

Greenwich, OH Code of Ordinances  
**TITLE FOUR - Taxation**  
Chap. 880. Earned Income Tax.

**CHAPTER 880**  
**Earned Income Tax**

EDITOR'S NOTE: Resolution 10-78, passed December 5, 1979, adopted rules and regulations for the administration of the income tax established by this chapter. Copies are available, at cost, at the Village offices.

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***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
- Department of Taxation - see ADM. 236.02

## **880.01 DEFINITIONS.**

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

- (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 the 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 Village.
- (h) "Other entity" means any person or unincorporated body not previously named or defined and includes, inter alia, fiduciaries located in the Village.
- (i) "Person" means a natural person, partnership, limited partnership, corporation, fiduciary or association. Whenever used in a 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 Village.
- (k) "Taxpayer" means a person, 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. 654. Passed 12-5-78.)

## **880.02 IMPOSITION OF TAX.**

(a) To provide funds for the purposes of general Municipal operations and other Municipal purposes, there is hereby levied a tax upon earnings at the rate of one percent upon the following: On all salaries, wages, commissions and other compensation earned on and after January 1, 1979, by resident individuals of the Village;

(1) On all salaries, wages, commissions and other compensation earned on and after January 1, 1979, by nonresidents for work done or services performed or rendered in the Village;

(2) On the net profits attributable to the Village earned on and after January 1, 1979, 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 Village;

(3) On the portion of the distributive share of the net profits earned on and after January 1, 1979, of a resident individual, partner or owner of a resident unincorporated business entity attributable to the Village and not levied against such unincorporated business entity;

(4) On the net profits attributable to the Village earned on and after January 1, 1979, 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 Village;

(5) On the portion of the distributive share of the net profits earned on and after January 1, 1979, of a resident individual, partner or owner of a nonresident unincorporated business entity not attributable to the Village and not levied against such unincorporated business entity; and

(6) On the net profits earned on and after January 1, 1979, of all corporations, derived from work done or services rendered or performed and business or other activities conducted in the Village.

(b) The portion of the net profits attributable to the Village of a taxpayer conducting a business, profession or other activity, both within and without the boundaries of the Village, 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. 654. Passed 12-5-78.)

## **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 Village 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 Village, then only such portion shall be considered as having a taxable situs in the Village 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 Village shall be considered as having a taxable situs in the Village 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 Village 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 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; and

(3) The 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. 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 Village" means:

(1) 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;

(2) 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; and

(3) 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. 654. Passed 12-5-78.)

#### **880.04 EFFECTIVE DATE.**

The tax imposed under this chapter shall be levied, collected and paid with respect to salaries, wages, commissions and other compensation earned on and after January 1, 1979, and with respect to the net profit of businesses, professions and other activities earned on and after January 1, 1979, 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 January 1, 1979, to the close of the taxpayer's fiscal year. Thereafter, the taxpayer shall report on its fiscal year basis. (Ord. 654. Passed 12-5-78.)

## **880.05 RETURN AND PAYMENT OF TAX.**

(a) On or before April 15 of the year following the effective date of this section, and on or before April 15 of each year thereafter, every taxpayer engaged in any business within the Village, the net profits of which are subject in whole or in part to the tax imposed by this chapter, shall, whether or not a tax be due thereon, make and file with the Tax Administrator a final return on a form furnished by or obtainable from said Tax Administrator. On or before April 15 of the year following the effective date of this section, and on or before April 15 of each year thereafter, each taxpayer, except as otherwise provided herein, shall, whether or not a tax be due thereon, make and file with the Tax Administrator a final return on a form furnished by or obtainable from said Tax Administrator. Like returns shall be filed at the same time and in the same manner by all persons whose wages, salaries, bonuses, incentive payments, commissions, fees and other compensation received during the preceding taxable year are subject to the tax imposed by this chapter. However, where an employee's entire earnings for the year are paid by an employer and the Village tax thereon has, in each instance, been withheld and deducted by the employer from the gross amount of the entire earnings of such employee-taxpayer, and where the employer of such employee has filed a report or return in which such employee's entire and only earnings are reported to the Tax Administrator, and where such employee has no taxable income other than such earnings, it shall not be necessary for such employee to file a return for any taxable year in which such conditions have prevailed. Any person who receives compensation for services performed for an employer, in any form, and, in addition, income from any business activity or occupation not subject to withholding under this chapter, must file a declaration and a final return. (Ord. 888. Passed 9-16-97.)

(b) In all returns filed hereunder there shall be set forth the aggregate amount of salaries, wages, bonuses, incentive payments, commissions, fees and other compensation received, and/or net profits earned, by and during the preceding year and subject to such tax, together with such pertinent information as the Clerk-Treasurer may require.

(c) The return shall also show the amount of the tax imposed by this chapter on such earnings, or net profits, or both.

(d) The taxpayer making the return shall, at the time of filing thereof, pay the Clerk-Treasurer the amount of tax shown to be due and unpaid by the return. If the taxpayer has, at the time of making such final return, overpaid his or her tax, such taxpayer shall show the amount of overpayment and may, in such return, request a refund therefor or request that the amount thereof be credited against the amount which will be required to be paid by the taxpayer on the next succeeding installment of tax which may become due.

(e) Where any portion of the tax otherwise due has been paid by the taxpayer pursuant to the provisions of Regulation IV-A of Resolution 10-78, passed December 5, 1978, or where an income tax has been paid to another municipality, pursuant to Section 880.13, credit for the amount so paid 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 final return.

(f) Upon written request of the taxpayer, the Clerk-Treasurer may extend the time for filing the annual return for a period of not more than six months or not more than thirty days beyond any

extension requested of and granted by the Federal Internal Revenue Department for the filing of the Federal Income Tax Return. (Ord. 654. Passed 12-5-78.)

### **880.06 COLLECTION AT SOURCE.**

(a) It is the duty of each employer who employs one or more persons on a salary, wage, commission or other compensation basis, to deduct from compensation paid to any employee subject to this chapter, the tax of one percent of such salary, wage, bonus, incentive payment, commission or other compensation due by such employer to such employee. The tax shall be deducted by the employer from:

(1) All compensation paid to employees who are nonresidents of the Village for services rendered, work performed or other activities engaged in to earn such compensation, within the Village; and

(2) The gross amount of all salaries, wages, bonuses, incentive payments, commissions or other form of compensation paid to employees who are residents of the Village, regardless of the place where the services are rendered.

(b) All employers who or which maintain an office or other place of business in the Village are required to make the collections and deductions specified in this section, regardless of the fact that the services on account of which any particular deduction is required, as to residents of the Village were performed at a place of business of any such employer situated outside the Village.

(c) The mere fact that the tax is not withheld will not relieve the employee of the responsibility of filing a return and paying the tax on the compensation received.

(d) Commissions, which are fees paid to professional men and women, brokers and others who are independent contractors and not employees of the payor, are not subject to withholding or collection of the tax at the source. Such taxpayers must in all instances file returns and pay the tax pursuant to the provisions of Section 880.05.

(e) In the case of employees who are nonresidents of the Village, the amount to be deducted is one percent of the compensation paid with respect to personal services rendered in the Village. Where a nonresident receives compensation for personal services rendered or performed partly within and partly outside the Village, the withholding employer shall deduct, withhold and remit that portion of the compensation which is earned within the Village in accordance with the following rules of apportionment.

(1) If the nonresident is a salesperson, agent or other employee whose compensation on the basis of commissions depends directly on the volume of business transacted by him or her, the deducting and withholding shall attach to the portion of the entire compensation which the volume of business transacted by the employee within the Village bears to the volume of business transacted by him or her within and outside the Village.

(2) The deducting and withholding of personal service compensation of all other employees

(including officers of a corporation) shall attach to the portion of the personal service compensation of such employee which the total number of working days employed within the Village bears to the total number of working days employed within and outside of the Village.

(3) If it is impossible to apportion the earnings as provided above, because of the peculiar nature of the service of the employee or the unusual basis of compensation, apportionment shall be made in accordance with the facts and the tax deducted and withheld accordingly.

(4) The occasional entry into the Village of a nonresident employee who performs the duties for which he or she is employed entirely outside the Village, but enters the Village for the purpose of reporting, receiving instructions, accounting, etc., incidental to his or her duties outside the Village, shall not be deemed to take such employee out of the class of those rendering their services entirely outside the Village.

(f) Subject to subsection (g) hereof, an employer shall withhold the tax on the full amount of any advances made to an employee on account of commissions, whether by way of a drawing account or otherwise, where such advances are in excess of commissions earned.

(g) An employer required to withhold the tax on compensation paid to an employee shall, in determining the amount on which the tax is to be withheld, ignore any amount allowed and paid by the employer to the employee for expense necessarily and actually incurred by the employee in the actual performance of his or her services, provided, however, that such expense must be of the kind and in the amount recognized and allowed as a deductible expenses for Federal Income Tax purposes. (Ord. 654. Passed 12-5-78.)

(h) Every owner of one or more rental units within the Village is hereby directed to furnish to the Income Tax Administrator a semi-annual roster, on a form provided by or obtainable from said Tax Administrator, containing the names of all adult persons residing in each such rental unit and shall also file a statement of any changes in the roster at the end of each month. The semi-annual statement provided for herein shall be filed with the Tax Administrator on or before January 31 and July 31 of each year, unless an extension of time is granted by the Tax Administrator. The first such roster will be due to be filed on the first filing date (January or July) after the effective date of this section (Ordinance 888, passed September 16, 1997). (Ord. 888. Passed 9-16-97.)

#### **880.07 RETURNS OF TAX WITHHELD AND PAYMENT.**

(a) Deductions from salaries, wages and other compensation required to be made by employers are to begin with compensation earned on and after January 1, 1979. The first return and payment required to be made on account of such deductions shall be made, filed and paid to the Clerk-Treasurer between April 1, 1979, and April 30, 1979.

(b) Each employer within the Village who employs one or more persons on a salary, wage, commission or other compensation basis shall deduct monthly, or more often than monthly, and at the time of the payment of such salary, wage, commission or other compensation, the tax of one percent of salaries, wages, commissions or other compensation due by the employer to the employee and shall make a return and pay to the Clerk-Treasurer the amount of taxes so deducted as follows:



- (1) For the three months ending March 31, on or before April 30;
  - (2) For the three months ending June 30, on or before July 31;
  - (3) For the three months ending September 30, on or before October 31; and
  - (4) For the three months ending December 31, on or before the following January 31.
- (c) The reporting periods referred to in the preceding subsection are elastic to this extent: The employer will use the same quarterly accounting period for reporting taxes withheld under this chapter as he or she uses in reporting quarterly taxes withheld to the Federal government.
- (d) Such return shall be on a form prescribed by and obtainable from the Clerk-Treasurer and shall be subject to the rules and regulations prescribed therefor by the Clerk-Treasurer.
- (e) For adjustment of errors in returns of tax withheld by employees, see Section 880.12.

(Ord. 654. Passed 12-5-78.)

#### **880.08 LIMITATION ON CREDIT FOR TAX PAID AT SOURCE.**

The failure of any employer, residing either within or outside the Village, to collect the tax and to make any return prescribed in this chapter, shall not relieve the employee from the payment of such tax in compliance with this chapter respecting the making of returns and the payment of taxes. (Ord. 654. Passed 12-5-78.)

#### **880.09 STATUS AND LIABILITY OF EMPLOYERS.**

Every employer 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 until the same are paid to the Village. Every such employer required to deduct and withhold the tax at the source is liable directly to the Village for the payment of such tax, whether actually collected by such employer or not. (Ord. 654. Passed 12-5-78.)

#### **880.10 DECLARATIONS.**

- (a) An employee whose entire wage, salary or other compensation for any taxable year will be subjected to the withholding provisions under Section 880.06, whose tax will accordingly be withheld as to his or her entire earnings for such year by his or her employer, and who, during such taxable year, expects to derive no other compensation or other income which is subject to tax under this chapter, need not file a declaration as provided in this section.
- (b) All other taxpayers subject to the taxes imposed in Section 880.02, and every taxpayer who anticipates any income or net profits not subject to total withholding as provided in subsection (a) hereof, shall file with the Clerk-Treasurer a declaration of his or her estimated tax as follows:



(1) On or before April 15, 1980, every such calendar year taxpayer shall file a declaration of his or her estimated tax for the taxable period beginning January 1, 1980, and ending December 31, 1980.

(2) A similar declaration shall be filed by each such calendar year taxpayer on or before April 15 of each subsequent year during the effective period of this chapter, and each such declaration shall contain a statement of the taxpayer's estimated tax for the full taxable year in which such declaration is filed.

(c) Taxpayers who or which are permitted, pursuant to Section 880.04, to return and pay their tax upon a fiscal year basis, shall file their first declaration within three and one-half months after the beginning of the first fiscal year beginning on and after January 1, 1979, and the subsequent declaration for each year thereafter on or before the fifteenth day of the fourth month following the beginning of each such fiscal year. Those taxpayers on a fiscal year basis shall make quarterly payments on or before the fifteenth day of the fourth month and on or before the last day of the sixth, ninth and twelfth months following the beginning of such fiscal year. The first installment, equal to at least one-fourth of the estimated tax, must accompany the declaration.

(d) The estimated tax for a calendar year taxpayer may be paid in full with the filing of the declaration or in equal installments on or before April 15, June 30, September 30 and December 31.

(e) The declarations so required shall be filed upon a form furnished by or obtainable from the Clerk-Treasurer. Any taxpayer who has filed an estimate for Federal Income Tax purposes may, in making the declaration required hereunder, simply state therein that the figures therein contained are the same figures used by the taxpayer in making the declaration of his or her estimate for the Federal Income Tax. However, in addition to such statement, any such taxpayer may, in such declaration, modify and adjust such declared income so as to exclude therefrom income which is not subject to tax under this chapter.

(f) Any estimate filed hereunder may be amended by the filing of an amended estimate at the time prescribed for the payment of any installment of tax paid in accordance with this section. (Ord. 654. Passed 12-5-78.)

#### **880.11 RECORDS TO BE KEPT BY EMPLOYERS AND TAXPAYERS.**

Employers and others subject to the tax under this chapter are required to keep such records as will enable the filing of true and accurate returns, whether of taxes withheld at the source or of taxes payable upon earnings or net profits, or both, and such records are to be preserved to enable the Clerk-Treasurer, or any agent or employee of the Clerk-Treasurer, to verify the correctness of returns filed. (Ord. 654. Passed 12-5-78.)

#### **880.12 COLLECTION OF DEFICIENCIES; ALLOWANCE OF CREDIT FOR OVERPAYMENT.**

(a) If, as a result of investigation conducted by the Clerk-Treasurer, a return is found to be incorrect, the Clerk-Treasurer is authorized to assess and collect any underpayment of tax withheld at the source or any underpayment of tax owing by any taxpayer with respect to

earnings or net profits or both. If no return has been filed and a tax is found to be owing, the tax actually owing may be assessed and collected with or without the formality of obtaining a delinquent return from the employer or taxpayer.

(b) Should it be disclosed, either as a result of an investigation by the Clerk-Treasurer or through the medium of the filing of a claim or petition for a refund or credit, that an overpayment has been made, the Clerk- Treasurer will refund such overpayment.

(c) The employer will in every instance be required to pay the full tax which should have been withheld, even though he or she may fail to withhold from the employee. If too much has been withheld, the excess shall be refunded by the employer to the employee. While the withholding agent (i.e. the employer) will be expected to maintain complete records of such adjustments with the employees, any such adjustment made during any month will not need to be reflected in the withholding return or disclosed by schedules or statements thereto attached.

(d) In those cases in which too much has been withheld by an employer from an employee and remitted to the Clerk-Treasurer and there has been a termination of the employee-employer relationship, the taxpayer (i.e. the employee) may obtain an adjustment by application to the Clerk-Treasurer. (Ord. 654. Passed 12-5-78.)

### **880.13 RECIPROCIITY.**

Every individual taxpayer who resides in the Village but who receives net profits, salaries, wages, commissions or other personal service compensation for work done or services performed or rendered outside of the Village, if it is made to appear that he or she has paid a municipal income tax on such net profits, salaries, wages, commissions or other compensation to another municipality, shall be allowed a credit against the tax imposed by this chapter of the amount so paid by him or her or in his or her behalf to such other municipality. The credit shall not exceed 100 percent of the tax assessed by this chapter on such net profits, salaries, wages, commissions or compensation earned in such other municipality where such tax is paid.

(Ord. 654. Passed 12-5-78.)

### **880.14 ADMINISTRATION; DUTIES OF CLERK-TREASURER.**

(a) It shall be the duty of the Clerk-Treasurer to receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers; to keep an accurate record thereof; and to report all moneys so received. All cashiers handling tax moneys shall be subject directly to the Clerk-Treasurer and shall give daily accountings to the Clerk-Treasurer.

(b) It shall be the duty of the Clerk-Treasurer to enforce payment of all taxes owing the Village and to keep accurate records for a minimum of five years showing the amount due from each taxpayer required to file a declaration and/or make any return, including taxes withheld, and showing the dates and amounts of payments thereof.

(c) The Clerk-Treasurer is hereby charged with the enforcement 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 Village

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 a tax due, the Clerk-Treasurer may determine the amount of tax appearing to be due the Village 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.

(e) Subject to the consent of the Board of Review or pursuant to regulations approved by such Board, the Clerk-Treasurer shall have the power to compromise any interest or penalty, or both, imposed by this chapter. (Ord. 654. Passed 12-5-78.)

### **880.15 BOARD OF REVIEW; APPEALS.**

(a) A Board of Review, consisting of three electors of the Village, one to be appointed by the Mayor, one to be appointed by the Clerk-Treasurer 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 880.17 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 Clerk-Treasurer 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 Clerk-Treasurer, 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. (Ord. 654. Passed 12-5-78.)

### **880.16 INTEREST AND PENALTIES.**

All taxes imposed by this chapter, including both individual taxes and 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 eighteen percent (one and one-half percent per month or portion thereof).

The individual taxpayer upon whom such taxes are imposed, as well as any employer required by this chapter to deduct, withhold and pay any taxes imposed by this chapter, shall be liable, in addition thereto, to a penalty of ten percent if the tax due is paid within thirty days of the due date; fifteen percent if the tax due is paid within sixty days of the due date; twenty percent if the

tax due is paid within ninety days of the due date, and a maximum penalty of twenty-five percent of the tax due if the tax due is paid after ninety days of the due date. Upon recommendation of the Clerk-Treasurer, the Board of Review may abate any interest or penalty, or both, and upon appeal from the refusal of the Clerk-Treasurer to so recommend, the Board of Review may nevertheless abate such interest or penalty, or both. (Ord. 908. Passed 3-16-99.)

### **880.17 INVESTIGATIONS; CONFIDENTIALITY OF INFORMATION.**

(a) The Clerk-Treasurer or his or her duly 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 Clerk-Treasurer or his or her duly authorized agent or employee, within thirty days following a written request by the Clerk-Treasurer 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 Clerk-Treasurer 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 returns and the attendance of all persons before him or her, whether as parties or witnesses, wherever the Clerk-Treasurer 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 Clerk-Treasurer 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 Village for official purposes.

(e) Any information gained as the 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, except in accordance with proper judicial order. No person shall divulge such information. (Ord. 654. Passed 12-5-78.)

### **880.18 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 Clerk-Treasurer;
- (e) Refuse to permit the Clerk-Treasurer 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 Clerk-Treasurer 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 Clerk-Treasurer;
- (g) Refuse to disclose to the Clerk-Treasurer 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 Clerk-Treasurer 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. 654. Passed 12-5-78.)

#### **880.19 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. 654. Passed 12-5-78.)

#### **880.20 ALLOCATION OF FUNDS.**

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

- (a) Such part thereof as is necessary to defray all cost of administering and enforcing this chapter shall first be paid.
- (b) Seventy-five percent of the balance shall be used to defray operating expenses of the Village.
- (c) Twenty-five percent of the balance shall be used to defray operating expenses of the Village Street Fund. (Ord. 654. Passed 12-5-78.)

#### **880.21 COLLECTION OF UNPAID TAXES.**

- (a) All taxes imposed by this chapter that remain unpaid when the same have become due, together with all interest and penalties thereon, become a debt due the Village from the taxpayer and are recoverable as other debts by suit instituted by the Village Solicitor.

(b) Employers who or which, although obliged under this chapter to withhold and remit to the Clerk-Treasurer the taxes required to be withheld at the source, fail to so withhold and/or remit, become liable to the Village in a civil action to enforce the payment of the debt.

(c) When a final return is filed as prescribed in Section 880.05 and a deficiency is determined to be due the Village, action to collect the same must be brought within three years after the tax was due or the return was filed, whichever is later. However, in the case of fraud, failure to file a return, or the omission of twenty-five percent or more of income required to be reported, prosecution may be commenced within six years after the commission of the offense.

(Ord. 654. Passed 12-5-78.)

### **880.22 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 (but not including supplemental unemployment compensation) and disability benefits received from a private industry or the local, State or Federal government, or from charitable, religious or educational organizations or private insurance contracts;

(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 of 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 students under eighteen years of age.

(Ord. 654. Passed 12-5-78.)

### **880.23 REFUNDS.**

(a) If it appears that a taxpayer has paid more than the amount of the tax to which the Village 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. Applications for

refunds shall be made within six months of the due date of the final return or shall be forever barred thereafter. However, an extension may be granted by the Clerk-Treasurer for just cause on written application.

(b) No refund shall be made for an amount less than one dollar (\$1.00).

(Ord. 654. Passed 12-5-78.)

#### **880.24 EFFECTIVE PERIOD.**

This chapter shall continue effective insofar as the levy of taxes is concerned until revoked. This chapter, insofar as the collection of taxes levied in the aforesaid period and any action or proceeding for collecting any tax so levied or enforcing this chapter are concerned, shall continue effective for such time as indicated in Section 880.21.

(Ord. 654. Passed 12-5-78.)

#### **880.99 PENALTY.**

(a) Whoever violates or fails to comply with any of the provisions of this chapter, for which no penalty is otherwise provided, is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(b) Whoever violates Section 880.17(e) is guilty of a misdemeanor of the second degree and shall be fined not more than seven hundred fifty dollars (\$750.00) or imprisoned not more than ninety days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. In addition, any employee of the Village who violates Section 880.17(e) shall be immediately dismissed from the service of the Village.

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