Director shall recommend all appointments of personnel and shall purchase all equipment, supplies and material for the Department, subject to the approval of Council. The Department shall be charged with the administration and operation of this chapter, under the direction of the Director. The Director shall prescribe the form and method of accounts and reports for the Department, as well as the forms for taxpayers' returns and declarations, shall be charged with the internal examination and audit of all such accounts and shall exhibit accurate records showing the amount received from each taxpayer and the date of receipt. The Director shall also make an annual written report to Council of all moneys collected under this chapter during the preceding year.

(Ord. 39-92. Passed 12-21-92.)

880.06 INVESTIGATIONS; CONFIDENTIALITY OF INFORMATION.

(a) The Director of Finance or his or her authorized agent or employee is hereby authorized to examine the books, papers and records of any employer or of any taxpayer or person subject to, or believed to be subject to, the tax imposed under this chapter, for the purpose of verifying the accuracy of any return made or, if no return was made, to

ascertain the tax due. Every such employer, supposed employer, taxpayer or supposed taxpayer, is hereby directed and required to furnish to the Director of Finance or his or her duly authorized agent or employee, within thirty days following a written request by the Director of Finance or his or her duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

(b) The Director of Finance or his or her duly authorized agent or employee is hereby authorized to examine any person, employer or employee, under oath, concerning any income which was or should have been returned for taxation and, for this purpose, may compel the production of books and Federal Income Tax records, papers and records and the attendance of all persons before him or her, whether as parties or witnesses, wherever the Director of Finance believes such persons have knowledge of such income.

(c) 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 the tax, or the failure of any person to comply with this section or with any order or subpoena of the Director of Finance authorized hereby, shall be deemed a violation of this chapter, punishable as provided in Section 880.99.

(d) Tax returns, investigations, hearings and all audit papers and information connected therewith are confidential and shall be carefully preserved so that they are not available for inspection by anyone other than the proper agents of the City for official purposes.

(e) Any information gained as a result of the filing of a tax return, or an investigation, hearing or verification required or authorized by this chapter, shall be confidential, except for official purposes and except in accordance with proper judicial order. No person shall divulge such information.

(Ord. 39-92. Passed 12-21-92.)

880.07 ALLOCATION OF FUNDS.

The funds collected under the provisions of this chapter shall be deposited into the General Fund, and such funds collected shall be dispersed in the following order:

(a) Such part thereof as is necessary to defray the costs of collecting the taxes and the cost of administering and enforcing the provisions of this chapter.

(b) Not more than ninety percent of the net available income tax received annually may be used to defray operating expenses of the City.

(c) At least ten percent of the net available income tax received annually shall be set aside and used for capital improvements for the City, including, but not limited to: public buildings, parks and playgrounds; and necessary equipment for the Police and Fire Divisions and the Public Safety and Public Services Departments.

(Ord. 25-94. Passed 12-20-94; Ord. 42-03. Passed 10-27-03.)

880.08 BOARD OF REVIEW; APPEALS.

(a) A Board of Review, consisting of three electors of the City, one to be appointed by the Mayor, one to be appointed by the Director of Finance and one to be selected by the two so appointed, is hereby established. No member shall be appointed to the Board who holds another public office or appointment. The members of the Board shall serve without pay.

(b) 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.

(c) All hearings of the Board shall be conducted privately and the provisions of Section 880.06, with reference to the confidentiality of information shall apply to such matters as may be heard before the Board on appeal.

(d) Any person dissatisfied with any ruling or decision of the Director which is made under the authority conferred by this chapter, and the rules and regulations related thereto, may appeal therefrom to the Board within thirty days from the announcement of such ruling or decision by the Director, and the Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or a part thereof.

(e) Any person dissatisfied with a ruling or decision of the Board may appeal therefrom to a court of competent jurisdiction within thirty days from the announcement of such ruling or decision.

(f) The Board, as established, shall serve during the life of this chapter.

(Ord. 39-92. Passed 12-21-92.)

880.09 APPLICABILITY OF CHAPTER.

This chapter shall not apply to any person or property as to whom or which it is beyond the power of Council to impose the tax herein provided for.

(Ord. 39-92. Passed 12-21-92.)

880.10 EXEMPTIONS.

This chapter shall not be construed as levying a tax upon the following:

- (a) Funds received from the local, State or Federal government because of service in the Armed Forces of the United States by the person rendering such service or as a result of another person rendering such service;
- (b) Poor relief, pensions, social security, unemployment compensation and disability benefits received from a private industry or the local, State or Federal government, or from charitable, religious or educational organizations;
- (c) Dues, contributions and similar payments received by charitable, religious, educational or literary organizations or labor unions, lodges and similar organizations;
- (d) Receipts from casual entertainment, amusements, sports events and health and welfare activities conducted by bona fide charitable, religious and educational organizations and associations;
- (e) Any association, organization, corporation, club or trust that is exempt from Federal Income Tax by reason of its charitable, religious, educational, literary, scientific, etc., purposes;
- (f) Gains from involuntary conversions, cancellation of indebtedness, interest on Federal obligations and income of a decedent's estate during the period of administration (except such income from the operation of a business); and
- (g) Earnings and income of all persons under eighteen years of age, whether residents or nonresidents.

(Ord. 39-92. Passed 12-21-92.)

880.11 REFUNDS.

- (a) If it appears that a taxpayer has paid more than the amount of the tax to which the City is entitled under this chapter, a refund of the amount so overpaid shall be made, provided that a proper claim for refund of such overpayment has been filed by the taxpayer, or the same may be applied toward the declaration of tax due for the ensuing year. Claims for refunds shall be made on forms prescribed by, and obtainable from, the Director of Finance.
- (b) All applications for refunds shall be made within three years of the due date of a final return.
- (c) No refund shall be made for an amount less than one dollar (\$1.00).

(Ord. 39-92. Passed 12-21-92.)

880.12 RECIPROCITY; CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES. (REPEALED)

(EDITOR'S NOTE: Section 880.12 was repealed by Ordinance 37-02, passed December 19, 2002.)

880.13 INTEREST AND PENALTIES.

All taxes imposed by this chapter, including taxes withheld or required to be withheld from wages by an employer, and remaining unpaid after they have become due, shall bear interest on the amount of the unpaid tax at the rate of ten percent per annum. The taxpayers upon whom such taxes are imposed and the employers required by this chapter to deduct, withhold and pay taxes imposed by this chapter shall be liable, in addition thereto, to a penalty of twenty-five dollars (\$25.00), which shall be charged to every taxpayer who fails to file his or her final tax return when due. The Director of Finance may, at his or her discretion, abate the interest or penalties, or both. The Board of Review may abate the interest or penalties, or both, upon appeal from the decision of the Finance Director to refuse to abate such interest or penalties, or both.

(Ord. 25-94. Passed 12-20-94.)

880.14 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, penalty or interest imposed by this chapter;
- (d) Fail, neglect or refuse to withhold the tax from employees or to remit such withholding to the Director of Finance;
- (e) Refuse to permit the Director or any duly authorized agent or employee to examine the books, records, papers and Federal Income Tax returns relating to the income or net profits of a taxpayer;
- (f) Fail to appear before the Director and to produce the books, records, papers and Federal Income Tax returns relating to the income or net profits of a taxpayer under order or subpoena of the Director;

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

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

(i) Attempt to do anything to avoid the payment of the whole or any part of the tax, penalty or interest imposed by this chapter.

(Ord. 39-92. Passed 12-21-92.)

880.15 FAILURE TO OBTAIN FORMS.

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

(Ord. 39-92. Passed 12-21-92.)

880.16 EFFECTIVE PERIOD.

This chapter shall remain in effect until it is amended or repealed by Council.

(Ord. 39-92. Passed 12-21-92.)

880.17 ADMINISTRATION AND ENFORCEMENT.

(a) Twelve-day occasional entry rule.

(1) A nonresident individual who works in the City 12 or fewer days per year shall be considered an occasional entrant, and shall not be subject to municipal income tax for those 12 days. For purposes of the 12-day calculation, any portion of a day worked in the City shall be counted as one day worked in the City.

(2) Beginning with the thirteenth day, the employer of said individual shall begin withholding City income tax from remuneration paid by the employer to the individual, and shall remit the withheld income tax to the City in accordance with this chapter. Since the individual can no longer be considered to have been an occasional entrant, the employer is further required to remit taxes on income earned in the City by the individual for the first 12 days.

(3) If the individual is self-employed, it shall be the responsibility of the individual to remit the appropriate income tax to the City.

(4) The 12-day occasional entry rule does not apply to entertainers or professional athletes, their employees or individuals who perform services on their behalf, or to promoters and booking agents of such entertainment events and sporting events.

(5) Income tax withheld by a nonresident employer and paid to the City as a result of the employer being subject to the \$150 de minimus provision cannot be refunded to an individual under the 12-day occasional entry provision.

(b) \$150 de minimus rule.

(1) If not currently required to withhold City income tax, then a nonresident employer, agent of such employer, or other payer not situated in the City shall not further be required to withhold City income tax from remuneration paid to employees of the employer until the collective tax liability of the employees initially exceeds \$150.

(2) Independent contractors of a nonresident employer shall be deemed employees for work performed in the City on behalf of the employer, and are subject to the collective tax liability provision as if they were employees, and are not excluded from taxation.

(3) When the collective tax liability exceeds \$150, the employer is required to begin withholding the appropriate income tax for the City on behalf of all the employees performing work in the City. The withheld income tax shall be remitted to the City in accordance with this chapter. After exceeding the \$150 de minimus amount, the employer shall continue to have no responsibility for remitting any portion of the initial \$150 liability that was not withheld.

(4) Once the collective tax liability has exceeded the \$150, the employer must withhold income tax for the City (i.e., for work performed in the City) for the remainder of that calendar year and for subsequent years, even if the liability in subsequent years does not exceed \$150. However, if the tax liability for each of the three consecutive years (subsequent to that year in which the employer became liable for withholding the income tax) does not exceed \$150, the employer will be considered as not having performed work in the City in regard to further tax liability, and will again be subject to division (a) of this section.

(c) Forms. All income tax returns, reports or other documents required under this chapter may be filed on the forms promulgated by the City or upon generic forms of such returns, reports or documents. The City shall accept generic forms, if the generic forms, once completed and filed, contain all of the information required to be submitted with the City's prescribed returns, reports or documents, and if the taxpayer or return preparer filing the generic form otherwise complies with this City's rules or ordinances governing the filing of returns, reports or documents.

(d) Extensions. The Finance Director shall extend the time for filing of the annual City tax return upon the filing of a copy of the taxpayer's request for a federal extension. No extension may exceed six months, or one month beyond the extension requested of or granted by the Internal Revenue Service for filing of the federal income tax return, and will not be approved for a period less than the federal extension request. The request for extension shall be filed no later than the last day for filing the municipal income tax return as prescribed by ordinance or rule of the City income tax. The City may require a tentative return accompanied by payment of the amount shown to be due thereon by the date the return is normally due. The City may deny a taxpayer's request for extension only if the taxpayer fails to timely file the request, fails to file a copy of the request for the federal extension, owes the City any delinquent income tax or any penalty, interest, assessment or other charge for the late payment or nonpayment of income tax, or has failed to file any required income tax return, report, or other related document for a prior tax period. The granting of an extension for filing this City's income tax return does not extend the last date for paying the tax without penalty unless the City grants an extension of the date.

(Ord. 6-01. Passed 3-12-01.)

880.99 PENALTY.

(a) Whoever violates or fails to comply with any of the provisions of this chapter, for 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 or noncompliance occurs or continues.

(b) In addition to the penalty provided in division (a) of this section, whoever violates Section 880.06(e) shall be immediately dismissed from the service of the City. Each disclosure shall constitute a separate offense.

(Ord. 39-92. Passed 12-21-92.)