

CENTERVILLE MUNICIPAL CODE

PART EIGHT - BUSINESS REGULATION AND TAXATION CODE

TITLE TWO - Business Regulation

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CHAPTER 808

Circuses and Carnivals

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CROSS REFERENCES

- Power to regulate - see Ohio R.C. 715.48, 715.63, 3765.02
 Power to regulate advertising - see Ohio R.C. 715.65
 Contests or games at county fairs - see Ohio R.C. 1711.09, 1711.11
 State licensing of portable amusement devices - see Ohio R.C. 1711.11(H)
 County license for public shows - see Ohio R.C. Ch. 3765
 Littering - see Ohio R.C. 3767.20; GEN. OFF. 660.03, 660.035
 Gambling - see GEN. OFF. Ch. 630
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808.01 DEFINITIONS.

As used in this chapter:

- (a) "Carnival," in addition to the definition commonly applied thereto, means a group of two or more traveling shows, exhibitions, concessions, attractions or

amusements usually operated under one sponsorship and exhibited in, on or about the same area, place or space.

- (b) "Circus," in addition the definition commonly applied thereto, means a traveling show or entertainment which is exhibited under canvas or tents, which usually consists of a menagerie, aerial, acrobatic and animal feats, sideshows and related amusements, with the main attraction normally conducted twice daily.
- (c) "Other show" means any single attraction, museum, show or exhibition which is operated exclusively and directly for private gain or profit and which is not conducted in a duly licensed theater or hall or pursuant to another form of license or permit required by the City.
(Ord. 59-74. Passed 7-15-74.)

808.02 LICENSE REQUIRED.

Any person who exhibits or participates in exhibiting any circus, carnival or other show, whether under canvas tent or otherwise, shall secure a license from the Manager before giving any performance. The fee for the license shall be in accordance with the provisions of Section 808.08.
(Ord. 59-74. Passed 7-15-74.)

808.03 LICENSE APPLICATION.

Application, in writing, for a circus, carnival or other show license, as required by Section 808.02, shall be made to the Manager by the owner or operator of the circus, carnival or other show, and shall contain such information about the type of operation, sanitation procedures to be followed, provisions for providing electricity, maintenance of facilities to prevent fire and such other information as the Manager may require.
(Ord. 59-74. Passed 7-15-74.)

808.04 LIABILITY INSURANCE.

No circus, carnival or other show license shall be issued until proof of current liability insurance is presented to the Manager by the applicant for the license. The liability insurance policy shall be in amounts of not less than one million dollars (\$1,000,000) for any one person, one million dollars (\$1,000,000) for any one accident and five hundred thousand dollars (\$500,000) for property damage.

808.05 INCOME TAX BOND.

Before issuance of a circus, carnival or other show license by the Manager, a cash bond in the amount of five hundred dollars (\$500.00) shall be deposited with the Finance Director. The condition of this bond shall be that upon the conclusion of the circus, carnival or other show within the City, there will be an income tax accounting with the Superintendent of Taxation. If there is any remaining balance it shall be returned.

808.06 SURETY BOND.

(a) The application for a circus, carnival or other show license must be accompanied by a five hundred dollar (\$500.00) cash or surety bond with a company licensed to do business in the State and approved by the Municipal Attorney. The condition of the bond shall be such that the circus, carnival or other show shall keep the premises in a clean, healthful and sanitary condition to the satisfaction of the County Board of Health, a City inspector and the Fire Chief.

(b) The return of such money is contingent upon the carnival, circus or other show cleaning up its debris and trash and leaving its premises upon departure in as good a condition as they were at the time of occupancy, normal wear and tear and acts of God excepted.

(Ord. 59-74. Passed 7-15-74.)

808.07 SERVICE OF PROCESS.

Prior to the issuance of a circus, carnival or other show license, the Manager shall require that a certain named person agree, in writing, to accept all citations, notices, processes and similar legal papers from the City.

(Ord. 59-74. Passed 7-15-74.)

808.08 LICENSE FEES.

A license for a circus, carnival or other show operated for profit shall be issued only upon payment in advance of the appropriate license fee to the Manager for credit to the General Fund, in accordance with the following schedule:

(a) For each twenty-four hour day during which a circus is maintained for exhibition, five hundred dollars (\$500.00);

(b) For each twenty-four hour day during which a carnival is maintained for exhibition, fifty dollars (\$50.00);

(c) For each twenty-four hour day during which another show is maintained for exhibition, thirty dollars (\$30.00);

(d) For each parade of any circus, carnival or other show or march or organized public demonstration, the route, nature and extent of which shall be designated by the Chief of Police and approved by the City Manager, three hundred dollars (\$300.00).

808.09 UTILITY SERVICE CHARGES.

No fee for a license for a circus, carnival or other show shall be deemed to include any charge by the City for water or other utility service furnished by it to any circus, carnival or other show.

(Ord. 59-74. Passed 7-15-74.)

808.10 LICENSE ISSUANCE; DISPLAY REQUIRED.

The Manager may issue a circus, carnival or other show license to the owner or operator in compliance with this chapter, and the license shall be displayed at all times in a prominent location and produced upon demand by a police officer or other person designated by the Manager. (Ord. 59-74. Passed 7-15-74.)

808.11 TRAVEL ROUTE; PRECAUTIONS.

Any person who obtains a circus, carnival or other show license under the provisions of this chapter and who desires to move any part of the circus, carnival or other show, or the property thereof, over any portion of a paved street of the City or over any cement crosswalks therein, shall first apply to the Manager for permission to do so. The Manager shall designate, in writing, the route which the circus, carnival or other show shall take and specify the methods to be employed by the licensee to prevent injury to the pavements, crosswalks and route during the use thereof.
(Ord. 59-74. Passed 7-15-74.)

808.12 LICENSE REVOCATION.

The Manager is hereby authorized to withdraw any circus, carnival or other show license granted under the provisions of this chapter upon the occurrence of any of the following:

- (a) Failure to maintain proper health standards;
- (b) Improper installation of equipment, including electrical apparatus;
- (c) Misrepresentation of the type of show;
- (d) Creation of a fire hazard;
- (e) Repeated violation of ordinances of the City or statutes of the State.

(Ord. 59-74. Passed 7-15-74.)

808.99 PENALTY.

Whoever violates any of the provisions of this chapter 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. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

CHAPTER 828
 Massage Parlors

- 828.01 Definitions.
- 828.02 License required.
- 828.03 Exemptions.
- 828.04 Application for massage establishment license; fee.
- 828.05 Issuance of license for massage establishment; effective period.
- 828.06 Revocation or suspension of establishment license.
- 828.07 Application for massage technician license; fee.
- 828.08 Issuance of license for massage technician; effective period.
- 828.09 Revocation or suspension of massage technician license.
- 828.10 Required facilities.
- 828.11 Operating requirements.
- 828.12 Out-call massage service.
- 828.13 Transfer of licenses.
- 828.14 Rules and regulations.
- 828.15 Application to current practitioners.
- 828.99 Penalty.

CROSS REFERENCES

- Sexual imposition - see GEN. OFF. 666.03
- Voyeurism - see GEN. OFF. 666.05
- Public indecency - see GEN. OFF. 666.06
- Soliciting - see GEN. OFF. 666.08

828.01 DEFINITIONS.

As used in this chapter:

- (a) "Employee" means any and all persons, other than the massage technician, who renders any service to the operator, and who receive compensation directly from the operator.

(b) "Massage" means any method of pressure on, or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of, the external soft parts of the body with the hands or with the aid of any mechanical or electrical apparatus or appliance with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations commonly used in this practice for a purpose other than the treatment of disorders of the human body.

(c) "Massage establishment" means any establishment having a fixed place of business where any person, firm, association or corporation engages in, or carries on, or permits to be engaged in or carried on, any of the activities mentioned in subsection (b) hereof for any consideration whatsoever.

(d) "Massage technician" means any person who, for any consideration whatsoever, engages in the practice of massage as defined in subsection (b) hereof.

(e) "Operator" means the permit operator of a massage establishment.

(f) "Out-call massage service" means any business, the function of which is to engage in or carry on massages at a location designated by the customer or client rather than at a massage establishment.

(g) "Person" means any individual, co-partnership, firm, association, joint stock company, corporation or combination of individuals of whatever form or character.

(h) "Sexual or genital area" means the genitals, pubic area, buttocks, anus or perineum of any person, or the vulva or breasts of a female.

(Ord. 33-79. Passed 8-6-79.)

828.02 LICENSE REQUIRED.

(a) No person shall engage in, conduct or carry on, or permit to be engaged in, conducted or carried on, in or upon any premises in the City, the operation of a massage establishment as herein defined, unless such massage establishment shall be licensed under this chapter.

(b) No person shall engage in the business of or be employed as a massage technician in the City unless he or she has obtained a license from the Manager or his or her designate.

(Ord. 33-79. Passed 8-6-79.)

828.03 EXEMPTIONS.

(a) The provisions of this chapter shall not apply to the following:

(1) Hospitals, nursing homes and public health centers;

(2) The offices of a person who is licensed or registered by the State of Ohio Medical Board which are used while performing the licensed or registered profession;

(3) A licensed barber shop, beauty salon, school of cosmetology or barber's school, while used to perform the licensed vocation;

(4) The offices of a licensed chiropractor or physical therapist while used to perform the licensed profession.

(b) The provisions of this chapter shall not apply to the following:

(1) A person licensed or registered by the State of Ohio Medical Board while performing the licensed or registered profession;

(2) Licensed cosmetologists, registered barbers, registered barber apprentices, licensed chiropractors, licensed practical nurses, registered nurses, licensed physical therapists and licensed physical therapist assistants while performing said profession or vocation;

(3) A person working under the direction or supervision of individuals mentioned in paragraphs (b)(1) and (2) hereof while performing the said profession or vocation.

(Ord. 33-79. Passed 8-6-79.)

828.04 APPLICATION FOR MASSAGE ESTABLISHMENT LICENSE; FEE.

(a) Application for a license to operate a massage establishment, including a renewal license, required by Section 828.02(a), shall be made pursuant to this chapter at the office of the Manager on a form provided. Each application shall include a filing fee of two hundred dollars (\$200.00) which shall not be refundable.

(Adopting Ordinance)

(b) The application for a license to operate a massage establishment shall set forth the exact nature of the massage to be administered and the proposed place of business and facilities therefor.

(c) In addition to the foregoing, the applicant for a license, including any partner or limited partner of a partnership, and any officer or director of a corporate applicant, and any stockholder holding more than ten percent of the stock of a corporate applicant, shall furnish the following information:

(1) The applicant's name, address and social security number;

(2) A certified copy of the applicant's birth certificate which evidences that the applicant is at least eighteen years of age;

(3) All residential addresses of the applicant for the past three years;

(4) The applicant's physical description, including height, weight, color of eyes and hair;

(5) The business, occupation or employment of the applicant for the three years immediately preceding the date of the application;

(6) The business history of the applicant regarding previous licenses obtained or refused from any governmental agency, including revocations and suspensions and the reasons therefor;

(7) Criminal history information, including the date, time and place of conviction for all violations except traffic offenses;

(8) A set of fingerprints obtained by the Division of Police and a recent two-inch by two-inch color photograph of the applicant;

(9) If the applicant is a corporation, or a partner of a partnership which is incorporated, the name of the corporation, which shall be set forth exactly as shown on the Articles of Incorporation.

(Ord. 33-79. Passed 8-6-79.)

828.05 ISSUANCE OF LICENSE FOR MASSAGE ESTABLISHMENT; EFFECTIVE PERIOD.

(a) The Manager or his or her designate, pursuant to the provisions of this chapter, shall issue the license to maintain, operate or conduct a massage establishment to a designated person for a specific location upon receipt of an application, unless he or she finds:

(1) That the operation, as proposed by the applicant, if permitted, would not be in compliance with applicable laws, including, but not limited to, the building, health, planning, zoning and fire laws of the City and the housing code of the County, as well as the provisions of this chapter;

(2) That the applicant and any other person who will be directly or indirectly engaged in the management and operation of a massage establishment has been convicted of two or more felonies within the past five years or any sex offense within the past five years; or

(3) That the applicant does not contain all the required information or the application contains a material misrepresentation.

(b) A massage establishment license issued pursuant to this chapter shall terminate at the expiration of one year from the date of its issuance unless subject to suspension or revocation.

(Ord. 33-79. Passed 8-6-79.)

828.06 REVOCATION OR SUSPENSION OF ESTABLISHMENT LICENSE.

(a) The Manager or his or her designate shall refuse to issue or renew a massage establishment license or may revoke or suspend such license when he or she finds that:

(1) A section of this chapter was violated upon the establishment premises.

(2) A violation of another provision of this Municipal Code or of the Ohio Revised Code was committed upon the establishment premises.

(3) A material misrepresentation was made upon the application for a massage establishment permit.

(4) A law enforcement officer or health inspector was refused permission to inspect the premises or operation of the massage establishment during the hours of operation.

(5) A person who is not a licensed massage technician has administered a massage at the premises of the massage establishment.

(b) The issuance, renewal, denial, suspension or revocation of a massage establishment license shall be made pursuant to the provisions of this chapter, and any appeal of any such order shall be made to Council, in writing, within ten days following the date of any such order. Any appeal shall be heard by Council at its next regularly scheduled meeting following the filing of the appeal. At such hearing the person filing the appeal may appear in person or be represented by attorney and present such witnesses and evidence that he or she may desire. The Manager or his or her designate may appear and present such witnesses and evidence as may be necessary to support his or her action. A simple majority of the Council membership shall affirm, reverse or modify the decision appealed from and their decision shall be final.
(Ord. 33-79. Passed 8-6-79.)

828.07 APPLICATION FOR MASSAGE TECHNICIAN LICENSE; FEE.

(a) Application for the license required by Section 828.02, including a renewal license, shall be made pursuant to the provisions of this chapter at the office of the Manager on a form provided. Each application shall include a filing fee of one hundred dollars (\$100.00), which shall not be refundable.
(Adopting Ordinance)

(b) The application for a permit to operate as a massage technician shall contain the following information:

- (1) The applicant's name, residence address and social security number;
- (2) A physical description of the applicant, setting forth the applicant's weight, height, hair color and color of eyes;
- (3) A recent two-inch by two-inch color photograph of the applicant and a set of fingerprints obtained by the Division of Police;
- (4) A certified copy of the applicant's birth certificate which evidences that the applicant is at least eighteen years of age;
- (5) The business, occupation and employment of the applicant for a three-year period preceding the date of the application;
- (6) Criminal history information, including the date, time and place of all convictions for all violations except traffic offenses;
- (7) Certification that the applicant has satisfactorily completed 160 hours of course instruction in anatomy, physiology and massage at a school of massage approved by the Ohio State Medical Board.

(Ord. 33-79. Passed 8-6-79.)

828.08 ISSUANCE OF LICENSE FOR MASSAGE TECHNICIAN;
EFFECTIVE PERIOD.

(a) The Manager or his or her designate shall, pursuant to this chapter, issue the license to engage in the business of or to be employed as a massage technician in the City upon receipt of an application, unless he or she finds that:

(1) The applicant has been convicted of two or more felonies within the past five years or any sex offense within the past five years.

(2) The application does not contain all the required information or the application contains a material misrepresentation.

(b) A massage technician license issued pursuant to this chapter shall terminate at the expiration of one year from the date of its issuance unless subject to suspension or revocation. (Ord. 33-79. Passed 8-6-79.)

828.09 REVOCATION OR SUSPENSION OF MASSAGE TECHNICIAN
LICENSE.

(a) The Manager or his or her designate shall refuse to issue or renew a massage technician license or may revoke or suspend such license where he or she finds any of the following:

(1) The massage technician has been convicted of two or more felonies within the past five years or any sex offense within the past five years.

(2) The massage technician violated any of the provisions of this chapter.

(b) The issuance, renewal, denial, suspension or revocation of a massage technician license shall be pursuant to the provisions of this chapter, and the appeal of any such order shall be to Council in the same manner as provided in Section 828.06(b). (Ord. 33-79. Passed 8-6-79.)

828.10 REQUIRED FACILITIES.

No license to conduct a massage establishment shall be issued, renewed or continued unless an inspection discloses that the establishment complies with each of the following minimum requirements:

(a) A readable sign shall be displayed at the main entrance identifying the establishment as a massage establishment. All such signs shall be in compliance with the Zoning Code.

(b) Adequate equipment for disinfecting and sterilizing any instruments used for massage shall be provided.

(c) Hot and cold running water shall be provided.

(d) Closed cabinets shall be utilized for the storage of clean linen.

(e) Adequate dressing and toilet facilities shall be provided to patrons.

(f) All walls, ceilings, floors, steam or vapor rooms and all other physical facilities for the establishment shall be kept in good repair and maintained in a clean and sanitary condition.

(g) Clean and sanitary towels shall be provided for patrons receiving massage services. No common use of towels or linens shall be permitted.

(Ord. 33-79. Passed 8-6-79.)

828.11 OPERATING REQUIREMENTS.

(a) No license to conduct a massage establishment or to engage in the business of or be employed as a massage technician shall be issued, renewed or continued unless each of the following provisions is complied with by the massage establishment and/or massage technician:

(1) No massage technician shall administer a massage unless completely clothed in clean nontransparent garments at all times. The term "completely clothed" shall mean having on the upper portion of the body undergarments and either a blouse or a shirt which covers all of the upper body except the arms, neck and head, and on the lower body undergarments plus either pants or a skirt which covers the area from the waist to a point at least two inches above the knee.

(2) The massage patrons private parts shall be covered by a towel, cloth or undergarments when in the presence of a massage technician or massage establishment employee.

(3) A massage technician and massage establishment shall display his, her or its license in a conspicuous place where the massage is being administered.

(4) No massage technician shall engage in such business or profession except between the hours of 8:30 a.m. and 9:30 p.m., nor shall any operator of a massage establishment or business operate the same except between such hours.

(5) A massage establishment operator and a massage technician shall maintain for a period of one year correct and accurate records of the names and addresses of all persons to whom massages are administered, the date and time administered, the type of massage administered and the name of the person who administered the massage. Said records shall be subject to inspection during the hours of operation by any officer of the Division of Police.

(6) A massage technician shall not administer a massage to an individual of the opposite sex.

(7) The massage establishment facilities shall be subject to inspection by law enforcement officers or health inspectors during working or operating hours to assure compliance with the provisions of this chapter.

(8) A massage technician shall not fondle, touch or massage the sexual or genital area of any patron.

(9) A massage establishment operator shall provide the names of all employees and massage technicians working for the establishment to the office of the Manager within two days of the date the individual is employed.

(b) No massage technician or massage establishment operator shall knowingly violate a provision of subsection (a) hereof.
(Ord. 33-79. Passed 8-6-79.)

828.12 OUT-CALL MASSAGE SERVICE.

No massage technician or massage establishment shall provide an “out-call massage service” which is not in compliance with the provisions of this chapter.

(Ord. 33-79. Passed 8-6-79.)

828.13 TRANSFER OF LICENSES.

(a) No license issued under this chapter shall be transferable to another person or location without the express written authorization of the Manager or his or her designate.

(b) The change of location of a massage establishment shall require the submission of a new application and the issuance of a new license.

(Ord. 33-79. Passed 8-6-79.)

828.14 RULES AND REGULATIONS.

The Manager or his or her designate may make and enforce reasonable rules and regulations to carry out the intent of this chapter.

(Ord. 33-79. Passed 8-6-79.)

828.15 APPLICATION TO CURRENT PRACTITIONERS.

Any person who is actually engaged as a massage technician or an operator of a massage establishment upon the effective date of this chapter (Ordinance 33-79, passed August 6, 1979) shall have sixty days from that day to comply with the provisions of this chapter. However, a person operating as a massage technician on the date of passage of this chapter and who is otherwise operating in compliance with this chapter and who enrolls within sixty days from the effective date of this chapter in a school of massage, approved by the Ohio State Medical Board, may continue to operate as a massage technician as long as said enrollment continues, but not to exceed a period of one year.

(Ord. 33-79. Passed 8-6-79.)

828.99 PENALTY.

Whoever violates any of the provisions of this chapter 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 occurs or continues.

CHAPTER 836
Peddlers, Vendors, Canvassers, and Charitable Solicitations

836.01	Definitions.	836.08	Exceptions from license and fees.
836.02	Authority to issue license.	836.09	Compliance with State law.
836.03	License or registration required.	836.10	Falsification; misrepresentation.
836.04	License application.	836.11	Permissible hours.
836.05	License waiting period; investigation.	836.12	Prohibited soliciting; notice.
836.06	License fees.	836.13	Appeals.
836.07	License expiration; revocation or suspension.	836.99	Penalty.

CROSS REFERENCES

Home solicitation sales - see Ohio R.C. 1345.21 et seq.
 Charitable solicitations - see Ohio R.C. Ch. 1716
 Frozen desserts - see Ohio R.C. 3717.51 et seq.
 Sales of goods and services within right-of-way of interstate and other State highways - see Ohio R.C. 5515.07
 Soliciting business from motorists - see TRAF. 416.06
 Littering - see GEN. OFF. 660.03, 660.035

836.01 DEFINITIONS.

As used in this chapter:

- (a) "Business" means the business carried on by any person who is an itinerant merchant, peddler or solicitor as defined in this chapter.
- (b) "Canvassing", "canvassers" and "canvass" means the house-to-house distribution of ideas, pamphlets, literature, or the collection of signatures or support for any purpose or cause. This definition does not include solicitation, peddling, or vending, as those terms are defined in this section. This definition includes requesting contributions when such requests are made in conjunction with the house-to-house distribution of ideas, pamphlets, literature, or the collection of signatures or support for any purpose or cause. This definition includes both "contact canvassers" and "non-contact canvassers" as defined in subsections (b)(1) and (b)(2), hereof.
 - (1) "Contact canvassers" and "contact canvassing" mean those persons who canvass, as defined in subsection (a) hereof though in person, face-to-face contact, verbal or otherwise, with individual residents.

- (2) “Non-contact canvassers” and “non-contact canvassing” mean those persons who canvass, as defined in subsection (a) hereof, without attempting in person, face-to-face contact with individual residents, such as the distribution of leaflets and/or pamphlets by leaving them at a place of residence.
- (c) “Charitable purpose” shall be as defined in Ohio R.C. 1716.01(B)(1).
- (d) “City Manager” means the City Manager or his or her designee.
- (e) “Contribution” means the gift, sale for less than market value or purpose for more than market value of alms, food, clothing, money or property, including donations under the guise of a loan or money or property of the rental thereof for any charitable, religious or political use or purpose.
- (f) “Itinerant merchant” means any person, whether as an owner, agent or consignee, who engages in a temporary business of selling goods within the City and who, in the furtherance of such business, uses any building, structure, vehicle or place within the City.
- (g) “Peddler” means an itinerant solicitant/trader who sells wares which he or she may carry with him or her traveling about from place to place.
- (h) “Person” means any firm, co-partnership, corporation, company, association, joint stock association, church, religious sect, religious denomination, society, organization or league, and includes any trustee, receiver, assignee, agent or other similar representative thereof.
- (i) “Political” and “political organization” shall not mean or include the term “charitable.” Such terms shall be given their commonly accepted definitions. It is not necessary that a person be a candidate for an office or in support of another person as a candidate to be included within the definition of “political” or “political organization”.
- (j) “Religious” and “religion” shall not mean and include the term “charitable”. Such terms shall be given their commonly accepted definitions.
- (k) “Solicit” and “solicitation” mean the method by which a peddler or vendor conveys his or her wares.
- (l) “Sunset” shall mean the time of day as designated by the U.S. Naval Observatory Astronomical Applications Department.
- (m) “Temporary use” for purposes of this chapter means a short term or seasonal use intended to promote or sell specific merchandise or products and shall include, but not be limited to special events, sidewalk sales, and outdoor seasonal sales.
- (n) “Vendor” means a person who transfers property by door-to-door sale.
- (o) “Youth fundraiser” and “youth fundraising” means fundraising for: (i) a K-12 school or school-related activity; or (ii) a youth organization such as an athletic club, Boy/Girl Scout troop, and the like, when such activity is undertaken by a person, age 18 or under. Youth fundraising activity, as contemplated by this definition, typically includes, but is not limited to, the sale of fundraising products such as popcorn, wrapping paper, candy, fruit or plants.
(Ord. 02-14. Passed 5-19-14.)

836.02 AUTHORITY TO ISSUE LICENSE.

The City Manager is hereby authorized to grant, issue, and revoke a license to any person who desires to vend, solicit, peddle or request contributions other than in conjunction with canvassing activity, under this chapter.

(Ord. 02-14. Passed 5-19-14.)

836.03 LICENSE OR REGISTRATION REQUIRED.

No person shall peddle, vend, solicit, or request contributions other than in conjunction with canvassing activity, for any purpose, charitable or otherwise, unless such person has obtained a license therefore from the City or unless the person meets one of the exceptions contained in Section 836.08. Such person shall carry the license required by this section and a photographic identification card at all times while exercising such calling, and shall upon demand, exhibit those items to any official of the City or occupant of any residence or business establishment being contacted.

(Ord. 02-14. Passed 5-19-14.)

836.04 LICENSE APPLICATION.

An application for a license to peddle, vend, solicit, or request contributions other than in conjunction with canvassing activity, shall be made on forms provided by the City. The license shall be issued only if the City Manager finds the following facts to exist:

- (a) All of the statements made in the application are true.
- (b) The applicant had provided a valid photographic identification card.
- (c) The applicant has a good character and reputation for honesty and integrity, or if the application is not an individual person, every member, managing officer or agent of the applicant has a good character or reputation for honesty and integrity, as evidenced by the absence of prior convictions of any felony or misdemeanor involving an offense of violence as defined in Ohio R.C. 2901.01(A)(9), or has committed a sexually oriented offense as defined in Ohio R.C. 2950.01 or conviction of any other crime, other than a traffic offense, which was in any way connected with the act of peddling, canvassing, vending, or soliciting.
- (d) The control and supervision of the solicitation will be under responsible persons who meet the qualifications specified in subsection (c) hereof.
- (e) The applicant has not engaged in any fraudulent transaction or enterprise as evidenced by the absence of civil or criminal convictions or pending investigations by any governmental agency.
- (f) The solicitation, vending, peddling, or request for contribution other than in conjunctions with canvassing activity, will not be a fraud on the public.

(Ord. 02-14. Passed 5-19-14.)

836.05 LICENSE WAITING PERIOD; INVESTIGATION.

The City Manager shall require a waiting period, after receipt of the information on the proper form, for the purpose of having the Division of Police make an independent

inquiry of the requirements specified in Section 836.04. The waiting period shall be no longer than two business days, beginning on the first business day after which the proper form is delivered to the City Manager. Upon objection of the Chief of Police, the license may be withheld.

(Ord. 02-14. Passed 5-19-14.)

836.06 LICENSE FEES.

The City Manager, before issuing the license required by this chapter, shall collect from each licensee a fee as determined by the City Manager in an amount not to exceed twenty dollars (\$20.00) for each license issued under this chapter. Each separate person shall have an individual license in order to solicit within the City.

(Ord. 02-14. Passed 5-19-14.)

836.07 LICENSE EXPIRATION; REVOCATION OR SUSPENSION.

Any license issued pursuant to this chapter shall expire not later than ten days following the date of issuance. Such a license may be revoked or suspended at any time by the City Manager if the holder:

- (a) Is found to have misrepresented any statement on the application for a license to peddle, vend, solicit, or request contributions other than in conjunction with canvassing activity;
- (b) Violates any of the provisions of this chapter;
- (c) Is the subject of a complaint for criminal trespass as defined by Section 642.12(a) of these Codified Ordinances; or
- (d) Is found to be convicted of any offense as included in subsection 836.04(c) herein.

(Ord. 02-14. Passed 5-19-14.)

836.08 EXCEPTIONS FROM LICENSE AND FEES.

Except as otherwise provided in Sections 836.11 and 836.12, the restrictions of this chapter do not apply to any canvassing activity, as defined in Section 836.01(b), or to youth fundraising activity, as defined in Section 836.01(o). These exceptions are adopted, among other reasons and without limitation, on the following grounds:

- (a) That canvassing activity, although it may involve requesting contributions, is principally conducted as an expression of core political speech and presents a lower risk of fraud, theft, or other criminal conduct than that presented by other house-to-house activities.
- (c) That youth fundraising activity is engaged in by minors who are likely to be recognized by their neighbors and present a lower risk of fraud, theft, or other criminal conduct than that presented by other house-to-house activities.

(Ord. 02-14. Passed 5-19-14.)

836.09 COMPLIANCE WITH STATE LAW.

A representative of a charitable organization, as defined in Ohio R.C. Chapter 1716, may be required, if requested by the City Manager or his or her designee, to provide certification that such organization is duly registered with the Ohio Attorney General's Office.

(Ord. 02-14. Passed 5-19-14.)

836.10 FALSIFICATION; MISREPRESENTATION.

No person required to obtain a license to solicit, peddle, vend or request contributions other than in conjunction with canvassing activity under this chapter shall register a false or fictitious name or address or represent by words or action that he or she is the employee, agent, partner, or representative of any person or organization, when in fact, he or she is not the employee, agent, partner, or representative of such person or organization.

(Ord. 02-14. Passed 5-19-14.)

836.11 PERMISSIBLE HOURS.

(a) All peddling, vending, soliciting, youth fundraising activity and requests for contributions other than in conjunction with canvassing activity, permitted under this chapter may be made only between the hours of 9:00 a.m. and sunset.

(b) All canvassing activity permitted under this chapter may be made only between the hours of 9:00 a.m. and 9:00 p.m.

(Ord. 02-14. Passed 5-19-14.)

836.12 PROHIBITED SOLICITING; NOTICE.

No person shall knock at the door or ring the doorbell of any residence, apartment, or other dwelling unit in the City upon which is clearly displayed at the entrance a notice that reads "NO SOLICITORS" or that otherwise clearly purports to prohibit peddlers, contact canvassers, vendors, solicitors, or persons requesting contributions, unless such person is or has been invited upon the premises by the occupant thereof.

(Ord. 02-14. Passed 5-19-14.)

836.13 APPEALS.

The City Manager shall give notice of a refusal to issue a license required by this chapter to the applicant. The applicant may appeal such refusal to Council by filing a written Notice of Appeal with the Clerk of Council within ten days after such refusal and at least seven days before the Council meeting at which the appeal shall be heard. The appeal shall state briefly the grounds for appeal. The applicant may appeal before Council, in person or by attorney. The decision of Council shall be final.

(Ord. 02-14. Passed 5-19-14.)

836.99 PENALTY.

Whoever violates any of the provisions of this chapter is guilty of an unclassified misdemeanor and shall be fined not more than one thousand dollars (\$1,000.00) for each offense. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

(Ord. 02-14. Passed 5-19-14.)

CHAPTER 838
Adult Entertainment (Repealed)

EDITOR'S NOTE: Chapter 838 was repealed in its entirety by Ordinance 14-08, passed December 15, 2008. For provisions regarding adult entertainment, see the Unified Development Code, available at the Centerville Municipal Building, Clerk's Office or Planning Department.

[Chapter 840 begins on Page 18W]

CHAPTER 840
Rental Unit Inspection Regulations

840.01	Residential rental unit mandatory inspection required.	840.04	Appeal.
840.02	Access to rental unit.	840.05	Exemption.
840.03	Notice of violation.	840.99	Penalty.

840.01 RESIDENTIAL RENTAL UNIT MANDATORY INSPECTION REQUIRED.

(a) The owner or operator of a premises with a residential rental unit shall have the interior and exterior of the premises, its structures and its rental units inspected biennially, to determine compliance with the Property Maintenance Code and Zoning Code.

(b) The owner or operator of a premise with a rental unit is subject to have the interior and exterior of the premises, its structures and its rental units inspected prior to the biennial inspection under any of the following circumstances:

- (1) If two or more notices and orders to comply have been issued to the owner or operator pursuant to any section of this chapter relating to the violation of any sections of the codes set forth in this section, within any two-year period, concerning the same premises, and have not been complied with within the time provided in the notices and orders to comply, the premises that was the subject of the notices and orders to comply shall be subject to mandatory inspections as specified in this section; or
- (2) If the owner or operator has been convicted of a violation of any sections of the codes set forth in this section, all premises and structures with a rental unit that the owner owns or that the operator operates shall be subject to mandatory inspections as specified in this section; or
- (3) If the owner or operator has had a premises ordered razed by the Code Official, all premises and structures with a rental unit that the owner owns or that the operator operates shall be subject to mandatory inspections as specified in this section; or
- (4) In response to a complaint of an alleged violation of any of the provisions of this chapter or the provisions of the applicable City codes; or
- (5) The failure of the owner to file with the County Auditor the information required by Ohio R.C. 5323.02.

(c) A notice and order to comply that is outstanding on or after September 28, 2006, or that is issued subsequent to September 28, 2006, may constitute an uncomplained notice

and order to comply for purposes of enforcement of the mandatory inspections required by division (b)(1) of this section.

(d) A conviction that was obtained on or after September 28, 2006 shall constitute a conviction for purposes of enforcement of the mandatory inspections required by division (b)(2) of this section.

(e) A raze order that the Code Official issued on or after September 28, 2006 shall constitute a raze order for purposes of enforcement of the mandatory inspections required by division (b)(3) of this section.

(f) No owner or operator of a premises with a rental unit shall fail to obtain a rental unit mandatory inspection from the Division of Inspection when the provisions of this section require a rental unit mandatory inspection.

(g) No fee shall be required for the biennial mandatory inspection.

(h) A rental unit mandatory re-inspection fee of seventy-five dollars (\$75.00) per hour for each re-inspection subsequent to the first inspection shall be paid.
(Ord. 19-06. Passed 7-17-06; Ord. 29-06. Passed 12-18-06.)

840.02 ACCESS TO RENTAL UNIT.

(a) Access by Owner or Operator. Every occupant of a rental unit shall give, upon proper notice, the owner or operator thereof, or his or her agent or employee, access to any part of such rental unit at all reasonable times for the purpose of effecting such maintenance, making such repairs or making such alterations as are necessary to effect compliance with any lawful notice or order issued pursuant to the provisions of the applicable City codes.

(b) Access by Code Official. The Code Official or his or her duly authorized designee is hereby authorized to conduct inspections of any rental unit within the City in order to perform the duty of safeguarding the health, safety and welfare of the occupants and the public under the provisions of this chapter. Whenever necessary to make an inspection to enforce any of the provisions of this chapter or the provisions of the applicable City codes or whenever the Code Official or his or her duly authorized designee has probable cause to believe that there exists in any rental unit any condition which makes such rental unit in violation of any of the provisions of this chapter or the provisions of the applicable City codes or in response to a complaint that an alleged violation of any of the provisions of this chapter or the provisions of the applicable City codes may exist, the Code Official or his or her duly authorized designee may enter such rental unit at all reasonable times to inspect the same or to perform any duty imposed upon the Code Official by this chapter or the provisions of the applicable City codes, provided that if such rental unit is occupied, he or

she shall first make a reasonable effort to locate the owner/operator or other person having charge or control of the rental unit and request entry, giving 24-hour notice. The owner/operator shall contact the occupant (if any) of each unit and schedule a date and time for the inspection. The owner/operator shall give notice to the Code Official of the date and time of each inspection. In addition, the owner/operator shall give notice of the inspection date and time, pursuant to Ohio R.C. 5321.04(A) and 5321.05(B), to the occupants who are subject to the inspection. Failure to provide said notice to an occupant shall subject the owner/operator to the penalties provided in Section 840.99. The Code Official or his or her duly authorized designee shall at such time of inspection:

- (1) Identify himself or herself and his or her position;
- (2) Explain why entry is sought;
- (3) Explain that the owner/operator, occupant or other person(s) having charge or control of the rental unit may refuse entry without a search warrant;
- (4) Provide documentation of written notice to the owner/operator, giving seven-day notice of deficiency. Such notice shall not be construed to imply that the repairs need be completed at that time.

(c) Entry for Inspection Refused. In the event that entry for inspection has been refused by the owner/operator, occupant or other person having charge of the rental unit, the person refusing such entry may be subject to penalties as provided for in Section 840.99.

(d) Search Warrant. If consent to inspect a rental unit is withheld by any person or persons having the lawful right to exclude, the Code Official or his or her duly authorized designee may apply to a court of competent jurisdiction for a search warrant of the rental unit. No owner/operator or occupant or any person having charge, care or control of a rental unit shall fail or neglect, after presentation of a search warrant, to properly permit entry therein by the Official or his or her duly authorized designee for the purpose of inspection and examination pursuant to this chapter.

(Ord. 19-06. Passed 7-17-06; Ord. 7-07. Passed 6-18-07; Ord. 8-07. Passed 7-16-07; Ord. 11-08. Passed 8-18-08.)

840.03 NOTICE OF VIOLATION.

Whenever, upon inspection of a dwelling unit, the Code Official finds that conditions or practices exist which are in violation of ordinances of the City, any authorized notice of violation shall state that unless the violations are corrected as specified in the notice, the owner shall be cited for violating this chapter and is subject to the remedy set forth in Section 840.99.

(Ord. 19-06. Passed 7-17-06.)

840.04 APPEAL.

Any owner who has received an order pursuant to Section 840.01(b) above shall be entitled to appeal the order to the Property Review Commission pursuant to Chapter 1480

by filing a notice of appeal with the Clerk of Council within five days following the date of the notice.

(Ord. 19-06. Passed 7-17-06.)

840.05 EXEMPTION.

This chapter shall not apply to any dwelling unit for which an occupant has paid a one-time lump sum entry fee in exchange for lifetime rights to occupy the unit and receive health-related and other personal services from the legal owner.

(Ord. 29-06. Passed 12-18-06.)

840.99 PENALTY.

A violation of the requirements of Sections 840.01 through 840.03 shall constitute a fourth degree misdemeanor, punishable by a fine of not more than two hundred fifty dollars (\$250.00), or imprisoned not more than 30 days, or both, for each offense. Each day such violation is continued shall constitute a separate offense.

(Ord. 19-06. Passed 7-17-06; Ord. 7-07. Passed 6-18-07; Ord. 8-07. Passed 7-16-07.)

CHAPTER 842
Competitive Video Service Authorizations

842.01	Definitions.	842.07	Access programming requirement.
842.02	VSP fee, percentage, and audit.	842.08	Fee payment requirements.
842.03	VSP fee notice provision.	842.09	PEG origination point.
842.04	MVCC management authorization.	842.10	Notice requirement.
842.05	Additional MVCC management authorization.	842.11	Application to incumbent cable providers.
842.06	VSP access provision.	842.12	Customer service standards.
		842.99	Penalty.

842.01 DEFINITIONS.

As used in this chapter:

- (a) “Incumbent cable provider” means any person who on the effective date of this section is the holder of a cable franchise agreement with the City as granted pursuant to requirements of 47 U.S.C. 541.
- (b) “Miami Valley Communications Council” or “MVCC” means the Miami Valley Communications Council, which currently represents its eight member cities of Centerville, Germantown, Kettering, Miamisburg, Moraine, Oakwood, Springboro, and West Carrollton. MVCC is governed by a policy-making body consisting of delegates representing the eight member cities. MVCC additionally maintains agreements with 18 other Miami Valley political subdivisions who participate as affiliate members. MVCC is managed by an appointed Executive Director and his or her staff.
- (c) “PEG” means the activities or actions performed for the benefit of public, educational and government video programming by the City or MVCC.
- (d) “Video service” means the service defined in Ohio R.C. 1332.21(J).
- (e) “Video service authorization” or “VSA” means the authorization granted to a video service provider in accordance with the requirements of Ohio R.C. 1332.21 to 1332.34 et seq.
- (f) “Video service provider” or “VSP” means a person, firm, or corporation granted a video service authorization under Ohio R.C. 1332.21 to 1332.34 et seq.
- (g) “Video service provider fee” or “VSP fee” means the fee paid by a VSP in accordance with the requirements of Ohio R.C. 1332.32.
(Ord. 22-07. Passed 11-19-07.)

842.02 VSP FEE, PERCENTAGE, AND AUDIT.

(a) Not sooner than 45 nor later than 60 days after the end of each calendar quarter, a video service provider shall pay a video service provider fee to the City. The fee shall be calculated quarterly by determining the provider's gross revenue for the preceding calendar quarter as described in division (b) of this section and multiplying the result by the percentage specified in division (c)(1) or (2) of this section.

(b) Gross revenue shall be computed in accordance with generally accepted accounting principles.

- (1) Gross revenue shall consist of all of the following revenue for the calendar quarter that is collected by the provider for video service from all its subscribers having service addresses within the City:
 - A. Recurring monthly charges for video service;
 - B. Event-based charges for video service, including, but not limited to, pay-per-view and video-on-demand charges;
 - C. Charges for rental of set-top boxes and other video service equipment;
 - D. Service charges related to the provision of video service, including, but not limited to activation, installation and repair;
 - E. Administrative charges related to the provision of video service, including, but not limited to service order and service termination charges;
 - F. Advertising revenue. For these purposes, "advertising revenue" means the net revenue received by the video service provider for advertising on its subscription-based video service within the City. If such revenue is derived under a regional or national compensation contract or arrangement between the video service provider and one or more advertisers or advertising representatives, the amount of revenue derived for the City shall be determined by multiplying the total net revenue received by the video service provider under the contract or arrangement by the percentage resulting from dividing the number of subscribers in the City by the total number of regional or national subscribers that potentially receive the advertising under the contract or arrangement.
- (2) Gross revenue shall not include any of the following:
 - A. Any taxes, fees, or assessments that are collected by the video service provider from video service subscribers for pass-through to any Federal, State, or local government agency, including the video service provider fee authorized under this section, the fee authorized under Ohio R.C. 1332.30(F), and the Federal Communication Commission user fee;
 - B. Uncollectible charges, except that uncollectible charges, all or part of which are written off as bad debt but subsequently collected, less the

expenses of their collection shall be included in gross revenue in the quarter collected;

- C. Late payment charges;
 - D. Maintenance charges;
 - E. Charges for services other than video service, reasonably identifiable on books or records the video service provider keeps in the regular course of business, or by other reasonable means, that are aggregated or bundled with amounts billed to video service subscribers, including, but not limited to any revenue received by a video service provider or its affiliates for telecommunications service, information service, or the provision of directory or internet advertising, including yellow pages, white pages, banner advertising, and electronic publishing;
 - F. Reimbursement by programmers of marketing costs actually incurred by the video service provider;
 - G. Any revenue not expressly enumerated in division (b)(1) of this section.
- (c) (1) If in a calendar quarter a franchise fee is payable by a provider under a franchise in effect in the City, the percentage of gross revenue payable in that calendar quarter by the video service provider to the City shall be the same percentage of gross revenue payable in that calendar quarter pursuant to that franchise, not to exceed 5%.
- (2) Otherwise, the percentage shall be 5% of a video service provider's gross revenues, as calculated in accordance with this chapter.
- (d) A video service provider that pays a video service provider fee pursuant to this section may identify and collect the amount of that fee as a separate line item on the regular bill of each of its video service subscribers that has a service address within any portion of the City.
- (e) (1) At its sole expense and not more often than once per calendar year, the City or its designee may conduct an audit for the purpose of verifying the accuracy of a video service provider's calculation of the video service provider fees it paid to City in the audit period. For the purpose of the audit, the video service provider shall make available for inspection, at the location where such records are kept in the normal course of business, those records pertaining to its gross revenue as defined in 842.02(b).
- (2) A video service provider shall pay any amounts found to have been underpaid in the audit within 30 days after notice and shall include interest on the underpayments. However, payment need not be made in that 30-day period if the video service provider brings an action under division (e)(3) of this section.

- (3) An action by the City or by the video service provider to dispute the amount of video service provider fee due based on the audit results may be brought in a court of competent jurisdiction not later than two years following the end of the quarter to which the disputed amount relates.
(Ord. 22-07. Passed 11-19-07.)

842.03 VSP FEE NOTICE PROVISION.

Upon receipt of notice from a VSP that it will begin providing video service in the City pursuant to a State-issued video service authorization, the City Manager or his or her designee is authorized and directed to provide such VSP with notice of the VSP fee as determined by this Council in Section 842.02, which notice shall be delivered in a manner that provides for proof of timely delivery.

(Ord. 22-07. Passed 11-19-07.)

842.04 MVCC MANAGEMENT AUTHORIZATION.

The City authorizes the Community Programming Board (“MVCC”) to manage and direct the City’s cable franchise management, public, educational, and government access programming and franchise fee collection activities, and further directs MVCC to manage and direct the City’s VSA public, educational, and government access programming and VSP fee collection activities as may be necessary under Ohio R.C. 1332.21 through 1332.34 et seq., all until such time as the City may terminate or revoke such grant of authority.

(Ord. 22-07. Passed 11-19-07.)

842.05 ADDITIONAL MVCC MANAGEMENT AUTHORIZATION.

The MVCC shall coordinate regulatory efforts for the City and provide expertise on other matters regarding cable franchises, cable service providers, VSAs, VSPs, and other electronic media. Additional responsibilities shall include the creation and promotion of the community media center and PEG access channels, the establishment and review of programming policies, resolution of policy disputes and questions of equal treatment for access users, and fiscal controls. If matters of contract interpretation arise concerning community programming, the MVCC shall be consulted.

(Ord. 22-07. Passed 11-19-07.)

842.06 VSP ACCESS PROVISION.

Upon receipt of notice from a VSP that it will begin providing video service in the City pursuant to a VSA, the City Manager or his or her designee is authorized and directed to provide such VSP with notice that the VSP shall be required to provide the same number of PEG channels in the City under the same service tier conditions and subject to the same channel reclamation conditions as may be proscribed by Ohio R.C. 1332.30(A)(1)(a) and (b) for the incumbent cable provider with the most recent obligation in the City, which notice shall be delivered in a manner that provides for proof of timely delivery and shall state

the appropriate number of PEG channels and service tiers required to be provided by the VSP within the City within 120 days after delivery of such notice.
(Ord. 22-07. Passed 11-19-07.)

842.07 ACCESS PROGRAMMING REQUIREMENT.

In accordance with the requirements of Ohio R.C. 1332.30(A)(I)(a), when more than three PEG access channels are provided to the City by an incumbent cable provider or VSP, such additional channel shall be programmed by the City with at least 40 hours of non-character generated content per week with at least 60% of the programming being non-repeat and locally produced. For the purposes of this section, “non-repeat and locally produced” shall mean the first three playbacks of programming produced or provided by any local resident, the MVCC or its affiliates, or any local public or private agency that provides services to residents of the greater Dayton Metro area, or any transmission of a meeting or proceeding of any local, State, or Federal governmental entity.
(Ord. 22-07. Passed 11-19-07.)

842.08 FEE PAYMENT REQUIREMENTS.

Any VSP fee or community service fee payments required to be paid to the City by a VSP shall be made quarterly and be remitted directly to the Community Programming Board via a negotiable instrument made payable to the City of Centerville, Miami Valley Communications Council, 1195 Alex Bell Road, Centerville, Ohio 45459, not later than 60 days after the end of a calendar quarter.
(Ord. 22-07. Passed 11-19-07.)

842.09 PEG ORIGINATION POINT.

The PEG programming origination point of the City for the delivery of VSP access services shall be located at the MVCC office location — 1195 Alex Bell Road, Centerville, Ohio 45459.
(Ord. 22-07. Passed 11-19-07.)

842.10 NOTICE REQUIREMENT.

Any notice to the City that is required of a VSP in accordance with of Ohio R.C. 1332.21 through 1332.34 shall be provided in written form to both the City Manager and the Executive Director of the MVCC either by certified mail, express mail or upon personal delivery, all evidenced by a return receipt.
(Ord. 22-07. Passed 11-19-07.)

842.11 APPLICATION TO INCUMBENT CABLE PROVIDERS.

Nothing in this section shall apply to incumbent cable providers until they are granted a video service authorization in accordance with Ohio R.C. 1332.21 through 1331.34 et seq.
(Ord. 22-07. Passed 11-19-07.)

842.12 CUSTOMER SERVICE STANDARDS.

(a) When requested to do so, a video service provider shall assist the City in addressing video service subscriber complaints, in a manner consistent with the provider's complaint handling process.

(b) A video service provider shall meet all of the following customer service standards:

- (1) The provider shall restore video service within 72 hours after a subscriber reports a service interruption or other problem if the cause was not a natural disaster.
- (2) Upon a report by a subscriber of a service interruption, and if the interruption is caused by the video service provider and lasts for more than four hours in a given day, the provider shall give the subscriber a credit in the amount of the cost of each such day's video service as would be billed to the subscriber.
- (3) Upon a report by a subscriber of a service interruption, and if the interruption is not caused by the video service provider and lasts for more than 24 consecutive hours, the provider shall give the subscriber, for each hour of service interruption, a credit in the amount of the cost of per-hour video service as would be billed to the subscriber.
- (4) The provider shall give a subscriber at least 30 days' advance, written notice before removing a channel from the provider's video service, but no such notice is required if the provider must remove the channel because of circumstances beyond its control.
- (5) The provider shall give a subscriber at least ten days' advance, written notice of a disconnection of all or part of the subscriber's video service, except if the disconnection has been requested by the subscriber, is necessary to prevent theft of video service, or is necessary to reduce or prevent signal leakage as described in 47 C.F.R. 76.611.
- (6) The provider shall not disconnect all or part of a subscriber's video service for failure of the subscriber to pay its video service bill, until the bill is at least 45 days past due.
- (7) The provider shall give a subscriber at least 30 days' advance, written notice before instituting an increase in video service rates.
(Ord. 22-07. Passed 11-19-07.)

842.99 PENALTY.

Whoever violates any of the provisions of this chapter 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 60 days or both. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

(Ord. 22-07. Passed 11-19-07.)

CHAPTER 844
Mobile Food Vehicle Vendors

844.01	Definitions.	844.07	Exemptions.
844.02	General restrictions.	844.08	Suspension and revocation.
844.03	License required.	844.09	Closure for operation without a license.
844.04	Authority to issue license.	844.10	Appeals.
844.05	Form and condition of license.	844.99	Penalty.
844.06	License fee.		

844.01 DEFINITIONS.

As used in this chapter:

- (a) "City Manager" means the City Manager or his/her designee.
- (b) "Mobile food vehicle" means a commercially manufactured, self-contained, motorized, vehicle currently licensed by the Ohio Department of Motor Vehicles in which ready-to-eat food is cooked, wrapped, packaged, processed or portioned for service, sale or distribution.
- (c) "Temporary use" means a short term or seasonal use intended to promote or sell specific merchandise or products and shall include, but not limited to special events, sidewalk sales, and outdoor seasonal sales.
(Ord. 8-13. Passed 7-15-13.)

844.02 GENERAL RESTRICTIONS.

(a) It shall be unlawful for any person to operate a mobile food vehicle within the City without first having obtained a valid mobile food vending license as prescribed in this chapter.

(b) A mobile food vehicle shall be operated or parked so as not to obstruct or impede the normal movement of traffic.

- (c) A mobile food vehicle may operate in the public right-of-way provided:
- (1) A mobile food vehicle shall not operate on a street designated as a thoroughfare street on the Centerville Thoroughfare Plan.
 - (2) A mobile food vehicle may be operated for sales purposes between the hours of 11:00 a.m. and 8:30 p.m.
 - (3) A mobile food vehicle shall be parked or stopped with the curb-side wheels parallel with and not more than twelve inches from the curb when food items are sold, dispensed or prepared.
 - (4) All items shall be sold, offered for sale or dispensed only from the right hand (curb side) of a mobile food vehicle.

- (5) Flashing lights shall be operated continuously at all times when a mobile food vehicle is parked or stopped so as to be clearly visible to drivers of other vehicles approaching such vehicle from the front or rear.
- (6) Sound emanating from a mobile food vehicle shall be in accordance with the sound requirements contained in the Unified Development Ordinance (UDO) Article 9.53.
- (7) A mobile food vehicle shall not remain stationary in one location for longer than one hour while operating for sales purposes. This restriction does not prohibit a mobile food vehicle which is not open for business and operating for sales purposes from being legally parked for longer than one hour. After a mobile food vehicle has been stationary in one location and operating for sales purposes for a period of one hour, the mobile food vehicle must be moved to a location at least 100 yards from the previous location.

(d) A mobile food vehicle may operate on private property in accordance with all requirements of Chapter 1216, Unified Development Ordinance, Article 9.05 A 10, Mobile Food Vehicle Vendors.

(Ord. 8-13. Passed 7-15-13.)

844.03 LICENSE REQUIRED.

Any person desiring to operate a mobile food vehicle shall make a written application for such license to the City Manager's Office. The application for such license shall be on forms provided by the City Manager and shall include the following:

- (a) Name, signature and address of each applicant and each corporate officer of the mobile food vehicle vending corporation.
- (b) A valid copy of all necessary licenses, permits or certificates required by the County of Montgomery, the State of Ohio or any subsidiary enforcement agencies or departments thereof, including, but not limited to: a valid Ohio Department of Motor Vehicle Registration and Certificate of Inspection and valid driver's licenses of all vehicle operators.
- (c) A signed statement that the vendor shall hold harmless the City and its officers and employees, and shall indemnify and hold harmless the City and its officers and employees for any claims for damage to property or injury to persons which may be occasioned by any activity carried on under terms of the license. Vendor shall furnish and maintain such public liability, food products liability, and property insurance, as will protect vendor and the City from all claims for damage to property or bodily injury, including death, which may arise from the operations under the license or in connection therewith. Such insurance shall provide coverage of not less than one million dollars (\$1,000,000) per occurrence. The policy shall further provide that it may not be cancelled except upon thirty days written notice served upon the City Manager. A license issued pursuant to the provisions of this section shall be invalid at any time the insurance required herein is not maintained and evidence of continuing coverage is not filed with City Manager.

(Ord. 8-13. Passed 7-15-13; Ord. 16-14. Passed 8-18-14.)

844.04 AUTHORITY TO ISSUE LICENSE.

The City Manager is hereby authorized to grant, issue and revoke a license to any person who desires to operate a mobile food vehicle under this chapter.
(Ord. 8-13. Passed 7-15-13.)

844.05 FORM AND CONDITION OF LICENSE.

Every mobile food vehicle vending license shall contain the following conditions:

- (a) Each mobile food vehicle vending license shall expire on April 1st of every year;
- (b) The license shall not be transferable from person to person without written approval of the City Manager;
- (c) The license is valid for one vehicle only; and
- (d) There shall be issued to each vendor a suitable decal that shall be permanently and prominently affixed to the vehicle.

(Ord. 8-13. Passed 7-15-13.)

844.06 LICENSE FEE.

All vendors licensed under this chapter shall pay an annual license fee of two hundred dollars (\$200.00).
(Ord. 8-13. Passed 7-15-13.)

844.07 EXEMPTIONS.

The restrictions set forth in Section 844.02 and the license obligations set forth in Section 844.03 for a mobile food vehicle shall not be required if the operation of the mobile food vehicle meets all of the following:

- (a) The mobile food vehicle's operations are located solely on City-owned property in connection with a private event for which a rental contract has been granted by the City;
- (b) Food provided by the mobile food vehicle is solely distributed to event patrons and guests in connection to the private event referenced under subsection (a) of this section;
- (c) Charges for food provided to patrons and guests is covered by the event sponsor and not directly paid by patrons and guests to the operator of the mobile food vehicle; and
- (d) All required licenses issued by other governmental agencies to legally serve food to guest and patrons are obtained by the mobile food vehicle. Proof of such licenses shall be provided by the mobile food vehicle operator upon the request by the City.

(Ord. 16-14. Passed 8-18-14.)

844.08 SUSPENSION AND REVOCATION.

(a) The owner/operator of any mobile food vehicle licensed by the City shall comply with all provisions of Federal, State and local laws and ordinances.

(b) The owner/operator of any mobile food vehicle licensed by the City shall comply with all notices, orders, decisions and rules and regulations made by the Centerville Police Department or any other City of Centerville department and/or agency.

(c) Any person, firm, corporation or other entity violating the provisions of this chapter may be liable for penalties as prescribed in Section 844.99 and may be subject to immediate closure by the Centerville Police Department and/or the City Manager's Office; an Administrative Hearing will be scheduled within sixty days of said immediate closure. (Ord. 8-13. Passed 7-15-13.)

844.09 CLOSURE FOR OPERATION WITHOUT A LICENSE.

Any establishment operating without the required City license shall be immediately closed by order of the Centerville Police Department. Every day of operation without a license shall constitute a separate violation.

(Ord. 8-13. Passed 7-15-13.)

844.10 APPEALS.

The City Manager shall give notice of a refusal to issue a license required by this chapter to the applicant. The applicant may appeal such refusal to Council by filing a written notice of appeal with the Clerk of Council within ten days after such refusal and at least seven days before the Council meeting at which the appeal shall be heard. The appeal shall state briefly the grounds for appeal. The applicant may appeal before Council, in person or by attorney. The decision of Council shall be final.

(Ord. 8-13. Passed 7-15-13.)

844.99 PENALTY.

Whoever violates any of the provisions of this chapter is guilty of an unclassified misdemeanor and shall be fined not more than one thousand dollars (\$1,000) for each offense. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

(Ord. 8-13. Passed 7-15-13.)

TITLE EIGHT - Taxation

- Chap. 870. Hotel-Motel Tax.
 Chap. 880. Earned Income Tax (Effective for Tax Years Through December 31, 2015).
 Chap. 885. Earned Income Tax (Effective for Tax Years Beginning January 1, 2016).
 Chap. 890. Community Reinvestment Area.
 Chap. 892. Municipal Motor Vehicle License Tax.

CHAPTER 870
 Hotel-Motel Tax

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| 870.01 | Definitions. | 870.08 | Reporting and remitting the tax. |
| 870.02 | Levy of 3% tax for transient guests. | 870.09 | Penalties and interest. |
| 870.03 | Exemptions. | 870.10 | Failure to collect and report tax; determination of tax by Director of Finance. |
| 870.04 | Refusal to pay tax; false evidence of tax-exempt status. | 870.11 | Appeals. |
| 870.05 | Tax to be separately stated and charged. | 870.12 | Actions to collect. |
| 870.06 | Registration; transient occupancy registration certificate. | 870.13 | Refunds. |
| 870.07 | Records, inspection, destruction. | 870.14 | Disbursement of funds. |
| | | 870.15 | Violations. |
| | | 870.16 | Separability. |

870.01 DEFINITIONS.

As used in this chapter, the following words shall have the meaning ascribed to them in this section, except if the context clearly indicates or requires a different meaning:

- (a) "Director of Finance" means the Director of Finance of the City of Centerville, Ohio.
- (b) "Hotel" or "motel" means every Greene County or Montgomery County establishment kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered for a consideration to guests, in which five or more rooms are used for the accommodation of such guests, whether such rooms are in one or several structures.
- (c) "Occupancy" means the use or possession or the right to use or possession of any room or rooms or space or portion thereof in any hotel or motel for dwelling, lodging or sleeping purposes. The use or possession or right to use or possess any room or any suite of connecting rooms as office space, banquet or private dining rooms, or exhibit, sample or display space shall not be considered occupancy

within the meaning of this definition unless the person exercising occupancy uses or possesses, or has the right to use or possess all or any portion of such room or suite of rooms for dwelling, lodging or sleeping purposes.

- (d) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.
- (e) "Rent" means the consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits, and property or services of any kind or nature, and also any amount for which the occupancy is liable for the occupancy without any deduction therefore whatsoever.
- (f) "Transient guests" mean persons occupying a room or rooms for sleeping accommodations for less than 30 consecutive days.

(Ord. 12-07. Passed 9-17-07; Ord. 31-12. Passed 1-28-13.)

870.02 LEVY OF 3% PERCENT TAX FOR TRANSIENT GUESTS.

(a) For the purpose of providing revenue with which to meet the needs of the City, for the use of the general fund of the City, there is hereby levied a tax of 3% on all rents received by a hotel or motel for lodging furnished to transient guests.

(b) The tax constitutes a debt owed by the transient guest to the City. Such debt may be extinguished only by payment to the operator as trustee for the City or by payment to the City.

(c) The transient guest shall pay the tax to the operator of the hotel or motel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due from each transient guest at the time such guest ceases to occupy space in the hotel or motel. If, for any reason, the tax due is not paid to the operator of the hotel or motel, the Director of Finance may require that such tax shall be paid directly to the Director of Finance by the hotel or motel operator.

(Ord. 12-07. Passed 9-17-07.)

870.03 EXEMPTIONS.

(a) No tax shall be imposed under this chapter:

- (1) Upon rents not within the taxing power of the City under the constitution or laws of the State of Ohio or the United States;
- (2) Upon rents paid by the State of Ohio or any of its political subdivisions.

(b) No exemptions claimed under this section shall be granted except upon a claim therefor made at the time rent is collected and under penalty of perjury upon a form prescribed by the Director of Finance. Any claims of exemption hereunder shall be made in the manner prescribed by the Director of Finance.

(Ord. 12-07. Passed 9-17-07.)

870.04 REFUSAL TO PAY TAX; FALSE EVIDENCE OF TAX-EXEMPT STATUS.

(a) No transient guest shall refuse to pay the full and exact tax required by this chapter or present to the operator false evidence indicating that the lodging as furnished is not subject to the tax.

(b) If the transaction is claimed to be exempt, the transient guest must furnish to the operator, and the operator must obtain from the transient guest, a certificate specifying the reason that the sale is not legally subject to the tax. If no certificate is obtained, it shall be presumed that the tax applies.

(Ord. 12-07. Passed 9-17-07.)

870.05 TAX TO BE SEPARATELY STATED AND CHARGED.

(a) The tax to be collected shall be stated and charged separately from the rent and shown separately on any record thereof at the time the occupancy is arranged or contracted and charged for. Such tax shall also be stated separately upon every evidence of occupancy or any bill, statement or charge made for the occupancy issued or delivered by the operator. The tax shall be paid by the occupant to the operator as trustee for and on account of the City, and the operator shall be liable to the City for the collection thereof and for the tax.

(b) No operator of a hotel or motel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added, any part will be refunded, except in the manner hereinafter provided.

(Ord. 12-07. Passed 9-17-07.)

870.06 REGISTRATION; TRANSIENT OCCUPANCY REGISTRATION CERTIFICATE.

(a) Within 30 days after the effective date of this chapter, or within 30 days after commencing business, whichever is later, each operator of any hotel or motel renting lodging to transient guests shall register the hotel or motel with the Director of Finance and obtain from him or her a transient occupancy registration certificate to be at all times posted in a conspicuous place on the premises. The certificate shall, among other things, state the following:

- (1) The name of the operator;
- (2) The address of the hotel or motel; and
- (3) The date upon which the certificate was issued.

(b) The transient occupancy registration certificate shall read as follows:

“This transient occupancy registration certificate signifies that the person named on the face hereof has fulfilled the requirements of the

Hotel-Motel Tax Chapter by registering with the Director of Finance of the City of Centerville for the purpose of collecting from transient guests the hotel-motel tax and remitting the tax to the Director of Finance. This certificate does not constitute a permit.”

(Ord. 12-07. Passed 9-17-07.)

870.07 RECORDS, INSPECTION, DESTRUCTION.

Each operator shall keep complete and accurate records of all lodging furnished and of the tax collected thereon, which shall be the amount due under this chapter, and shall keep all invoices and such other pertinent documents. If the operator furnishes lodging not subject to the tax, the operator's records shall show the identity of the transient guest, if the sale was not exempted by reason of such identity, or shall show the nature of the transaction if exempted for any other reason. Such records and other documents shall be open during business hours for inspection by the Director of Finance or his or her agents and shall be preserved for a period of four years, unless the Director of Finance, in writing, consents to their destruction within that period, or unless the four-year period is extended by any order requesting that such records be kept for a longer period of time.

(Ord. 12-07. Passed 9-17-07.)

870.08 REPORTING AND REMITTING THE TAX.

(a) On or before the last day of each calendar month, each operator shall make and file a return for the preceding month on forms prescribed by the Director of Finance. Such returns shall show the receipts from furnishing lodging, the amount of tax due from the operator to the City for the period covered by the return, and such other information as the Director of Finance deems necessary for the proper administration of this chapter. The Director of Finance may extend the time for making and filing returns. Returns shall be filed by delivering or mailing the same to the Director of Finance, together with payment of the full amount of tax shown to be due thereon.

(b) All forms for claims for exemptions from tax filed by transient guests with the operator during the reporting period shall be filed with the return.

(c) On or before April 30 of the year following the effective date of this chapter, and each year thereafter, every operator subject to the provisions of this chapter shall make and file with the Finance Director an annual income statement clearly showing the gross room sales for the annual accounting period. If the reconciliation (return) is made for a fiscal year or any period less than a year, the reconciliation shall be made within four months from the end of such fiscal year or other period.

(d) All returns and payments submitted by each operator shall be treated as confidential by the Director of Finance and shall not be released by him or her except upon order of a court of competent jurisdiction or to an officer or agent of the United States, the State of Ohio, the County of Greene or the City of Centerville, for official use only.

(e) If for any reason the hotel or motel shall cease doing business in the City, all returns and payments are due immediately upon cessation of business.

(f) All taxes collected by operators pursuant to this chapter shall be held in trust for the account of the City until payment thereof is made to the Director of Finance. The returns shall be signed by the operator or his or her authorized agent.

(Ord. 12-07. Passed 9-17-07.)

870.09 PENALTIES AND INTEREST.

(a) Original Delinquency. Any operator who fails to remit any tax imposed by this chapter within the time required shall pay a penalty equal to 10% of the amount of the tax due, in addition to the tax.

(b) Continued Delinquency. Any operator who fails to remit any delinquent remittances on or before a period of 30 days following the date on which the remittance first became delinquent shall pay a second delinquency penalty equal to 10% of the amount of the tax and previous penalty first imposed. An additional penalty equal to 10% of the total tax and penalty of the previous 30-day period shall be added for each successive 30-day period the account remains delinquent.

(c) Fraud. If the Director of Finance determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty equal to 25% of the amount of the tax shall be added thereto, in addition to the penalties stated in divisions (a) and (b) of this section.

(d) Interest. In addition to the previous penalties imposed, any operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of 1.5% per month, or fraction thereof, on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent, until paid.

(e) Penalties During Pendency of Appeal. No penalty provided under the terms of this chapter shall be imposed during the pendency of appeal to the Board of Tax Appeals provided for in this chapter.

(Ord. 12-07. Passed 9-17-07.)

870.10 FAILURE TO COLLECT AND REPORT TAX; DETERMINATION OF TAX BY DIRECTOR OF FINANCE.

(a) If any operator shall fail or refuse to collect the tax and to make, within the time provided in this chapter, any report and remittance of the tax or any portion thereof required by this chapter, the Director of Finance shall proceed in such manner as he or she may deem best to obtain facts and information on which to base his or her estimate of the tax due.

(b) As soon as the Director of Finance shall procure such facts and information as he or she is able to obtain, upon which to base the assessment of any tax imposed by this chapter and payable by any operator who has failed or refused to collect the same and to make such report and remittance, he or she shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter. In case such determination is made, the Director of Finance shall give notice of the amount so assessed by serving it personally, or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at his or her last known place of business.

(c) Such operator may, within ten days after the serving or mailing of such notice, make application in writing to the Director of Finance for a hearing on the amount assessed. If application by the operator for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the Director of Finance, shall become final and conclusive and immediately due and payable.

(d) If such application is made, the Director of Finance shall give not less than five days written notice in the manner prescribed herein to the operator to show cause at a time and place fixed for such tax, interest and penalties. At such hearing, the operator may appear and offer evidence as to why such specified tax, interest and penalties should not be fixed.

(e) After such hearing, the Director of Finance shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed herein of such determination and the amount of such tax, interest and penalties. The amount determined to be due shall be payable after 15 days, unless an appeal is taken as provided in Section 870.11.

(Ord. 12-07. Passed 9-17-07.)

870.11 APPEALS.

Any operator aggrieved by any decision of the Director of Finance with respect to the amount of tax, interest and penalties, if any, due under this chapter, may appeal to the Board of Tax Appeals by filing a notice of appeal with it within 15 days of the serving or mailing of the determination of tax due in accordance with Section 880.16. Any amount found to be due shall be immediately due and payable upon the final decision of the Board of Tax Appeals.

(Ord. 12-07. Passed 9-17-07.)

870.12 ACTIONS TO COLLECT.

Except as otherwise provided in this chapter, it is the duty of each operator to collect the tax from the transient guest in accordance with Section 870.02. Every operator required to collect and remit such tax to the City is liable directly to the City for payment of such tax, whether or not such tax is actually collected from transient guests. Every

operator is deemed to be a trustee for the City in collecting and holding the tax required to be collected under this chapter, and the funds so collected are deemed to be trust funds. (Ord. 12-07. Passed 9-17-07.)

870.13 REFUNDS.

(a) Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once, or has been erroneously or illegally collected or received by the City under this chapter, it may be refunded as provided in divisions (b) and (c) of this section, provided that a claim in writing therefor, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the Director of Finance within three years of the date of payment. The claim shall be on forms furnished by the Director of Finance.

(b) An operator may claim a refund or take as a credit against taxes collected and remitted the amount overpaid, paid more than once or erroneously or illegally collected or received, when it is established in a manner prescribed by the Director of Finance that the person from whom the tax has been collected was not a transient guest, provided, however, that neither a refund nor a credit shall be allowed, unless the amount of the tax so collected has either been refunded to the transient guest or credited to rent subsequently payable by the transient to the operator.

(c) A transient guest may obtain a refund of taxes overpaid, paid more than once or erroneously or illegally collected or received by the City, by filing of a claim in the manner provided in division (a) of this section, but only when the tax was paid by the transient guest directly to the Director of Finance, or when the transient guest, having paid the tax to the operator, establishes to the satisfaction of the Director of Finance that the transient guest has been unable to obtain a refund from the operator who collected the tax.

(d) No refund shall be paid under the provisions of this section unless the claimant establishes his or her right thereto by written records showing entitlement thereto. (Ord. 12-07. Passed 9-17-07.)

870.14 DISBURSEMENT OF FUNDS.

The moneys received under the provisions of this chapter shall be credited to the General Fund of the City and used by the City as directed by the City Council. (Ord. 12-07. Passed 9-17-07.)

870.15 VIOLATIONS.

Any person violating any of the provisions of this section shall be 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 60 days, or both. (Ord. 12-07. Passed 9-17-07.)

870.16 SEPARABILITY.

If any section, subsection, sentence, clause or phrase of this chapter or any part thereof is, for any reason, held to be unconstitutional or unenforceable, such decision shall not affect the validity of the remaining portions of this chapter or any parts thereof. (Ord. 12-07. Passed 9-17-07.)

CHAPTER 880
Earned Income Tax (Effective for Tax Years Through December 31, 2015)

880.01	Purposes; levy of tax.	880.15	Violations.
880.02	Definitions.	880.16	Board of Adjudication; Board of Tax Appeals.
880.03	Imposition of tax.	880.17	Allocation of funds.
880.04	Consolidated returns.	880.18	Credit for tax paid to another municipality.
880.05	Net operating loss (NOL) and business expenses.	880.19	Collection of tax after termination of chapter; authorization for collection agency and recovery of collection expenses.
880.06	Exceptions.	880.20	Separability.
880.07	Effective period.	880.21	Registration of tenants of rented property for tax purposes; responsibility of property owners.
880.08	Return and payment of tax.	880.99	Penalty.
880.09	Collection at source.		
880.10	Declarations.		
880.11	Duties and powers of the Superintendent.		
880.12	Investigative powers of the Superintendent; confidential information.		
880.13	Interest and penalties.		
880.14	Collection of unpaid taxes; refunds of overpayments.		

CROSS REFERENCES

Earned Income Tax (Effective for Tax Years Beginning January 1, 2016) - See Ch. 885

Power to tax - see Ohio Const., Art. XVIII, Sec. 3

Payroll deductions - see Ohio R.C. 9.42

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

Taxation Division - see ADM. 230.08, 234.06

Responsibilities of Superintendent of Taxation - see ADM. 234.06(b)

Income tax bond for circuses and carnivals - see B.R. & T. 808.05

880.01 PURPOSES; LEVY OF TAX.

For the purpose of providing funds for the purposes of general Municipal operations, which includes maintenance, repair and upgrading of existing streets, new equipment, extension and enlargement of Municipal services and facilities and capital improvements of the City, there is hereby levied a tax on salaries, wages, commissions and other compensation, and on net profits, as hereinafter provided.

(Ord. 23-81. Passed 8-31-81.)

880.02 DEFINITIONS.

As used in this chapter, the following words shall have the meaning ascribed to them in this section, except if the context clearly indicates or requires a different meaning:

- (a) "Association" means a partnership, limited partnership or any other form of unincorporated enterprise, owned by two or more persons.
- (b) "Board of Adjudication" means the Board created by and constituted as provided in Section 880.16(a).
- (c) "Board of Tax Appeals" means the Board created by and constituted as provided in Section 880.16(b).
- (d) "Business" means an enterprise, profession, undertaking or other activity of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity.
- (e) "Calendar year" means an accounting period of twelve months or less ending on December 31.
- (f) "Corporation" means a C corporation, subchapter S 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.
- (g) "Day" means any part of a twenty-four hour period.
- (h) "Domicile" means a principal residence that an individual intends to use for an indefinite time and to which whenever he or she is absent he or she intends to return. An individual has only one domicile even though he or she may have more than one residence.
- (i) "Employee" means one who works for wages, salary, commission or other type of compensation in the service of an employer.
- (j) "Employer" means an individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, having a place of business or doing business within the City and who or which employs one or more persons on a salary, wage, commission or other compensation basis.
- (k) "Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31.
- (l) "Form 2106" means the Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.

- (m) “Gross receipts” means the total income from any source whatsoever required to be included in the return.
- (n) “Intangible Income” means income of any of the following types: income yield, interest, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code.
- (o) “Net profits” means the net gain from the operation and/or the complete or partial sale or disposition of a business, profession, enterprise or other activity, excluding capital gains and losses after provision for all ordinary and necessary expenses, paid or accrued in accordance with the accounting method or system used by the taxpayer for Federal income tax purposes, adjusted to the requirements of this chapter.
- (p) “Nonresident” means any individual who is not a resident as herein defined.
- (q) “Nonresident unincorporated business entity” means an unincorporated business entity not having a place of business within the City.
- (r) “Other activity” means any undertaking, not otherwise specifically defined herein, which is normally entered into for profit, including, but not limited to, rental of real and personal property and a business conducted by a trust or guardianship estate.
- (s) “Pass-Through Entity” means a partnership, subchapter S corporation, limited liability company, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code.
- (t) “Person” means every natural person, partnership, fiduciary, association or corporation. Whenever used in any section prescribing and imposing a penalty, the term “person” includes an officer or employee of a corporation, or a member or employee of an association, who, as such officer, employee or member, is under a duty to perform the act in respect of which the violation occurs.
- (u) “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 the regular employees regularly in attendance.
(Ord. 30-70. Passed 7-13-70.)
- (v) “Rental unit” means any physical space, including but not limited to any office, factory, retail store, warehouse, storage facility, residential dwelling, or other space, which is situated in the City and which is rented or leased to any person.
- (w) “Resident” means:
 - i. An individual who is domiciled in the City;

- ii. An individual who lives in and maintains a permanent place of abode in the City and who does not maintain a permanent place of abode elsewhere, unless such an individual, in the aggregate, lives more than 335 days outside the City.
(Ord. 94-75. Passed 1-5-76.)
- (x) “Resident unincorporated business entity” means an unincorporated business entity having a place of business within the City.
- (y) “Superintendent of Taxation” and “Superintendent” mean the Superintendent of Taxation of the City, or the person executing the duties of the aforesaid Superintendent of Taxation.
- (z) “Taxable income” means qualifying wages, salaries, commissions, and other compensation paid by an employer or employers before any deductions, other than ordinary and necessary business expenses, in the same manner as provided by the Internal Revenue Code, and/or net profits as herein defined. “Taxable income” shall also include income received from gambling winnings as herein defined.
- (aa) “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. Unless approved by the Superintendent, the taxable year of a wage earner shall be a calendar year.
- (bb) “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.
- (cc) “Qualifying wages” means wages, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted in accordance with section 718.03(A) of the Ohio Revised Code. Qualifying wages include compensation arising from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, and the sale, exchange, or other disposition of stock purchased under a stock option; as well as the compensation attributable to a nonqualified deferred compensation plan or program described in section 3121(v)(2)(C) of the Internal Revenue Code.

The singular shall include the plural, and the masculine shall include the feminine and the neuter.

(Ord. 30-70. Passed 7-13-70; Ord. 5-04. Passed 4-19-04; Ord. 9-04. Passed 7-19-04; Ord. 18-15. Passed 11-16-15.)

880.03 IMPOSITION OF TAX.

(a) Subject to the provisions of Section 880.18, an annual tax for the purposes specified in Section 880.01 shall be imposed for the period beginning October 1, 1981, at the rate of one and three-quarters percent per annum upon the following:

(1) On all salaries, qualifying wages, commissions and other compensation received during the effective period of this chapter by residents of the City.

(2) On all salaries, qualifying wages, commissions and other compensation received during the effective period of this chapter by nonresidents for work done or services performed or rendered in the City.

- (3) On the portion attributable to the City of the net profits earned and accrued or received during the effective period of this chapter of all resident associations, unincorporated businesses, professions or other entities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the City.
- (4) On the portion of the distributive share of the net profits earned and accrued or received during the effective period of this chapter of a resident partner or owner of a resident unincorporated business entity not attributable to the City upon which the tax was not paid by the entity.
- (5) On the portion attributable to the City of the net profits earned and accrued or received during the effective period of this chapter of all nonresident associations, unincorporated businesses, professions or other entities, derived from sales made, work done or services performed or rendered and business or other activities conducted in the City, whether or not such association or other unincorporated business entity has an office or place of business in the City.
- (6) On the portion of the distributive share of the net profits earned and accrued or received during the effective period of this chapter of a resident partner or owner of a nonresident association or other incorporated business entity, not attributable to the City, on which the tax was not paid by the entity.
- (7) On the portion attributable to the City of the net profits earned and accrued or received during the effective period of this chapter of all corporations, derived from sales made, work done, services performed or rendered and business or other activities conducted in the City, whether or not such corporations have a place of business in the City.
- (8) On all income received as gambling winnings as reported on IRS Form W-2G, Form 5754 and/or any other form required by the Internal Revenue Service that reports winnings from gambling.
- (9) On or after January 1, 2003, a pass-through entity residing in or doing business in the city shall be taxed at the entity level.

(b) The portion of the entire net profits of a taxpayer to be allocated as having been derived from within the City, in the absence of actual records thereof, shall be determined as follows:

- (1) Multiply the entire net profits by a business allocation percentage to be an average ratio of:
 - A. The average net book value of the real and tangible personal property owned or used by the taxpayer in the business or profession in the City during the taxable period to the average net book value of all 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.

- B. Wages, salaries and other compensation paid or accrued 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 or accrued during the same period to persons employed in the business or profession, wherever their services are performed.
- C. Gross receipts of the business or profession from sales made and services performed during the taxable period in the City to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

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

- (2) As used in paragraph (b)(1)C. hereof, "sales made in the City" means:
 - A. All sales of tangible personal property which is delivered within the City regardless of where title passes if shipped or delivered from a stock of goods within the City.
 - B. All sales of tangible personal property which is delivered within the City regardless of where title passes, even though transported from a point outside the City, if the taxpayer is regularly engaged, through its own employees, in the solicitation or promotion of sales within the City and the sales result from such solicitation or promotion.
 - C. All sales of tangible personal property which is shipped from a place within the City to purchasers outside the City regardless of where title passes, if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

(c) For the purpose of this section, the taxable base shall be determined in accordance with the Federal tax interpretations, when applicable, and with the accounting method used by the taxpayer for Federal income taxes, adjusted to the requirements of this chapter.

(Ord. 23-81. Passed 8-31-81; Ord. 5-04. Passed 4-19-04; Ord. 9-04. Passed 7-19-04; Ord. 18-15. Passed 11-16-15.)

880.04 CONSOLIDATED RETURNS.

(a) Filing of consolidated returns may be permitted or required in accordance with rules and regulations prescribed by the Superintendent. On and after January 1, 2003, any municipal corporation that imposes a tax on the income or net profits of corporations shall accept for filing a consolidated income tax return from any affiliated group of corporations

subject to the municipal corporation's tax if that affiliated group filed for the same tax reporting period a consolidated return for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code.

(b) For allocation of income and deductions between related taxpayers in the case of a corporation that carries 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 City constituting only a portion of its total business, the Superintendent may require such additional information as he or she may deem necessary to ascertain whether net profits are properly allocated to the City. If the Superintendent finds that net profits are not properly allocated to the City by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates or transactions with such division, branch, factory, office, laboratory or activity or by some other method, he or she shall make such allocation as he or she deems appropriate to produce a fair and proper allocation of net profits to the City. (Ord. 30-70. Passed 7-13-70; Ord. 9-04. Passed 7-19-04.)

880.05 NET OPERATING LOSS (NOL) AND BUSINESS EXPENSES.

(a) The portion of a net operating loss sustained in any taxable year subsequent to December 31, 1975, allocable to the City, may not be applied against the portion of the profit of succeeding years allocable to the City. No portion of a net operating loss shall be carried back against net profits of any prior year.

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

(c) If an individual is engaged in two or more taxable business activities to be included on the same return, the net loss of one unincorporated business activity may be used to offset the profits of another (except any portion of a loss or profit separately reportable for municipal tax purposes to another taxing entity) for purposes of arriving at overall net operating profit or net operating loss.

(d) Losses from other sources, including net operating losses and passive activity losses reported for federal income tax purposes, may not be combined with qualifying wages.

(e) The only expenses that can be deducted against qualifying wages are those employee business expenses deductible for federal income tax purposes in determining adjusted gross income, unless otherwise allowed on a uniform and consistent basis by the Tax Administrator. The total of such expenses cannot exceed the employee's related W-2 wage income from the same employer. If a taxpayer's taxable income for a taxable year includes income against which the taxpayer has taken a deduction for federal income tax purposes and reported on Form 2106 as attached to the taxpayer's federal income tax

return filed for the taxable year, the taxpayer shall determine taxable income to the City by deducting the same amount deducted for federal income tax purposes and reported on the taxpayer's Form 2106 for that taxable year. This deduction shall be allowed for City income tax purposes only if the taxpayer attaches to the taxpayer's city income tax return a copy of Form 2106 and Schedule A as filed with the taxpayer's federal income tax return for that taxable year.

(Ord. 94-75. Passed 1-5-76; Ord. 9-04. Passed 7-19-04; Ord. 12-10. Passed 7-19-10.)

880.06 EXCEPTIONS.

The tax provided for herein shall not be levied upon:

- (a) Pay or allowances of active members of the Armed Forces of the United States and of members of their reserve components including the Ohio National Guard, 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, proceeds from welfare benefits, unemployment insurance benefits, old age pensions or similar payments, including disability benefits received from local, State or Federal governments or charitable, religious or educational organizations.
- (c) Proceeds of insurance paid by reason of the death of the insured, pensions, disability benefits, annuities or gratuities not in the nature of compensation for services rendered from whatever source derived.
- (d) Receipts from seasonal or casual entertainment, amusements, sports events and health and welfare activities when any such are conducted by a bona fide charitable, religious or educational organization and association.
- (e) Personal earnings of all persons under eighteen years of age.
- (f) Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations, items of income already taxed by the State from which the City is specifically prohibited from taxing, and income of a decedent's estate during the period of administration, except such income from the operation of a business.
- (g) 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.
- (h) 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 City to impose net income taxes.
- (i) Any person, firm, corporation or income as to whom or which it is beyond the power of Council to impose the tax herein provided for.

- (j) Compensation paid under Ohio R.C. 3501.28 or 3501.36 to a person serving as a precinct election official, to the extent that such compensation does not exceed one thousand dollars (\$1,000) annually. Such compensation in excess of one thousand dollars (\$1,000) may be subjected to taxation by a municipal corporation. A municipal corporation shall not require the payer of such compensation to withhold any tax from that compensation.
- (k) Compensation paid to an employee of a transit authority, regional transit authority, or regional transit commission created under Ohio R.C. Chapter 306 for operating a transit bus or other motor vehicle for the authority or commission in or through the municipal corporation, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such a tax by reason of residence or domicile in the municipal corporation, or the headquarters of the authority or commission is located within the municipal corporation.
- (l) The income of a public utility when that public utility is subject to the tax levied under Ohio R.C. 5727.24 or 5727.30, except a municipal corporation may tax the following, subject to Ohio R.C. Chapter 5745:
 - (1) Beginning January 1, 2002, the income of an electric company or combined company;
 - (2) Beginning January 1, 2004, the income of a telephone company.
As used in this section, “combined company, “ ”electric company, “ and “telephone company” have the same meanings as in Ohio R.C. 5727.01.
- (m) On and after January 1, 2003, items excluded from federal gross income pursuant to section 107 of the Internal Revenue Code.
- (n) On and after January 1, 2001, compensation paid to a nonresident individual for personal services performed by the individual in the municipal corporation on twelve or fewer days in a calendar year unless one of the following applies:
 - (1) The individual is an employee of another person; the principal place of business of the individual’s employer is located in another municipal corporation in this state that imposes a tax applying to compensation paid to the individual for services performed on those days; and the individual is not liable to that other municipal corporation for tax on the compensation paid for such services.
 - (2) The individual is a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such a promoter, all as may be reasonably defined by the City of Centerville. (Ord. 30-70. Passed 7-13-70; Ord. 12-81. Passed 10-5-81; Ord. 9-04. Passed 7-19-04.)

880.07 EFFECTIVE PERIOD.

The tax shall be levied, collected and paid, with respect to the salaries, wages, commissions and other compensation received, and shall be levied with respect to the net profits of businesses, professions or other activities earned and accrued or received, from and after October 1, 1981.

(Ord. 23-81. Passed 8-31-81.)

880.08 RETURN AND PAYMENT OF TAX.

(a) Each person who engages in a business or other activity or whose salary, wage, commission or other compensation is subject to the tax imposed by this chapter shall, whether or not a tax is due thereon, make and file a return on or before April 15 of the year following the effective date of this chapter, and on or before April 15 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 by the fifteenth day of the fourth month from the end of such fiscal year or period. The Superintendent is hereby authorized to provide, by regulation, that the return of an employer showing the amount of tax deducted by the employer from the salaries, wages, commissions or other compensation of an employee, and paid by him or her to the Superintendent, may be accepted as the return required of an employee whose sole income, subject to tax under this chapter, is such salaries, wages, commissions or other compensation.

(Ord. 12-81. Passed 10-5-81; Ord. 9-04. Passed 7-19-04.)

(b) The return shall be filed with the Superintendent on a form or forms furnished by or obtainable upon request from the Superintendent, setting forth:

- (1) The aggregate amount of salaries, wages, commissions and other compensation received by the taxpayer and gross income from a business, profession or other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to the tax;
- (2) The amount of the tax imposed by this chapter on such earnings and profits; and
- (3) Such other pertinent statements, information returns or other information as the Superintendent may require.

(c) The Superintendent 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 Superintendent 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.

(d) The taxpayer making a return shall, at the time of the filing thereof, pay to the Superintendent the amount of taxes shown as due thereon, provided, however, that credit shall be allowed for:

- (1) Any portion of the tax so due which has been deducted at the source pursuant to the provisions of Section 880.09;
- (2) Any portion of the tax which has been paid by the taxpayer pursuant to the provisions of Section 880.10; and
- (3) Credit to the extent allowed by Section 880.18 for tax paid to another municipality.

Subject to the limitations contained in Section 880.14, any taxpayer who has overpaid the amount of tax to which the City is entitled under the provisions of this chapter may have such overpayment applied against any subsequent liability hereunder, or, at his or her election indicated on the return, such overpayment or part thereof shall be refunded.

(e) 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 and/or limitations contained in Section 880.14. Such amended returns shall be on a form obtainable, upon request, from the Superintendent. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return without the approval of the Superintendent.

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

(f) Information returns, schedules and statements required to support tax returns which are incomplete without such information shall be filed within the time limits set forth for the filing of the tax returns, and the failure to file such information returns, schedules and statements shall be deemed to be a violation of this section. However, the taxpayer shall have ten days after notification by the Superintendent or his or her authorized representative to file the items required by this subsection.
(Ord. 30-70. Passed 7-13-70.)

880.09 COLLECTION AT SOURCE.

(a) Each employer shall, at the time of the payment of any salary, wage, commission or other compensation, deduct the tax of one and three-quarters percent, beginning October 1, 1981, from the gross salaries, wages, commissions or other compensation due by the employer to his or her employees who are subject to the provisions of this chapter. In making such deduction at the time of payment, the employer shall compute the tax to the nearest full cent so that mills of five or more shall be dropped. No person shall be entitled to a refund merely because such rounding off of the tax results in an apparent overpayment based on his or her total earnings. Each employer shall, on or before the last day of each month following the calendar quarters ending March 31, June 30, September 30 and December 31, file a return and pay to the Superintendent the tax withheld during the preceding calendar quarter. Such approval for quarterly filings and payments may be withdrawn by the Superintendent when it is in the best interests of the City to do so.
(Ord. 12-96. Passed 12-16-96.)

(b) The employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such tax has in fact been withheld.

(c) Each employer, in collecting the tax, shall be deemed to hold the same until payment is made by such employer to the City, as a trustee for the benefit of the City, and any such tax collected by such employer from his or her employees shall, until the same is paid to the City, be deemed a trust fund in the hands of such employer.

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

(e) On or before February 28 of each year beginning with the year 1971, each employer shall file a withholding return on a form prescribed by and obtainable upon request from the Superintendent, setting forth the names and addresses of all employees from whose compensation the tax was withheld during the preceding calendar year, the amount of tax withheld from his or her employees and such other information as may be required by the rules and regulations adopted by the Superintendent. (Ord. 30-70. Passed 7-13-70; Ord. 9-04. Passed 7-19-04.)

(f) The Superintendent, for good cause, may require monthly or immediate returns and payments to be submitted to his or her office, or may grant requests for monthly returns and payments to be submitted. Any employer that withholds tax of more than five hundred dollars (\$500.00) on a monthly basis is required to file a return and remit payment on a monthly basis. For those employers required to file monthly withholding returns, the due date of the return shall be the fifteenth day of the month following the month in which the tax is withheld.

(g) Any person required by the Internal Revenue Code to report, on an Internal Revenue Service Form 1099, payments made by such person to any individual not treated by such person as an employee for services performed by such individual shall also report such payment to the City where such services or any portion thereof were performed in the City, or where such payee is a resident of the City. Such report shall be made on a form prescribed by the Tax Administrator, which form shall include the name, address, federal taxpayer identification number, the amount of the payments made to each payee, and the percentage of such payments attributable to the City. Federal forms 1099 may be submitted in lieu of such report. Such return or forms shall be filed annually on or before February 28 of each year.

(h) Any person who is required herein to withhold City income tax from compensation shall pay all such City income tax to the City in accordance with the provisions of this Chapter. In the event the City income tax required to be withheld from the compensation of employees are not so withheld or are not paid to the city in accordance with the provisions of this section, any person, including but not limited to all shareholders, officers, owners, managers, employees, and trustees, having control or

supervision of or charged with the responsibility of filing the withholding return and making payment of City income tax withheld are jointly and severally personally liable for the City income tax withheld, not returned, or not paid to the City as well as any related interest and penalties, and are also criminally liable under the provisions of Section 880.99. The liquidation, dissolution, termination, death, or bankruptcy of any person does not discharge such person's liability for a failure of such person to file withholding returns or withhold or pay City income taxes required to be withheld.

(Ord. 94-75. Passed 1-5-76; Ord. 9-04. Passed 7-19-04; Ord. 12-10. Passed 7-19-10.)

880.10 DECLARATIONS.

(a) Every person who anticipates the receipt of any taxable income which is not subject to Section 880.09, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 880.03, shall file a declaration setting forth such person's estimated taxable income, together with any estimated tax due thereon, if any, provided, however, that if a person's income is wholly from wages from which the tax will be withheld and remitted to the City in accordance with Section 880.09, such person need not file a declaration.

(b) Such declaration shall be filed on or before April 30 of each year during the life of this chapter, or within four months after the date the taxpayer becomes subject to the provisions of this chapter.

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. 30-70. Passed 7-13-70.)

(c) Such declaration shall be filed upon a form furnished by or obtainable upon request from the Superintendent, provided, however, that credit shall be taken for the City tax to be withheld from any portion of such income to determine the estimated tax due.

In accordance with the provisions of Section 880.18, credit may be taken for tax to be paid to, or to be withheld and remitted to, another taxing municipality.

The original declaration, or any subsequent amendment thereof, may be amended at any time.

An amended declaration must be filed on or before January 31 of the following year, or, in the case of a taxpayer on a fiscal year basis, on or before the date fixed by regulation of the Superintendent if it appears that the original declaration made for such taxable year underestimated the taxpayer's income by ten percent or more. At such time, a payment which, together with prior payments, is sufficient to pay the taxpayer's entire estimated liability, shall be made. If, upon the filing of the return required by Section 880.08, it appears that the taxpayer did not pay ninety percent of his or her tax liability, as shown on the return, on or before January 31, or the date fixed by regulations, whichever is applicable, the difference between ninety percent of the taxpayer's liability and the amount of estimated tax actually paid on or before January 31, or the date fixed by regulation, whichever is applicable, shall be subject to the interest and penalty provisions of Section 880.13.

(d) Such declaration of net estimated tax to be paid the City shall be accompanied by a payment of at least one-fourth of the estimated annual tax, less credit, 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 the first month of the next tax year.

(e) On or before the fifteenth of the fourth month of the calendar or fiscal year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the City shall be paid therewith in accordance with the provisions of Section 880.08. If the tax return is filed and paid within forty-five days after the end of the tax year, the fourth quarter estimated tax payment may be eliminated.

(Ord. 12-96. Passed 12-16-96; Ord. 12-10. Passed 7-19-10.)

880.11 DUTIES AND POWERS OF THE SUPERINTENDENT.

(a) The Superintendent shall receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers, keep an accurate record thereof and report daily all moneys so received.

The Superintendent shall enforce payment of all taxes owed to the City, 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 show the dates and amounts of payments thereof.

(b) The Superintendent is hereby charged with the enforcement of the provisions of this chapter, and is hereby empowered, subject to the approval of Council by motion, 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.

(c) In any case where a taxpayer or employer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Superintendent may assess the amount of tax appearing to be due, together with interest and penalties thereon, if any, in the following manner:

(1) Provisions affecting taxpayers generally.

A. If the Superintendent determines that any taxpayer subject to the provisions of this chapter has a tax liability for which he or she has filed no return or has filed an incorrect return and has failed to pay the full amount of tax due, the Superintendent shall issue a proposed assessment showing the amount of tax due, together with any penalty and interest that may have accrued thereon.

1. Such proposed assessment shall be served upon the taxpayer in person or by mailing it to his or her last known address by regular mail.

2. A taxpayer may, within fifteen days after the date the proposed assessment was served or mailed, file a written protest with the Superintendent. Within fifteen days after receipt of the protest, the Superintendent shall give the protestant an opportunity to be heard, although the Superintendent may extend the date of hearing for good cause shown. After the hearing the Superintendent shall withdraw the assessment or he or she shall adjust or reaffirm the assessment, and it shall then become final. If no protest is filed as herein provided, such proposed assessment shall become final fifteen days after being served.
- B. After a proposed assessment becomes final, notice of such final assessment shall be issued and shall be served in the same manner as a proposed assessment.
1. A taxpayer shall have thirty days after the date the final assessment was served or mailed within which to file written notice of appeal with the Board of Tax Appeals. Such written notice of appeal shall be filed in a sealed envelope plainly marked "Appeal to Board of Tax Appeals" and mailed or delivered to the Superintendent, who shall, within five days after receipt thereof, deliver such appeal to the Chairperson of the Board of Tax Appeals, or, if the Chairperson is not available, to the Vice-Chairperson.
 2. The Board of Tax Appeals, upon receipt of a notice of appeal, shall, within fifteen days, notify the Superintendent thereof, who shall forward to the Board, within fifteen days, a certified transcript of all actions taken by him or her with respect to such final assessment. Such transcript shall be open to inspection by the appellant and his or her counsel.
 3. Any taxpayer against whom a final assessment has been issued and who has filed a notice of appeal shall be granted a hearing by the Board of Tax Appeals. At such hearing the appellant and the Superintendent shall be given opportunity to present evidence relating to the final assessment. After the conclusion of such hearing, the Board of Tax Appeals shall affirm, reverse or modify the final assessment and shall furnish a copy of its decision with respect thereto to the appellant and the Superintendent. The appellant's copy of the decision shall be served upon him or her in the same manner as herein provided for the serving of assessments.
- C. When any taxpayer subject to the provisions of this chapter has filed a return indicating the amount of tax due and has failed to pay the tax to the Superintendent as required by this chapter, the Superintendent need not issue an assessment but may proceed under the provisions of Sections 880.14 and 880.15.

(2) Provisions affecting employers.

- A. If the Superintendent determines that an employer subject to the provisions of this chapter has failed to file a return for tax withheld and has failed to pay to the Superintendent the full amount of such taxes, the Superintendent shall issue a proposed assessment showing the amount of tax due, together with any penalties and interest that may have accrued thereon, and the provisions of paragraphs (c)(1)A. and (c)(1)B. hereof shall then apply.
- B. If the Superintendent determines that an employer subject to the provisions of this chapter has failed to withhold tax, the Superintendent shall issue a proposed assessment showing the tax due, together with any penalties and interest that may have accrued thereon, and the provisions of paragraphs (c)(1)A. and (c)(1)B. hereof shall then apply.
- C. When an employer subject to the provisions of this chapter has filed a return indicating the amount of tax withheld and has failed to pay the tax to the Superintendent as required by this chapter, the Superintendent may proceed under the provisions of Sections 880.14 and 880.15 and need not issue an assessment as provided in paragraphs (c)(2)A. and (c)(2)B. hereof.

(d) Any taxpayer or employer who has not filed a notice of appeal to the Board of Tax Appeals from a final assessment issued against him or her shall pay the amount thereof within fifteen days after service of such final assessment. The amount of the final assessment may not be appealed.

Any taxpayer or employer who has filed a notice of appeal to the Board of Tax Appeals from a final assessment issued against him or her shall pay the amount determined to be due by the Board of Tax Appeals within fifteen days after service of his or her copy of the decision of the Board.

(e) The Superintendent shall have the authority, when requested by the taxpayer and for good cause shown, to extend the time of making and filing any return whenever he or she deems it necessary to do so, but not to exceed a period of 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.

(f) When an application for deferred payment of tax due is filed by a taxpayer, the Superintendent may authorize partial payments of unpaid taxes when, in his or her judgment, the taxpayer is unable, due to hardship conditions, to pay the full amount of the tax when due, and when, in his or her judgment, such deferred payments are the best means of accomplishing the intent of this chapter. However, the Superintendent shall not authorize an extension of time for the payment of such taxes due for more than twelve months beyond the date of the filing of the application.

(g) The Superintendent shall have the authority to charge a fee for any payment made by check under this Chapter 880, which has been returned “unpaid” due to insufficient funds. Said fee shall be reasonably calculated in an amount necessary to cover the City’s expenses for processing and handling fees assessed to the City and for the check returned “unpaid” for insufficient funds. The Superintendent shall not charge this fee unless and until the amount of said fee is posted in writing and available to the public. (Ord. 30-70. Passed 7-13-70; Ord. 9-04. Passed 7-19-04; Ord. 12-10. Passed 7-19-10.)

**880.12 INVESTIGATIVE POWERS OF THE SUPERINTENDENT;
CONFIDENTIAL INFORMATION.**

(a) The Superintendent or any authorized employee is hereby authorized to examine the books, papers, records and copies of Federal Income Tax Returns of any employer or of any taxpayer or person subject to, or whom the Superintendent 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, within ten days following a written request by the Superintendent, 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 Superintendent 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 copies of 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.

(c) The refusal to produce books, papers, records and copies of 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 the provisions of this section or with an order or subpoena of the Superintendent authorized hereby, shall be deemed a violation of this chapter, punishable as provided in Section 880.99.

(d) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by this chapter is confidential, and no person shall disclose such information except in accordance with a proper judicial order or in connection with the performance of that person’s official duties or the official business of the City or as authorized by this chapter or the charter or ordinance authorizing the levy. The Superintendent may furnish copies of returns filed under this chapter to the internal revenue service and to the tax commissioner. Any person divulging such information in

violation of this chapter, shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine or penalty of not more than Five Hundred Dollars (\$500.00) or imprisoned for not more than six months, or both. Each disclosure shall constitute a separate offense. (Ord. 9-04. Passed 7-19-04.)

(e) 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. 30-70. Passed 7-13-70.)

(f) The Superintendent is hereby authorized to engage the services of one or more consultants, accountants or outside auditors to assist him or her in carrying out the duties assigned to him or her under this chapter. Any such consultant, accountant or auditor shall be bound by the provisions of this chapter as the same apply to the Superintendent and authorized employees of the City, specifically the provisions of this section. (Ord. 20-94. Passed 11-21-94.)

880.13 INTEREST AND PENALTIES.

(a) All taxes imposed and all moneys withheld or required to be withheld by employers under the provisions of this chapter and remaining unpaid after they become due shall bear interest at the Federal short-term rate as defined in Ohio R.C. 5703.47, plus three percent per month or fraction thereof. (Ord. 12-96. Passed 12-16-96.)

(b) In addition to interest as provided in subsection (a) hereof, penalties based on the unpaid tax are hereby imposed as follows:

- (1) For failure to pay taxes due, other than taxes withheld: ten percent during the first six months, and an additional one and one-half percent per month or fraction thereof.
- (2) For failure to remit taxes withheld from employees: three percent per month or fraction thereof, or ten percent, whichever is greater.
- (3) When the taxpayer has failed to file a declaration on which he or she has estimated and paid a tax equal to or greater than the tax paid for the previous year, or has failed to file a declaration on which he or she has estimated and paid tax equal to or greater than ninety percent of the actual tax for the year, or has failed to file a final return and pay the total tax on or before the end of the month following the end of his or her taxable year: ten percent of the difference between ninety percent of the actual tax for the year and the amount paid through withholding or declaration.

Except in the case of fraud, the penalty shall not exceed fifty percent of the unpaid tax.

(c) A penalty shall not be assessed on an additional tax assessment made by the Superintendent when a return has been filed in good faith and the tax paid thereon within

the time prescribed by the Superintendent. Further, 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 final determination of the Federal tax liability.

(d) Upon recommendation of the Superintendent, the Board of Adjudication may abate penalty or interest, or both.

(e) In no case shall penalty and interest charges be levied when the total of such penalty and interest amounts to less than ten dollars (\$10.00).

(f) Any person required to withhold the tax who knowingly fails to withhold such tax or pay over such tax, or who knowingly attempts in any manner to evade or defeat such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty equal to the total amount of the tax evaded, not withheld or not paid over. No other penalty under this section shall be applied to any offense to which this penalty is applied.

(g) A penalty shall be assessed for the failure to file tax returns, informational reports or any other filing as required by this section. If the required filing is not more than 120 days late, the penalty assessed shall be twenty-five dollars (\$25.00). If the required filing is more than 120 days late, the penalty assessed shall be fifty dollars (\$50.00). Filings shall be deemed timely if postmarked by the due date.

(h) Penalty and interest will not be assessed for failure to pay estimated tax against an individual who resides in the City but was not domiciled here on the first day of January of the current year.

(Ord. 30-70. Passed 7-13-70; Ord. 1-97. Passed 2-17-97; Ord. 9-04. Passed 7-19-04; Ord. 12-10. Passed 7-19-10.)

880.14 COLLECTION OF UNPAID TAXES; REFUNDS OF OVERPAYMENTS.

(a) 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, omission of twenty-five percent 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. However, 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 Superintendent shall be one year from the time of the final determination of the Federal tax liability.

(b) Taxes erroneously paid shall not be refunded unless a claim for refund is made within the time specified in Ohio R.C. 718.06.

(c) Additional amounts of less than five dollars (\$5.00) shall not be refunded or assessed unless such assessment results from income which the taxpayer has failed to report.

(Ord. 30-70. Passed 7-13-70; Ord. 12-10. Passed 7-19-10.)

880.15 VIOLATIONS.

(a) No person shall:

- (1) Fail, neglect or refuse to make any return or declaration required by this chapter;
- (2) Make any incomplete, false or fraudulent return;
- (3) Knowingly fail or refuse to pay the tax, penalties or interest imposed by this chapter;
- (4) Knowingly fail or refuse to withhold the tax from his or her employees and remit such withholding to the Superintendent;
- (5) Refuse to permit the Superintendent or any duly authorized agent or employee to examine his or her or his or her employer's books, records, papers and copies of Federal Income Tax Returns relating to the income or net profits of a taxpayer;
- (6) Fail to appear before the Superintendent and to produce his or her or his or her employer's books, records, papers or copies of Federal Income Tax Returns relating to the income or net profits of a taxpayer upon order or subpoena of the Superintendent;
- (8) Refuse to disclose to the Superintendent any information with respect to the income or net profits of a taxpayer;
- (9) Fail to comply with the provisions of this chapter or any order or subpoena of the Superintendent; or
- (10) 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.

(b) Any person subject to the provisions of this chapter who has failed to file a return, has filed an incorrect return or has failed to pay the full amount of tax due, shall not be deemed to have committed an offense punishable under the provisions of Section 880.99 until the assessment issued against him or her under the provisions of Section 880.11 has become due and payable.

(c) Any person who has filed a return under the provisions of this chapter, indicating the amount of tax due, and who has failed to pay such tax, together with penalties or interest that may have accrued thereon, shall not be deemed to have committed an offense for having knowingly failed to pay the tax, penalties or interest due as provided in paragraph (a)(3) hereof, until the date of the filing of such return.

(d) The term “person,” as used in this section, shall, in addition to the meaning prescribed in Section 880.02(n), include, in the case of an association or corporation not having any partner, member or officer within the City, any employee or agent of such association or corporation who can be found within the corporate limits of the City.

(e) All prosecutions under this section must be commenced within the time specified by applicable law.

(f) The failure of any 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, return or declaration, from filing such forms, or from paying the tax. (Ord. 30-70. Passed 7-13-70; Ord. 12-10. Passed 7-19-10.)

880.16 BOARD OF ADJUDICATION; BOARD OF TAX APPEALS.

(a) Board of Adjudication.

- (1) A Board of Adjudication, consisting of the Manager, or a person designated by him or her, the Director of Finance, or a person designated by him or her, and the Municipal Attorney, or an Assistant Municipal Attorney designated by him or her, is hereby established. 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.
- (2) The Board shall adopt its own procedural rules and shall keep a record of its proceedings. All hearings of the Board shall be conducted privately and the provisions of Section 880.12, with reference to the confidential character of information required to be disclosed by this chapter, shall apply to such matters as may be presented to the Board of Adjudication.
- (3) The Board shall have the authority, upon request of the Superintendent, to modify, in whole or in part, any assessment of tax, penalty and/or interest required to be made by this chapter. In addition, the Board may authorize the Superintendent to accept partial payments for a period in excess of the time authorized in Section 880.11.
(Ord. 30-70. Passed 7-13-70.)

(b) Board of Tax Appeals.

- (1) A Board of Tax Appeals, consisting of three representative residents of the City, not otherwise employed by the City, to be appointed by Council for terms of three years, is hereby established. Initially, members shall be appointed for one, two and three-year terms, respectively. Thereafter, members shall be appointed to and shall serve for three-year terms. (Ord. 6-86. Passed 3-17-86.)
- (2) One of the members of the Board appointed by Council shall be chosen by the members as Chairperson of the Board, and all members may receive per

diem compensation to be fixed by Council. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and keep a record of its proceedings. All hearings by the Board may be conducted privately and the provisions of Section 880.12, with reference to the confidential character of information required to be disclosed by this chapter, shall apply to such matters as may be heard on appeal before the Board.

- (3) The Board shall, on hearing, have jurisdiction to affirm, reverse or modify any assessment, ruling or decision, or any part thereof, made by the Superintendent, from which an appeal has been filed, as provided in Section 880.11. (Ord. 30-70. Passed 7-13-70.)

880.17 ALLOCATION OF FUNDS.

(a) Effective January 1, 2000, from all Municipal income tax receipts received by the City, the following allocation is hereby to be made to the General Fund: 100 percent.

(b) The Director of Finance is hereby authorized and directed to take all necessary action in order to carry out the allocation provided for in subsection (a) hereof. (Res. 68-99. Passed 12-20-99.)

880.18 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(a) Where a resident of the City is subject to a municipal income tax in another municipality, he or she shall not pay a total municipal income tax on the same income greater than the tax imposed at the highest rate to which he or she is subject.

(b) Every individual taxpayer who resides in the City who receives net profits, salaries, wages, commissions or other personal service compensation for work done or services performed or rendered outside the City, if it is made to appear that he or she has paid a municipal income tax on the same income taxable under this chapter 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 on his or her behalf to such other municipality. The credit shall not exceed the tax assessed by this chapter on such income earned in such other municipality or municipalities where such tax is paid. No credit shall be granted for county or school district taxes paid.

(c) A claim for refund or credit under this section shall be made in such manner as the Superintendent of Taxation may by regulation provide. (Ord. 30-70. Passed 7-13-70; Ord. 9-04. Passed 7-19-04.)

880.19 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER; AUTHORIZATION FOR COLLECTION AGENCY AND RECOVERY OF COLLECTION EXPENSES.

(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 or

proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of such taxes levied hereunder are fully paid and until any and all suits and prosecutions for the collection of such taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitations contained in Sections 880.14 and 880.15.

(b) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Sections 880.08 and 880.09 as though the same were continuing.

(c) The City Manager is hereby authorized and empowered to execute a contract with a competent municipal collection agency for the administration and collection of taxes provided for in this chapter. All taxes imposed by this chapter shall be collectible by a collection agency as other debts of like amount are recoverable, together with any interest and penalties, as well as any collection agency fees and expenses incurred by the City.

(d) All taxes imposed by this chapter shall be collectible by civil suit as other debts of like amount are recoverable, together with any interest and penalties, collection expenses and reasonable attorney's fees incurred by the City with regard to that collection or litigation.

(Ord. 30-70. Passed 7-13-70; Ord. 9-04. Passed 7-19-04; Ord. 12-10. Passed 7-19-10.)

880.20 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 sentence, clause, section or part of this chapter, or such tax, and shall not affect or impair any of the remaining sentences, clauses, sections or parts of this chapter or the application of the tax to any other person or group. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein. (Ord. 30-70. Passed 7-13-70.)

880.21 REGISTRATION OF TENANTS OF RENTED PROPERTY FOR TAX PURPOSES; RESPONSIBILITY OF PROPERTY OWNERS.

(a) The owner of any real property in the City who rents or leases the same to any other person, firm or corporation shall, within thirty days following the first day of occupancy by said person, firm or corporation, give the Tax Administrator the name and mailing address of said tenant.

(b) The Tax Administrator shall, by regular mail, with a certificate of mailing, mail a copy of this section to all ascertainable owners of property, which property is presently being rented to others from time to time, as the same are ascertained.

(c) All owners of property who rent the same to others shall, within thirty days after the receipt of a copy of this section as provided in subsection (b) hereof, furnish to the Tax Administrator the information required by subsection (a) hereof.

(d) All owners of property, which property is being rented to others, shall, no later than October 30 of each year, furnish to the Tax Administrator a complete list of the names and mailing address of all persons, firms and corporations who or which are tenants of said owners.

(Ord. 4-00. Passed 5-15-00.)

880.99 PENALTY.

(a) Unless otherwise provided, whoever violates or fails to comply with any of the provisions of this chapter 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.

(Adopting Ordinance)

(b) In addition to the penalty provided in subsection (a) hereof, any employee of the Municipality who violates Section 880.12, relative to the disclosure of confidential information, is guilty of an offense punishable by immediate dismissal. Each disclosure shall constitute a separate offense. (Ord. 30-70. Passed 7-13-70.)

(c) (EDITOR'S NOTE: Subsection (c) hereof was repealed by Ordinance 4-00, passed May 15, 2000.)

CHAPTER 885

Earned Income Tax (Effective for Tax Years Beginning January 1, 2016)

885.01	Authority to levy tax; purposes of tax; rate.	885.16	Opinion of the Tax Administrator.
885.02	Effective date.	885.17	Assessment; appeal based on presumption of delivery.
885.03	Definitions.	885.18	Local Board of Tax Review; appeal to Local Board of Tax Review.
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885.06	Income subject to net profit tax.	885.30	Landlord reporting.
885.07	Declaration of estimated tax.	885.40	Authorization for collection agency and recovery of collection expenses.
885.08	Credit for tax paid.	885.97	Collection of tax after termination of chapter.
885.09	Annual return.	885.98	Savings clause.
885.10	Penalty, interest, fees and charges.	885.99	Violations – penalty.
885.11	Audit.		
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885.13	Authority and powers of the Tax Administrator.		
885.14	Confidentiality.		
885.15	Fraud.		

CROSS REFERENCES

Earned Income Tax (Effective for Tax Years Through December 31, 2015) - see Ch. 880

Power to tax - see Ohio Const., Art. XVIII, Sec. 3

Payroll deductions - see Ohio R.C. 9.42

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

Taxation Division - see ADM. 230.08, 234.06

Responsibilities of Superintendent of Taxation - see ADM. 234.06(b)

Income tax bond for circuses and carnivals - see B.R. & T. 808.05

885.01 AUTHORITY TO LEVY TAX; PURPOSES OF TAX; RATE.(a) Authority to levy tax.

- (1) The tax on income and the withholding tax established by this Chapter 885 are authorized by Article XVIII, Section 3 of the Ohio Constitution. The tax on income and the withholding tax established by this Chapter 885 are deemed to be levied in accordance with, and to be consistent with, the provisions and limitations of Ohio R.C. 718. This chapter is deemed to incorporate the provisions of ORC 718.
- (2) The tax is an annual tax levied on the income of every person residing in or earning or receiving income in the municipal corporation, and shall be measured by municipal taxable income. The Municipality shall tax income at a uniform rate. The tax is levied on Municipal Taxable Income, as defined herein. (ORC 718.04)

(b) Purposes of tax; rate. For the purpose of providing funds for the purpose of general municipal operations, which includes maintenance, repair and upgrading of existing streets, new equipment, extension and enlargement of Municipal services and facilities and capital improvements of the city there is hereby levied a tax at the rate of 1.75% per annum. (ORC 718.04)

(c) Allocation of funds.

- (1) Effective January 1, 2016, from all municipal income tax receipts received by the city, the following allocation is hereby to be made to the General Fund: 100%.
- (2) The Director of Finance is hereby authorized and directed to take all necessary action in order to carry out the allocation provided for in subsection (c)(1) hereof.

(d) Statement of procedural history; state mandated changes to municipal income tax.

- (1) Significant and wide-ranging amendments to ORC 718 were enacted by Am Sub H.B. 5 (H.B. 5), passed by the 130th General Assembly, and signed by Governor Kasich on December 19, 2014, and H.B. 5 required municipal corporations to conform to and adopt the provisions of ORC 718 in order to have the authority to impose, enforce, administer and collect a municipal income tax.
- (2) As mandated by H.B. 5, City of Centerville Ordinance 19-15, (Ordinance 19-15) effective January 1, 2016, comprehensively amends Chapter 880 in accordance with the provisions of ORC 718 to allow the municipality to continue the income tax and withholding tax administration and collection efforts on behalf of the municipality.
(Ord. 19-15. Passed 11-16-15.)

885.02 EFFECTIVE DATE.

(a) Ordinance 19-15, effective January 1, 2016, and corresponding changes to Ohio R.C. 718, apply to municipal taxable years beginning on or after January 1, 2016. All provisions of this Chapter 885 apply to taxable years beginning 2016 and succeeding taxable years.

(b) Ordinance 19-15 does not repeal the existing sections of Chapter 880 for any taxable year prior to 2016, but rather amends Chapter 880 effective January 1, 2016. For municipal taxable years beginning before January 1, 2016, the Municipality shall continue to administer, audit, and enforce the income tax of the Municipality under ORC 718 and ordinances and resolutions of the Municipality as that chapter and those ordinances and resolutions existed before January 1, 2016.

(Uncodified Section 2 of Am Sub HB 5, passed Dec 2014; ORC 718.04) (Ord. 19-15. Passed 11-16-15.)

885.03 DEFINITIONS.

Any term used in this chapter that is not otherwise defined in this chapter has the same meaning as when used in a comparable context in laws of the United States relating to federal income taxation or in Title LVII of the Ohio Revised Code, unless a different meaning is clearly required. If a term used in this chapter that is not otherwise defined in this chapter is used in a comparable context in both the laws of the United States relating to federal income tax and in Ohio R.C. Title LVII and the use is not consistent, then the use of the term in the laws of the United States relating to federal income tax shall control over the use of the term in Title LVII of the Ohio Revised Code.

For purposes of this section, the singular shall include the plural, and the masculine shall include the feminine and the gender-neutral.

As used in this chapter:

(a) “Adjusted federal taxable income,” for a person required to file as a C corporation, or for a person that has elected to be taxed as a C corporation under division (w)(4) of this section, means a C corporation’s federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

- (1) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.
- (2) Add an amount equal to five per cent of intangible income deducted under division (a)(1) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code;
- (3) Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;
- (4) A. Except as provided in division (a)(4)B. of this section, deduct income and gain included in federal taxable income to the extent the income

- and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;
- B. Division (a)(4)A. of this section does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.
- (5) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;
- (6) In the case of a real estate investment trust or regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;
- (7) Deduct, to the extent not otherwise deducted or excluded in computing federal taxable income, any income derived from a transfer agreement or from the enterprise transferred under that agreement under Ohio R.C. 4313.02;
- (8) A. Except as limited by divisions (a)(8)B., C. and D. of this section, deduct any net operating loss incurred by the person in a taxable year beginning on or after January 1, 2017.
The amount of such net operating loss shall be deducted from net profit that is reduced by exempt income to the extent necessary to reduce municipal taxable income to zero, with any remaining unused portion of the net operating loss carried forward to not more than five consecutive taxable years following the taxable year in which the loss was incurred, but in no case for more years than necessary for the deduction to be fully utilized.
- B. No person shall use the deduction allowed by division (a)(8) of this section to offset qualifying wages.
- C. i. For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, a person may not deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, more than 50% of the amount of the deduction otherwise allowed by division (a)(8)A. of this section.
- ii. For taxable years beginning in 2023 or thereafter, a person may deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, the full amount allowed by division (a)(8)A. of this section.
- D. Any pre-2017 net operating loss carryforward deduction that is available must be utilized before a taxpayer may deduct any amount pursuant to division (a)(8) of this section.
- E. Nothing in division (a)(8)C.i. of this section precludes a person from carrying forward, for use with respect to any return filed for a taxable year beginning after 2018, any amount of net operating loss that was not fully utilized by operation of division (a)(8)C.i. of this section. To

the extent that an amount of net operating loss that was not fully utilized in one or more taxable years by operation of division (A)(8)C.i. of this section is carried forward for use with respect to a return filed for a taxable year beginning in 2019, 2020, 2021, or 2022, the limitation described in division (A)(8)C.i. of this section shall apply to the amount carried forward.

- (9) Deduct any net profit of a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that net profit in the group's federal taxable income in accordance with section 885.06(c)(5)C.ii. of this chapter.
- (10) Add any loss incurred by a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that loss in the group's federal taxable income in accordance with section 885.06(c)(5)C.ii. of this chapter.

If the taxpayer is not a C corporation, is not a disregarded entity that has made the election described in division (uu)(2) of this section, is not a publicly traded partnership that has made the election described in division (w)(4) of this section, and is not an individual, the taxpayer shall compute adjusted federal taxable income under this section as if the taxpayer were a C corporation, except guaranteed payments and other similar amounts paid or accrued to a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deductible expense unless such payments are in consideration for the use of capital and treated as payment of interest under section 469 of the Internal Revenue Code or United States treasury regulations. Amounts paid or accrued to a qualified self-employed retirement plan with respect to a partner, former partner, shareholder, former shareholder, member, or former member of the taxpayer, amounts paid or accrued to or for health insurance for a partner, former partner, shareholder, former shareholder, member, or former member, and amounts paid or accrued to or for life insurance for a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deduction.

Nothing in division (a) of this section shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.

- (b) (1) "Assessment" means any of the following:
 - A. A written finding by the Tax Administrator that a person has underpaid municipal income tax, or owes penalty and interest, or any combination of tax, penalty, or interest, to the municipal corporation;
 - B. A full or partial denial of a refund request issued under section 885.09(f)(2)B. of this chapter;

- C. A Tax Administrator's denial of a taxpayer's request for use of an alternative apportionment method, issued under section 885.06(b)(2)B. of this chapter; or
 - D. A Tax Administrator's requirement for a taxpayer to use an alternative apportionment method, issued under section 885.06(b)(2)C. of this chapter.
 - E. For purposes of divisions (b)(1)A., B., C. and D. of this section, an assessment shall commence the person's time limitation for making an appeal to the Local Board of Tax Review pursuant to section 885.18 of this chapter, and shall have "assessment" written in all capital letters at the top of such finding.
- (2) "Assessment" does not include notice(s) denying a request for refund issued under section 885.09(f)(2)C. of this chapter, a billing statement notifying a taxpayer of current or past-due balances owed to the municipal corporation, a Tax Administrator's request for additional information, a notification to the taxpayer of mathematical errors, or a Tax Administrator's other written correspondence to a person or taxpayer that does not meet the criteria prescribed by division (b)(1) of this section.

(c) "Audit" means the examination of a person or the inspection of the books, records, memoranda, or accounts of a person, ordered to appear before the Tax Administrator, for the purpose of determining liability for a municipal income tax.

(d) "Board of Review" has same meaning as "Local Board of Tax Review".

(e) "Calendar quarter" means the three-month period ending on the last day of March, June, September, or December.

(f) "Casino operator" and "casino facility" have the same meanings as in Ohio R.C. 3772.01.

(g) "Certified mail," "express mail," "united states mail," "postal service," and similar terms include any delivery service authorized pursuant to Ohio R.C. 5703.056.

(h) "Compensation" means any form of remuneration paid to an employee for personal services.

(i) "Disregarded entity" means a single member limited liability company, a qualifying subchapter S subsidiary, or another entity if the company, subsidiary, or entity is a disregarded entity for federal income tax purposes.

(j) "Domicile" means the true, fixed and permanent home of the taxpayer to which, whenever absent, the taxpayer intends to return.

- (k) “Exempt income” means all of the following:
- (1) The military pay or allowances of members of the armed forces of the United States or members of their reserve components, including the national guard of any state;
 - (2) A. Except as provided in division (k)(2)B. of this section, intangible income;
B. A municipal corporation that taxed any type of intangible income on March 29, 1988, pursuant to Section 3 of S.B. 238 of the 116th general assembly, may continue to tax that type of income if a majority of the electors of the municipal corporation voting on the question of whether to permit the taxation of that type of intangible income after 1988 voted in favor thereof at an election held on November 8, 1988.
 - (3) Social security benefits, railroad retirement benefits, unemployment compensation, pensions, retirement benefit payments, payments from annuities, and similar payments made to an employee or to the beneficiary of an employee under a retirement program or plan, disability payments received from private industry or local, state, or federal governments or from charitable, religious or educational organizations, and the proceeds of sickness, accident, or liability insurance policies. As used in division (k)(3) of this section, “unemployment compensation” does not include supplemental unemployment compensation described in section 3402(o)(2) of the Internal Revenue Code.
 - (4) The income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.
 - (5) Compensation paid under Ohio R.C. 3501.28 or 3501.36 to a person serving as a precinct election official to the extent that such compensation does not exceed \$1,000 for the taxable year. Such compensation in excess of \$1,000 for the taxable year may be subject to taxation by a municipal corporation. A municipal corporation shall not require the payer of such compensation to withhold any tax from that compensation.
 - (6) Dues, contributions, and similar payments received by charitable, religious, educational, or literary organizations or labor unions, lodges, and similar organizations;
 - (7) Spousal support or alimony and child support received;
 - (8) Awards for personal injuries or for damages to property from insurance proceeds or otherwise, excluding compensation paid for lost salaries or wages or awards for punitive damages;
 - (9) Income of a public utility when that public utility is subject to the tax levied under Ohio R.C. 5727.24 or 5727.30. Division (k)(9) of this section does not apply for purposes of Ohio R.C. Ch. 5745.

- (10) Gains from involuntary conversions, interest on federal obligations, items of income subject to a tax levied by the state and that a municipal corporation is specifically prohibited by law from taxing, and income of a decedent's estate during the period of administration except such income from the operation of a trade or business;
- (11) Compensation or allowances excluded from federal gross income under section 107 of the Internal Revenue Code;
- (12) Employee compensation that is not qualifying wages as defined in division (hh) of this section;
- (13) Compensation paid to a person employed within the boundaries of a United States air force base under the jurisdiction of the United States air force that is used for the housing of members of the United States air force and is a center for air force operations, unless the person is subject to taxation because of residence or domicile. If the compensation is subject to taxation because of residence or domicile, tax on such income shall be payable only to the municipal corporation of residence or domicile.
- (14) An S corporation shareholder's distributive share of net profits of the S corporation, other than any part of the distributive share of net profits that represents wages as defined in section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in section 1402(a) of the Internal Revenue Code.
- (15) All of the municipal taxable income earned by individuals under 18 years of age.
- (16) A. Except as provided in divisions (k)(16)B., C., and D. of this section, qualifying wages described in section 885.05(b)(2)A. or 885.05(b)(5) of this chapter to the extent the qualifying wages are not subject to withholding for the Municipality under either of those divisions.
B. The exemption provided in division (k)(16)A. of this section does not apply with respect to the municipal corporation in which the employee resided at the time the employee earned the qualifying wages.
C. The exemption provided in division (k)(16)A. of this section does not apply to qualifying wages that an employer elects to withhold under section 885.05(b)(4)B. of this chapter.
D. The exemption provided in division (k)(16)A. of this section does not apply to qualifying wages if both of the following conditions apply:
 - i. For qualifying wages described in section 885.05(b)(2)A. of this chapter, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employee's principal place of work is situated, or, for qualifying wages described in section 885.05(b)(5) of this chapter, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employer's fixed location is located;

- ii. The employee receives a refund of the tax described in division (k)(16)D.i. of this section on the basis of the employee not performing services in that municipal corporation.
 - (17) A. Except as provided in division (k)(17)B. or C. of this section, compensation that is not qualifying wages paid to a nonresident individual for personal services performed in the municipality on not more than 20 days in a taxable year.
 - B. The exemption provided in division (k)(17)A. of this section does not apply under either of the following circumstances:
 - i. The individual's base of operation is located in the municipality.
 - ii. The individual is a professional athlete, professional entertainer, or public figure, and the compensation is paid for the performance of services in the individual's capacity as a professional athlete, professional entertainer, or public figure. For purposes of division (k)(17)B.ii. of this section, "professional athlete," "professional entertainer," and "public figure" have the same meanings as in section 885.05(b) of this chapter.
 - C. Compensation to which division (k)(17) of this section applies shall be treated as earned or received at the individual's base of operation. If the individual does not have a base of operation, the compensation shall be treated as earned or received where the individual is domiciled.
 - D. For purposes of division (k)(17) of this section, "base of operation" means the location where an individual owns or rents an office, storefront, or similar facility to which the individual regularly reports and at which the individual regularly performs personal services for compensation.
- (18) Compensation paid to a person for personal services performed for a political subdivision on property owned by the political subdivision, regardless of whether the compensation is received by an employee of the subdivision or another person performing services for the subdivision under a contract with the subdivision, if the property on which services are performed is annexed to a municipal corporation pursuant to Ohio R.C. 709.023 on or after March 27, 2013, unless the person is subject to such taxation because of residence. If the compensation is subject to taxation because of residence, municipal income tax shall be payable only to the municipal corporation of residence.
- (19) Income the taxation of which is prohibited by the constitution or laws of the United States.

Any item of income that is exempt income of a pass-through entity under division (k) of this section is exempt income of each owner of the pass-through entity to the extent of that owner's distributive or proportionate share of that item of the entity's income.

(l) "Form 2106" means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.

(m) "Generic form" means an electronic or paper form that is not prescribed by a particular municipal corporation and that is designed for reporting taxes withheld by an employer, agent of an employer, or other payer, estimated municipal income taxes, or annual municipal income tax liability, including a request for refund.

(n) "Income" means the following:

(1) A. For residents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the resident, including the resident's distributive share of the net profit of pass-through entities owned directly or indirectly by the resident and any net profit of the resident, except as provided in division (w)(4) of this section.

B. For the purposes of division (n)(1)A. of this section:

i. Any net operating loss of the resident incurred in the taxable year and the resident's distributive share of any net operating loss generated in the same taxable year and attributable to the resident's ownership interest in a pass-through entity shall be allowed as a deduction, for that taxable year and the following five taxable years, against any other net profit of the resident or the resident's distributive share of any net profit attributable to the resident's ownership interest in a pass-through entity until fully utilized, subject to division (n)(1)D. of this section;

ii. The resident's distributive share of the net profit of each pass-through entity owned directly or indirectly by the resident shall be calculated without regard to any net operating loss that is carried forward by that entity from a prior taxable year and applied to reduce the entity's net profit for the current taxable year.

C. Division (n)(1)B. of this section does not apply with respect to any net profit or net operating loss attributable to an ownership interest in an S corporation unless shareholders' distributive shares of net profits from S corporations are subject to tax in the municipal corporation as provided in division (k)(14) of this section.

D. Any amount of a net operating loss used to reduce a taxpayer's net profit for a taxable year shall reduce the amount of net operating loss that may be carried forward to any subsequent year for use by that taxpayer. In no event shall the cumulative deductions for all taxable years with respect to a taxpayer's net operating loss exceed the original amount of that net operating loss available to that taxpayer.

- (2) In the case of nonresidents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the nonresident for work done, services performed or rendered, or activities conducted in the Municipality, including any net profit of the nonresident, but excluding the nonresident's distributive share of the net profit or loss of only pass-through entities owned directly or indirectly by the nonresident.
- (3) For taxpayers that are not individuals, net profit of the taxpayer;
- (4) Lottery, sweepstakes, gambling and sports winnings, winnings from games of chance, and prizes and awards. If the taxpayer is a professional gambler for federal income tax purposes, the taxpayer may deduct related wagering losses and expenses to the extent authorized under the Internal Revenue Code and claimed against such winnings. Credit for tax withheld or paid to another municipal corporation on such winnings paid to the municipal corporation where winnings occur is limited to the credit as specified in section 885.08(a) of this chapter.

(o) "Intangible income" means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Ohio R.C. Ch. 5701, and patents, copyrights, trademarks, trade names, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings, gambling winnings, or other similar games of chance.

(p) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Sta. 2085, 26 U.S.C.A. 1, as amended.

(q) "Limited liability company" means a limited liability company formed under Ohio R.C. Ch. 1705 or under the laws of another state.

(r) "Local Board of Tax Review" and "Board of Tax Review" means the entity created under section 885.18 of this chapter.

(s) "Municipal corporation" means, in general terms, a status conferred upon a local government unit, by state law giving the unit certain autonomous operating authority such as the power of taxation, power of eminent domain, police power and regulatory power, and includes a joint economic development district or joint economic development zone that levies an income tax under Ohio R.C. 715.691, 715.70, 715.71, or 715.74.

- (t) 1. “Municipal taxable income” means the following:
- A. For a person other than an individual, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or situated to the municipality under section 885.06(b) of this chapter, and further reduced by any pre-2017 net operating loss carryforward available to the person for the municipality.
 - B.
 - i. For an individual who is a resident of a municipality other than a qualified municipal corporation, income reduced by exempt income to the extent otherwise included in income, then reduced as provided in division (t)(2) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the municipality.
 - ii. For an individual who is a resident of a qualified municipal corporation, Ohio adjusted gross income reduced by income exempted, and increased by deductions excluded, by the qualified municipal corporation from the qualified municipal corporation’s tax on or before December 31, 2013. If a qualified municipal corporation, on or before December 31, 2013, exempts income earned by individuals who are not residents of the qualified municipal corporation and net profit of persons that are not wholly located within the qualified municipal corporation, such individual or person shall have no municipal taxable income for the purposes of the tax levied by the qualified municipal corporation and may be exempted by the qualified municipal corporation from the requirements of Ohio R.C. 718.03.
 - C. For an individual who is a nonresident of the municipality, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or situated to the municipality under section 885.06(b) of this chapter, then reduced as provided in division (t)(2) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the municipality.
- (2) In computing the municipal taxable income of a taxpayer who is an individual, the taxpayer may subtract, as provided in division (t)(1)B.i. or (t)(1)C. of this section, the amount of the individual’s employee business expenses reported on the individual’s form 2106 that the individual deducted for federal income tax purposes for the taxable year, subject to the limitation imposed by section 67 of the Internal Revenue Code. For the municipal corporation in which the taxpayer is a resident, the taxpayer may deduct all such expenses allowed for federal income tax purposes. For a municipal corporation in which the taxpayer is not a resident, the taxpayer

may deduct such expenses only to the extent the expenses are related to the taxpayer's performance of personal services in that nonresident municipal corporation.

(u) "Municipality" means the City of Centerville.

(v) "Net operating loss" means a loss incurred by a person in the operation of a trade or business. "Net operating loss" does not include unutilized losses resulting from basis limitations, at-risk limitations, or passive activity loss limitations.

(w) (1) "Net profit" for a person other than an individual means adjusted federal taxable income.

(2) "Net profit" for a person who is an individual means the individual's net profit required to be reported on schedule C, schedule E, or schedule F reduced by any net operating loss carried forward. For the purposes of this division, the net operating loss carried forward shall be calculated and deducted in the same manner as provided in division (a)(8) of this section.

(3) For the purposes of this chapter, and notwithstanding division (w)(1) of this section, net profit of a disregarded entity shall not be taxable as against that disregarded entity, but shall instead be included in the net profit of the owner of the disregarded entity.

(4) A. For purposes of this chapter, "publicly traded partnership" means any partnership, an interest in which is regularly traded on an established securities market. A "publicly traded partnership" may have any number of partners.

B. For the purposes of this chapter, and notwithstanding any other provision of this chapter, the net profit of a publicly traded partnership that makes the election described in division (w)(4) of this section shall be taxed as if the partnership were a C corporation, and shall not be treated as the net profit or income of any owner of the partnership.

C. A publicly traded partnership that is treated as a partnership for federal income tax purposes and that is subject to tax on its net profits in one or more municipal corporations in this state may elect to be treated as a C corporation for municipal income tax purposes. The publicly traded partnership shall make the election in every municipal corporation in which the partnership is subject to taxation on its net profits. The election shall be made on the annual tax return filed in each such municipal corporation. Once the election is made, the election is binding for a five-year period beginning with the first taxable year of the initial election. The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing municipal income tax returns as a C corporation for municipal purposes under division (t)(4)D. of this section.

- D. An election to discontinue filing as a C corporation must be made in the first year following the last year of a five-year election period in effect under division (t)(4)C. of this section. The election to discontinue filing as a C corporation is binding for a five-year period beginning with the first taxable year of the election and continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing municipal income tax returns as a partnership for municipal purposes. An election to discontinue filing as a partnership must be made in the first year following the last year of a five-year election period.
- E. The publicly traded partnership shall not be required to file the election with any municipal corporation in which the partnership is not subject to taxation on its net profits, but division (t)(4) of this section applies to all municipal corporations in which an individual owner of the partnership resides.
- F. The individual owners of the partnership not filing as a C Corporation shall be required to file with their municipal corporation of residence, and report partnership distribution of net profit.

(x) “Nonresident” means an individual that is not a resident of the municipality.

(y) “Ohio business gateway” means the online computer network system, created under Ohio R.C. 125.30, that allows persons to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system.

(z) “Other payer” means any person, other than an individual’s employer or the employer’s agent, that pays an individual any amount included in the federal gross income of the individual. “Other payer” includes casino operators and video lottery terminal sales agents.

(aa) “Pass-through entity” means a partnership not treated as an association taxable as a C corporation for federal income tax purposes, a limited liability company not treated as an association taxable as a C corporation for federal income tax purposes, an S corporation, or any other class of entity from which the income or profits of the entity are given pass-through treatment for federal income tax purposes. “Pass-through entity” does not include a trust, estate, grantor of a grantor trust, or disregarded entity.

(bb) “Pension” means any amount paid to an employee or former employee that is reported to the recipient on an IRS form 1099-R, or successor form. Pension does not include deferred compensation, or amounts attributable to nonqualified deferred compensation plans, reported as FICA/Medicare wages on an IRS form W-2, Wage and Tax Statement, or successor form.

(cc) “Person” includes individuals, firms, companies, joint stock companies, business trusts, estates, trusts, partnerships, limited liability partnerships, limited liability companies, associations, C corporations, S corporations, governmental entities, and any other entity. Whenever used in any section prescribing and imposing a penalty, the term “person” includes an officer or employee of a corporation, or a member or employee of an association, who, as such officer, employee or member, is under a duty to perform the act in respect of which the violation occurs.

(dd) “Postal service” means the United States postal service, or private delivery service delivering documents and packages within an agreed upon delivery schedule, or any other carrier service delivering the item.

(ee) “Postmark date,” “date of postmark,” and similar terms include the date recorded and marked by a delivery service and recorded electronically to a database kept in the regular course of its business and marked on the cover in which the payment or document is enclosed, the date on which the payment or document was given to the delivery service for delivery.

- (ff) (1) “Pre-2017 net operating loss carryforward” means any net operating loss incurred in a taxable year beginning before January 1, 2017, to the extent such loss was permitted, by a resolution or ordinance of the Municipality that was adopted by the Municipality before January 1, 2016, to be carried forward and utilized to offset income or net profit generated in such Municipality in future taxable years.
- (2) For the purpose of calculating municipal taxable income, any pre-2017 net operating loss carryforward may be carried forward to any taxable year, including taxable years beginning in 2017 or thereafter, for the number of taxable years provided in the resolution or ordinance or until fully utilized, whichever is earlier.

(gg) “Qualified municipal corporation” means a municipal corporation that, by resolution or ordinance adopted on or before December 31, 2011, adopted Ohio adjusted gross income, as defined by Ohio R.C. 5747.01, as the income subject to tax for the purposes of imposing a municipal income tax.

(hh) “Qualifying wages” means wages, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:

- (1) Deduct the following amounts:
- A. Any amount included in wages if the amount constitutes compensation attributable to a plan or program described in section 125 of the Internal Revenue Code.
 - B. Any amount included in wages if the amount constitutes payment on account of a disability related to sickness or an accident paid by a party unrelated to the employer, agent of an employer, or other payer.

- C. INTENTIONALLY LEFT BLANK.
 - D. INTENTIONALLY LEFT BLANK.
 - E. Any amount included in wages that is exempt income.
- (2) Add the following amounts:
- A. Any amount not included in wages solely because the employee was employed by the employer before April 1, 1986.
 - B. Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option. Division (hh)(2)B. of this section applies only to those amounts constituting ordinary income.
 - C. Any amount not included in wages if the amount is an amount described in section 401(k), 403(b), or 457 of the Internal Revenue Code. Division (hh)(2)C. of this section applies only to employee contributions and employee deferrals.
 - D. Any amount that is supplemental unemployment compensation benefits described in section 3402(o)(2) of the Internal Revenue Code and not included in wages.
 - E. Any amount received that is treated as self-employment income for federal tax purposes in accordance with section 1402(a)(8) of the Internal Revenue Code.
 - F. Any amount not included in wages if all of the following apply:
 - i. For the taxable year the amount is employee compensation that is earned outside of the United States and that either is included in the taxpayer's gross income for federal income tax purposes or would have been included in the taxpayer's gross income for such purposes if the taxpayer did not elect to exclude the income under section 911 of the Internal Revenue Code;
 - ii. For no preceding taxable year did the amount constitute wages as defined in section 3121(a) of the Internal Revenue Code;
 - iii. For no succeeding taxable year will the amount constitute wages; and
 - iv. For any taxable year the amount has not otherwise been added to wages pursuant to either division (hh)(2) of this section or Ohio R.C. 718.03, as that section existed before the effective date of H.B. 5 of the 130th general assembly, March 23, 2015.
- (ii) "Related entity" means any of the following:
- (1) An individual stockholder, or a member of the stockholder's family enumerated in section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of the value of the taxpayer's outstanding stock;

- (2) A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, estates, trusts, or corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;
- (3) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under division (ii)(4) of this section, provided the taxpayer owns directly, indirectly, beneficially, or constructively, at least 50% of the value of the corporation's outstanding stock;
- (4) The attribution rules described in section 318 of the Internal Revenue Code apply for the purpose of determining whether the ownership requirements in divisions (ii)(1) to (3) of this section have been met.

(jj) "Related member" means a person that, with respect to the taxpayer during all or any portion of the taxable year, is either a related entity, a component member as defined in section 1563(b) of the Internal Revenue Code, or a person to or from whom there is attribution of stock ownership in accordance with section 1563(e) of the Internal Revenue Code except, for purposes of determining whether a person is a related member under this division, "20%" shall be substituted for "5%" wherever "5%" appears in section 1563(e) of the Internal Revenue Code.

(kk) "Resident" means an individual who is domiciled in the municipality as determined under section 855.04(b) of this chapter.

(ll) "S corporation" means a person that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.

(mm) "Schedule C" means internal revenue service schedule C (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(nn) "Schedule E" means internal revenue service schedule E (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(oo) "Schedule F" means internal revenue service schedule F (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(pp) "Single member limited liability company" means a limited liability company that has one direct member.

(qq) "Small employer" means any employer that had total revenue of less than \$500,000 during the preceding taxable year. For purposes of this division, "total revenue" means receipts of any type or kind, including, but not limited to, sales receipts; payments;

rents; profits; gains, dividends, and other investment income; commissions; premiums; money; property; grants; contributions; donations; gifts; program service revenue; patient service revenue; premiums; fees, including premium fees and service fees; tuition payments; unrelated business revenue; reimbursements; any type of payment from a governmental unit, including grants and other allocations; and any other similar receipts reported for federal income tax purposes or under generally accepted accounting principles. "Small employer" does not include the federal government; any state government, including any state agency or instrumentality; any political subdivision; or any entity treated as a government for financial accounting and reporting purposes.

(rr) "Tax Administrator" also referred to as the "Superintendent of Taxation" as established by Section 234.06 of the Municipal Code of the City of Centerville means the individual charged with direct responsibility for administration of an income tax levied by a municipal corporation in accordance with this chapter, and also includes the following:

- (1) A municipal corporation acting as the agent of another municipal corporation;
- (2) A person retained by a municipal corporation to administer a tax levied by the municipal corporation, but only if the municipal corporation does not compensate the person in whole or in part on a contingency basis;
- (3) The Central Collection Agency (CCA) or the Regional Income Tax Agency (RITA) or their successors in interest, or another entity organized to perform functions similar to those performed by the Central Collection Agency and the Regional Income Tax Agency.

The Tax Administrator and Superintendent of Taxation duties and functions are identical and interchangeable.

(ss) "Tax return preparer" means any individual described in section 7701(a)(36) of the Internal Revenue Code and 26 C.F.R. 301.7701-15.

(tt) "Taxable year" means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.

- (uu) (1) "Taxpayer" means a person subject to a tax levied on income by a municipal corporation in accordance with this chapter. "Taxpayer" does not include a grantor trust or, except as provided in division (uu)(2)B. of this section, a disregarded entity.
- (2) A. A single member limited liability company that is a disregarded entity for federal tax purposes may be a separate taxpayer from its single member in all Ohio municipal corporations in which it either filed as a separate taxpayer or did not file for its taxable year ending in 2003, if all of the following conditions are met:
 - i. The limited liability company's single member is also a limited liability company.

- ii. The limited liability company and its single member were formed and doing business in one or more Ohio municipal corporations for at least five years before January 1, 2004.
 - iii. Not later than December 31, 2004, the limited liability company and its single member each made an election to be treated as a separate taxpayer under Ohio R.C. 718.01(L) as this section existed on December 31, 2004.
 - iv. The limited liability company was not formed for the purpose of evading or reducing Ohio municipal corporation income tax liability of the limited liability company or its single member.
 - v. The Ohio municipal corporation that was the primary place of business of the sole member of the limited liability company consented to the election.
- B. For purposes of division (uu)(2)A.v. of this section, a municipal corporation was the primary place of business of a limited liability company if, for the limited liability company's taxable year ending in 2003, its income tax liability was greater in that municipal corporation than in any other municipal corporation in Ohio, and that tax liability to that municipal corporation for its taxable year ending in 2003 was at least \$400,000.

(vv) "Taxpayers' rights and responsibilities" means the rights provided to taxpayers in Ohio R.C. 718.11, 718.12, 718.19, 718.23, 718.36, 718.37, 718.38, 5717.011, and 5717.03 and any corresponding ordinances of the municipality, and the responsibilities of taxpayers to file, report, withhold, remit, and pay municipal income tax and otherwise comply with Ohio R.C. Chapter 718 and resolutions, ordinances, and rules adopted by a municipal corporation for the imposition and administration of a municipal income tax.

(ww) "Video lottery terminal" has the same meaning as in Ohio R.C. 3770.21.

(xx) "Video lottery terminal sales agent" means a lottery sales agent licensed under Ohio R.C. Chapter 3770 to conduct video lottery terminals on behalf of the state pursuant to Ohio R.C. 3770.21.

(Most definitions can be found in ORC 718.01) (Ord. 19-15. Passed 11-16-15.)

885.04 INCOME SUBJECT TO TAX FOR INDIVIDUALS.

(a) Determining municipal taxable income for individuals.

- (1) "Municipal Taxable Income" for a resident of the Municipality is calculated as follows:
 - A. "Income" reduced by "Exempt Income" to the extent such exempt income is otherwise included in income, reduced by allowable employee business expense deduction as found in section 885.03(t)(2) of this

chapter, further reduced by any “pre-2017 net operating loss carryforward” equals “municipal taxable income”.

- i. “Income” is defined in section 885.03(n) of this chapter.
 - a. “Qualifying wages” is defined in section 885.03(hh).
 - b. “Net profit” is included in “income”, and is defined in section 885.03(w) of this chapter. This section also provides that the net operating loss carryforward shall be calculated and deducted in the same manner as provided in section 885.03(a)(8). Treatment of net profits received by an individual taxpayer from rental real estate is provided in section 885.06(b)(5).
 - c. Section 885.03(n) provides the following: offsetting and net operating loss carryforward treatment in section 885.03(n)(1)B.i.; resident’s distributive share of net profit from pass through entity treatment in section 885.03(n)(1)B.ii.; treatment of S Corporation distributive share of net profit in the hands of the shareholder in section 885.03(n)(1)C.; restriction of amount of loss permitted to be carried forward for use by taxpayer in a subsequent taxable year in section (N)(1)D.
 - d. “Pass through entity” is defined in section 885.03(aa).
 - ii. “Exempt income” is defined in section 885.03 (k) of this chapter.
 - iii. Allowable employee business expense deduction is described in section 885.03(t)(2) of this chapter, and is subject to the limitations provided in that section.
 - iv. “Pre-2017 net operating loss carryforward” is defined in section 885.03(ff) of this chapter.
- (2) “Municipal taxable income” for a nonresident of the municipality is calculated as follows:
- A. “Income” reduced by “exempt income” to the extent such exempt income is otherwise included in income, as applicable, apportioned or sitused to the municipality as provided in section 885.06(b) of this chapter, reduced by allowable employee business expense deduction as found in section 885.03(t)(2) of this chapter, further reduced by any “pre-2017 net operating loss carryforward” equals “municipal taxable income”.
 - i. “Income” is defined in section 885.03(n) of this chapter.
 - a. “Qualifying wages” is defined in section 885.03(hh).
 - b. “Net profit” is included in “income”, and is defined in section 885.03(w) of this chapter. This section also provides that the net operating loss carryforward shall be calculated and deducted in the same manner as provided in section

885.03(a)(8). “Net profit” for a nonresident individual includes any net profit of the nonresident, but excludes the distributive share of net profit or loss of only pass through entity owned directly or indirectly by the nonresident.

- c. “Pass through entity” is defined in section 885.03(aa).
 - ii. “Exempt income” is defined in section 885.03(k) of this chapter.
 - iii. “Apportioned or situated to the municipality as provided in section 885.06(b) of this chapter” includes the apportionment of net profit income attributable to work done or services performed in the municipality. Treatment of net profits received by an individual taxpayer from rental real estate is provided in section 885.06(b)(5).
 - iv. “Allowable employee business expense deduction” as described in section 885.03(t)(2) of this chapter, is subject to the limitations provided in that section. For a nonresident of the municipality, the deduction is limited to the extent the expenses are related to the performance of personal services by the nonresident in the Municipality.
 - v. “Pre-2017 net operating loss carryforward” is defined in section 885.03(ff) of this chapter.
- (b) Domicile.
- (1) As used in this section:
 - A. “Domicile” means the true, fixed and permanent home of the taxpayer to which whenever absent, the taxpayer intends to return.
 - B. An individual is presumed to be domiciled in the Municipality for all or part of a taxable year if the individual was domiciled in the Municipality on the last day of the immediately preceding taxable year or if the tax administrator reasonably concludes that the individual is domiciled in the Municipality for all or part of the taxable year.
 - C. An individual may rebut the presumption of domicile described in division (b)(1)A. of this section if the individual establishes by a preponderance of the evidence that the individual was not domiciled in the municipality for all or part of the taxable year.
 - (2) For the purpose of determining whether an individual is domiciled in the Municipality for all or part of a taxable year, factors that may be considered include, but are not limited to, the following:
 - A. The individual’s domicile in other taxable years;
 - B. The location at which the individual is registered to vote;
 - C. The address on the individual’s driver’s license;
 - D. The location of real estate for which the individual claimed a property tax exemption or reduction allowed on the basis of the individual’s residence or domicile;

- E. The location and value of abodes owned or leased by the individual;
 - F. Declarations, written or oral, made by the individual regarding the individual's residency;
 - G. The primary location at which the individual is employed.
 - H. The location of educational institutions attended by the individual's dependents as defined in section 152 of the Internal Revenue Code, to the extent that tuition paid to such educational institution is based on the residency of the individual or the individual's spouse in the municipal corporation or state where the educational institution is located;
 - I. The number of contact periods the individual has with the municipality. For the purposes of this division, an individual has one "contact period" with the municipality if the individual is away overnight from the individual's abode located outside of the municipality and while away overnight from that abode spends at least some portion, however minimal, of each of two consecutive days in the municipality. For purposes of this section, the state's contact period test or bright-line test and resulting determination have no bearing on municipal residency or domicile.
- (3) All applicable factors are provided in Ohio R.C. 718.012.
(ORC 718.012)
- (c) Exemption for member or employee of general Assembly and certain judges.
- (1) Only the municipal corporation of residence shall be permitted to levy a tax on the income of any member or employee of the Ohio General Assembly, including the Lieutenant Governor, whose income is received as a result of services rendered as such member or employee and is paid from appropriated funds of this state.
 - (2) Only the municipal corporation of residence and the city of Columbus shall levy a tax on the income of the Chief Justice or a Justice of the Supreme Court received as a result of services rendered as the Chief Justice or Justice. Only the municipal corporation of residence shall levy a tax on the income of a judge sitting by assignment of the Chief Justice or on the income of a district court of appeals judge sitting in multiple locations within the district, received as a result of services rendered as a judge.
(ORC 718.50) (Ord. 19-15. Passed 11-16-15.)
- 885.05 COLLECTION AT SOURCE.**
- (a) Collection at source; withholding from qualifying wages.
- (1) A. Each employer, agent of an employer, or other payer located or doing business in the municipality shall withhold from each employee an amount equal to the qualifying wages of the employee earned by the

employee in the municipality multiplied by the applicable rate of the municipality's income tax, except for qualifying wages for which withholding is not required under section 885.05(b) of this chapter or division (a)(4) or (5) of this section. An employer, agent of an employer, or other payer shall deduct and withhold the tax from qualifying wages on the date that the employer, agent, or other payer directly, indirectly, or constructively pays the qualifying wages to, or credits the qualifying wages to the benefit of, the employee.

- B. In addition to withholding the amounts required under division (a)(1)A. of this section, an employer, agent of an employer, or other payer may also deduct and withhold, on the request of an employee, taxes for the municipal corporation in which the employee is a resident.
- (2) A. An employer, agent of an employer, or other payer shall remit to the Tax Administrator of the municipality the greater of the income taxes deducted and withheld or the income taxes required to be deducted and withheld by the employer, agent, or other payer, along with any report required by the Tax Administrator to accompany such payment, according to the following schedule:
- i. Any employer, agent of an employer, or other payer not required to make payments under division (a)(2)A.ii. of this section of taxes required to be deducted and withheld shall make quarterly payments to the Tax Administrator not later than the fifteenth day of the month following the end of each calendar quarter.
 - ii. Taxes required to be deducted and withheld shall be remitted monthly to the Tax Administrator if the total taxes deducted and withheld or required to be deducted and withheld by the employer, agent, or other payer on behalf of the municipal corporation in the preceding calendar year exceeded two thousand three hundred ninety-nine dollars, or if the total amount of taxes deducted and withheld or required to be deducted and withheld on behalf of the municipality in any month of the preceding calendar quarter exceeded two hundred dollars. Payment under division (a)(2)A.ii. of this section shall be made so that the payment is received by the Tax Administrator not later than fifteen days after the last day of each month.
 - iii. An employer, agent of an employer or other payer is required to make payment by electronic funds transfer to the Tax Administrator of all taxes deducted and withheld on behalf of the employee for remittance to the municipality if the employer, agent of an employer, or other payer is required to make payments electronically for the purpose of paying federal taxes withheld on payments to employees under section 6302 of the Internal Revenue Code, 26 C.F.R. 31.6302-1, or any other federal statute

or regulation. The payment of tax by electronic funds transfer under this division does not affect an employer's, agent's, or other payer's obligation to file any return as required under this section. Once the threshold for remitting payment electronically for federal purposes has been met, any accrued municipal income tax withheld from employee qualifying wages earned within the municipality shall be remitted to the municipality at the same time that the federal tax withholding payment is due.

- (3) An employer, agent of an employer, or other payer shall make and file a return showing the amount of tax withheld by the employer, agent, or other payer from the qualifying wages of each employee and remitted to the Tax Administrator. A return filed by an employer, agent, or other payer under this division shall be accepted by the municipality as the return required of an employee whose sole income subject to the tax under this chapter is the qualifying wages reported by the employee's employer, agent of an employer, or other payer, unless the municipality requires all resident individual taxpayers to file a tax return under section 885.09(a) of this chapter.
- (4) An employer, agent of an employer, or other payer is not required to withhold municipal income tax with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of either the corporation with respect to whose stock the option has been issued or of such corporation's successor entity.
- (5)
 - A. An employee is not relieved from liability for a tax by the failure of the employer, agent of an employer, or other payer to withhold the tax as required under this chapter or by the employer's, agent's, or other payer's exemption from the requirement to withhold the tax.
 - B. The failure of an employer, agent of an employer, or other payer to remit to the municipality the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer, agent, or other payer in connection with the failure to remit the tax withheld.
- (6) Compensation deferred before June 26, 2003, is not subject to any municipal corporation income tax or municipal income tax withholding requirement to the extent the deferred compensation does not constitute qualifying wages at the time the deferred compensation is paid or distributed.
- (7) Each employer, agent of an employer, or other payer required to withhold taxes is liable for the payment of that amount required to be withheld, whether or not such taxes have been withheld, and such amount shall be deemed to be held in trust for the municipality until such time as the withheld amount is remitted to the Tax Administrator.

- (8) On or before the last day of February of each year, an employer shall file a Withholding Reconciliation Return with the Tax Administrator listing the names, addresses, and social security numbers of all employees from whose qualifying wages tax was withheld or should have been withheld for the Municipality during the preceding calendar year, the amount of tax withheld, if any, from each such employee's qualifying wage, the total amount of qualifying wages paid to such employee during the preceding calendar year, the name of every other municipal corporation for which tax was withheld or should have been withheld from such employee during the preceding calendar year, any other information required for federal income tax reporting purposes on Internal Revenue Service form W-2 or its equivalent form with respect to such employee, and other information as may be required by the Tax Administrator.
- (9) The officer or the employee of the employer, agent of an employer, or other payer with control or direct supervision of or charged with the responsibility for withholding the tax or filing the reports and making payments as required by this section, shall be personally liable for a failure to file a report or pay the tax due as required by this section. The dissolution of an employer, agent of an employer, or other payer does not discharge the officer's or employee's liability for a failure of the employer, agent of an employer, or other payer to file returns or pay any tax due.
- (10) An employer is required to deduct and withhold municipal income tax on tips and gratuities received by the employer's employees and constituting qualifying wages only to the extent that the tips and gratuities are under the employer's control. For the purposes of this division, a tip or gratuity is under the employer's control if the tip or gratuity is paid by the customer to the employer for subsequent remittance to the employee, or if the customer pays the tip or gratuity by credit card, debit card, or other electronic means.
- (11) A Tax Administrator shall consider any tax withheld by an employer at the request of an employee when such tax is not otherwise required to be withheld by this chapter to be tax required to be withheld and remitted for the purposes of this section.

(ORC 718.03)

(b) Collection at source; occasional entrant.

- (1) The following terms as used in this section:
 - A. "Employer" includes a person that is a related member to or of an employer.
 - B. "Professional athlete" means an athlete who performs services in a professional athletic event for wages or other remuneration.
 - C. "Professional entertainer" means a person who performs services in the professional performing arts for wages or other remuneration on a per-event basis.

- D. “Public figure” means a person of prominence who performs services at discrete events, such as speeches, public appearances, or similar events, for wages or other remuneration on a per-event basis.
- E. “Fixed location” means a permanent place of doing business in this state, such as an office, warehouse, storefront, or similar location owned or controlled by an employer.
- F. “Worksite location” means a construction site or other temporary worksite in this state at which the employer provides services for more than 20 days during the calendar year. “Worksite location” does not include the home of an employee.
- G. “Principal place of work” means the fixed location to which an employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location, “principal place of work” means the worksite location in this state to which the employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location or worksite location, “principal place of work” means the location in this state at which the employee spends the greatest number of days in a calendar year performing services for or on behalf of the employee’s employer.

If there is not a single municipal corporation in which the employee spent the “greatest number of days in a calendar year” performing services for or on behalf of the employer, but instead there are two or more municipal corporations in which the employee spent an identical number of days that is greater than the number of days the employee spent in any other municipal corporation, the employer shall allocate any of the employee’s qualifying wages subject to division (b)(2)A.i. of this section among those two or more municipal corporations. The allocation shall be made using any fair and reasonable method, including, but not limited to, an equal allocation among such municipal corporations or an allocation based upon the time spent or sales made by the employee in each such municipal corporation. A municipal corporation to which qualifying wages are allocated under this division shall be the employee’s “principal place of work” with respect to those qualifying wages for the purposes of this section.

For the purposes of this division, the location at which an employee spends a particular day shall be deemed in accordance with division (b)(2)B. of this section, except that “location” shall be substituted for “municipal corporation” wherever “municipal corporation” appears in that division.

- (2) A. Subject to divisions (b)(3), (5), (6), and (7) of this section, an employer is not required to withhold municipal income tax on qualifying wages paid to an employee for the performance of personal services in a

municipal corporation that imposes such a tax if the employee performed such services in the municipal corporation on twenty or fewer days in a calendar year, unless one of the following conditions applies:

- i. The employee's principal place of work is located in the municipality.
 - ii. The employee performed services at one or more presumed worksite locations in the municipality. For the purposes of this division, "presumed worksite location" means a construction site or other temporary worksite in this state at which the employer provides services that can reasonably be expected by the employer to last more than 20 days in a calendar year. Services can "reasonably be expected by the employer to last more than 20 days" if either of the following applies at the time the services commence:
 - a. The nature of the services are such that it will require more than twenty days of actual services to complete the services;
 - b. The agreement between the employer and its customer to perform services at a location requires the employer to perform actual services at the location for more than twenty days.
 - iii. The employee is a resident of the municipality and has requested that the employer withhold tax from the employee's qualifying wages as provided in section 885.05(a) of this chapter.
 - iv. The employee is a professional athlete, professional entertainer, or public figure, and the qualifying wages are paid for the performance of services in the employee's capacity as a professional athlete, professional entertainer, or public figure within the municipality.
- B. For the purposes of division (b)(2)A. of this section, an employee shall be considered to have spent a day performing services in a municipal corporation only if the employee spent more time performing services for or on behalf of the employer in that municipal corporation than in any other municipal corporation on that day. For the purposes of determining the amount of time an employee spent in a particular location, the time spent performing one or more of the following activities shall be considered to have been spent at the employee's principal place of work:
- i. Traveling to the location at which the employee will first perform services for the employer for the day;
 - ii. Traveling from a location at which the employee was performing services for the employer to any other location;
 - iii. Traveling from any location to another location in order to pick up or load, for the purpose of transportation or delivery, property

- that has been purchased, sold, assembled, fabricated, repaired, refurbished, processed, remanufactured, or improved by the employee's employer;
- iv. Transporting or delivering property described in division (b)(2)B.iii. of this section, provided that, upon delivery of the property, the employee does not temporarily or permanently affix the property to real estate owned, used, or controlled by a person other than the employee's employer;
 - v. Traveling from the location at which the employee makes the employee's final delivery or pick-up for the day to either the employee's principal place of work or a location at which the employee will not perform services for the employer.
- (3) If the principal place of work of an employee is located in a municipal corporation that imposes an income tax in accordance with this chapter, the exception from withholding requirements described in division (B)(1) of this section shall apply only if, with respect to the employee's qualifying wages described in that division, the employer withholds and remits tax on such qualifying wages to the municipal corporation in which the employee's principal place of work is located.
- (4) A. Except as provided in division (b)(4)B. of this section, if, during a calendar year, the number of days an employee spends performing personal services in a municipal corporation exceeds the twenty-day threshold described in division (b)(2)A. of this section, the employer shall withhold and remit tax to that municipal corporation for any subsequent days in that calendar year on which the employer pays qualifying wages to the employee for personal services performed in that municipal corporation.
- B. An employer required to begin withholding tax for a municipal corporation under division (b)(4)A. of this section may elect to withhold tax for that municipal corporation for the first twenty days on which the employer paid qualifying wages to the employee for personal services performed in that municipal corporation.
- C. If an employer makes the election described in division (b)(4)B. of this section, the taxes withheld and paid by such an employer during those first twenty days to the municipal corporation in which the employee's principal place of work is located are refundable to the employee.
- (5) Without regard to the number of days in a calendar year on which an employee performs personal services in any municipal corporation, an employer shall withhold municipal income tax on all of the employee's qualifying wages for a taxable year and remit that tax only to the municipal corporation in which the employer's fixed location is located if the employer qualifies as a small employer as defined in section 885.03 of this chapter. To

determine whether an employer qualifies as a small employer for a taxable year, a Tax Administrator may require the employer to provide the Tax Administrator with the employer's federal income tax return for the preceding taxable year.

- (6) Divisions (b)(2)A. and (b)(4) of this section shall not apply to the extent that a Tax Administrator and an employer enter into an agreement regarding the manner in which the employer shall comply with the requirements of section 885.05(a) of this chapter.

(ORC 718.011; ORC 718.01)

(c) Collection at source; casino and vlt.

- (1) The municipality shall require a casino facility or a casino operator, as defined in Section 6(C)(9) of Article XV, Ohio Constitution, and Ohio R.C. 3772.01, respectively, or a lottery sales agent conducting video lottery terminals sales on behalf of the state to withhold and remit municipal income tax with respect to amounts other than qualifying wages as provided in this section.
- (2) If a person's winnings at a casino facility are an amount for which reporting to the internal revenue service of the amount is required by section 6041 of the Internal Revenue Code, as amended, the casino operator shall deduct and withhold municipal income tax from the person's winnings at the rate of the tax imposed by the municipal corporation in which the casino facility is located.
- (3) Amounts deducted and withheld by a casino operator are held in trust for the benefit of the municipal corporation to which the tax is owed.
- A. On or before the tenth day of each month, the casino operator shall file a return electronically with the Tax Administrator of the municipality, providing the name, address, and social security number of the person from whose winnings amounts were deducted and withheld, the amount of each such deduction and withholding during the preceding calendar month, the amount of the winnings from which each such amount was withheld, the type of casino gaming that resulted in such winnings, and any other information required by the Tax Administrator. With this return, the casino operator shall remit electronically to the municipality all amounts deducted and withheld during the preceding month.
- B. Annually, on or before the thirty-first day of January, a casino operator shall file an annual return electronically with the Tax Administrator of the municipal corporation in which the casino facility is located, indicating the total amount deducted and withheld during the preceding calendar year. The casino operator shall remit electronically with the annual return any amount that was deducted and withheld and that was not previously remitted. If the name, address, or social

security number of a person or the amount deducted and withheld with respect to that person was omitted on a monthly return for that reporting period, that information shall be indicated on the annual return.

- C. Annually, on or before the thirty-first day of January, a casino operator shall issue an information return to each person with respect to whom an amount has been deducted and withheld during the preceding calendar year. The information return shall show the total amount of municipal income tax deducted from the person's winnings during the preceding year. The casino operator shall provide to the Tax Administrator a copy of each information return issued under this division. The administrator may require that such copies be transmitted electronically.
 - D. A casino operator that fails to file a return and remit the amounts deducted and withheld shall be personally liable for the amount withheld and not remitted. Such personal liability extends to any penalty and interest imposed for the late filing of a return or the late payment of tax deducted and withheld.
 - E. If a casino operator sells the casino facility or otherwise quits the casino business, the amounts deducted and withheld along with any penalties and interest thereon are immediately due and payable. The successor shall withhold an amount of the purchase money that is sufficient to cover the amounts deducted and withheld along with any penalties and interest thereon until the predecessor casino operator produces either of the following:
 - i. A receipt from the Tax Administrator showing that the amounts deducted and withheld and penalties and interest thereon have been paid;
 - ii. A certificate from the Tax Administrator indicating that no amounts are due.If the successor fails to withhold purchase money, the successor is personally liable for the payment of the amounts deducted and withheld and penalties and interest thereon.
 - F. The failure of a casino operator to deduct and withhold the required amount from a person's winnings does not relieve that person from liability for the municipal income tax with respect to those winnings.
- (4) If a person's prize award from a video lottery terminal is an amount for which reporting to the internal revenue service is required by section 6041 of the Internal Revenue Code, as amended, the video lottery sales agent shall deduct and withhold municipal income tax from the person's prize award at the rate of the tax imposed by the municipal corporation in which the video lottery terminal facility is located.
 - (5) Amounts deducted and withheld by a video lottery sales agent are held in trust for the benefit of the municipal corporation to which the tax is owed.

- A. The video lottery sales agent shall issue to a person from whose prize award an amount has been deducted and withheld a receipt for the amount deducted and withheld, and shall obtain from the person receiving a prize award the person's name, address, and social security number in order to facilitate the preparation of returns required by this section.
- B. On or before the tenth day of each month, the video lottery sales agent shall file a return electronically with the Tax Administrator of the Municipality providing the names, addresses, and social security numbers of the persons from whose prize awards amounts were deducted and withheld, the amount of each such deduction and withholding during the preceding calendar month, the amount of the prize award from which each such amount was withheld, and any other information required by the Tax Administrator. With the return, the video lottery sales agent shall remit electronically to the Tax Administrator all amounts deducted and withheld during the preceding month.
- C. A video lottery sales agent shall maintain a record of all receipts issued under division (c)(5) of this section and shall make those records available to the Tax Administrator upon request. Such records shall be maintained in accordance with Ohio R.C. 5747.17 and any rules adopted pursuant thereto.
- D. Annually, on or before the thirty-first day of January, each video lottery terminal sales agent shall file an annual return electronically with the Tax Administrator of the municipal corporation in which the facility is located indicating the total amount deducted and withheld during the preceding calendar year. The video lottery sales agent shall remit electronically with the annual return any amount that was deducted and withheld and that was not previously remitted. If the name, address, or social security number of a person or the amount deducted and withheld with respect to that person was omitted on a monthly return for that reporting period, that information shall be indicated on the annual return.
- E. Annually, on or before the thirty-first day of January, a video lottery sales agent shall issue an information return to each person with respect to whom an amount has been deducted and withheld during the preceding calendar year. The information return shall show the total amount of municipal income tax deducted and withheld from the person's prize award by the video lottery sales agent during the preceding year. A video lottery sales agent shall provide to the Tax Administrator of the municipal corporation a copy of each information return issued under this division. The Tax Administrator may require that such copies be transmitted electronically.

- F. A video lottery sales agent who fails to file a return and remit the amounts deducted and withheld is personally liable for the amount deducted and withheld and not remitted. Such personal liability extends to any penalty and interest imposed for the late filing of a return or the late payment of tax deducted and withheld.
- (6) If a video lottery sales agent ceases to operate video lottery terminals, the amounts deducted and withheld along with any penalties and interest thereon are immediately due and payable. The successor of the video lottery sales agent that purchases the video lottery terminals from the agent shall withhold an amount from the purchase money that is sufficient to cover the amounts deducted and withheld and any penalties and interest thereon until the predecessor video lottery sales agent operator produces either of the following:
- A. A receipt from the Tax Administrator showing that the amounts deducted and withheld and penalties and interest thereon have been paid;
 - B. A certificate from the Tax Administrator indicating that no amounts are due.
- If the successor fails to withhold purchase money, the successor is personally liable for the payment of the amounts deducted and withheld and penalties and interest thereon.
- (7) The failure of a video lottery sales agent to deduct and withhold the required amount from a person's prize award does not relieve that person from liability for the municipal income tax with respect to that prize award.
- (8) If a casino operator or lottery sales agent files a return late, fails to file a return, remits amounts deducted and withheld late, or fails to remit amounts deducted and withheld as required under this section, the Tax Administrator of a municipal corporation may impose the following applicable penalty:
- A. For the late remittance of, or failure to remit, tax deducted and withheld under this section, a penalty equal to 50% of the tax deducted and withheld;
 - B. For the failure to file, or the late filing of, a monthly or annual return, a penalty of five hundred dollars for each return not filed or filed late. Interest shall accrue on past due amounts deducted and withheld at the rate prescribed in Ohio R.C. 5703.47.
- (9) Amounts deducted and withheld on behalf of a municipal corporation shall be allowed as a credit against payment of the tax imposed by the municipal corporation and shall be treated as taxes paid for purposes of section 885.07 of this chapter. This division applies only to the person for whom the amount is deducted and withheld.
- (10) The Tax Administrator shall prescribe the forms of the receipts and returns required under this section.
- (ORC 718.031) (Ord. 19-15. Passed 11-16-15.)

885.06 INCOME SUBJECT TO NET PROFIT TAX.

(a) Determining municipal taxable income for taxpayers who are not individuals. “Municipal Taxable Income” for a taxpayer who is not an individual for the Municipality is calculated as follows: “Income” reduced by “exempt income” to the extent otherwise included in income, multiplied by apportionment, further reduced by any “pre-2017 net operating loss carryforward” equals “municipal taxable income”.

- (1). “Income” for a taxpayer that is not an individual means the “net profit” of the taxpayer.
 - A. “Net profit” for a person other than an individual is defined in section 885.03(w).
 - B. “Adjusted federal taxable income” is defined in section 885.03(a) of this chapter.
- (2) “Exempt income” is defined in section 885.03(k) of this chapter.
- (3) “Apportionment” means the apportionment as determined by section 885.06(b) of this chapter.
- (4) “Pre-2017 net operating loss carryforward” is defined in section 885.03 (ff) of this chapter.
(ORC 718.01)

(b) Net profit; income subject to net profit tax; alternative apportionment. This section applies to any taxpayer engaged in a business or profession in the Municipality unless the taxpayer is an individual who resides in the Municipality or the taxpayer is an electric company, combined company, or telephone company that is subject to and required to file reports under Ohio R.C. Ch. 5745.

- (1) Net profit from a business or profession conducted both within and without the boundaries of the Municipality shall be considered as having a taxable situs in the Municipality for purposes of municipal income taxation in the same proportion as the average ratio of the following:
 - A. The average original cost of the real property and tangible personal property owned or used by the taxpayer in the business or profession in the Municipality during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.
As used in the preceding paragraph, tangible personal or 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;
 - B. Wages, salaries, and other compensation paid during the taxable period to individuals employed in the business or profession for services performed in the municipality to wages, salaries, and other compensation paid during the same period to individuals employed in the business or profession, wherever the individual’s services are

- performed, excluding compensation from which taxes are not required to be withheld under section 885.05(b) of this chapter;
- C. Total gross receipts of the business or profession from sales and rentals made and services performed during the taxable period in the Municipality to total gross receipts of the business or profession during the same period from sales, rentals, and services, wherever made or performed.
- (2) A. If the apportionment factors described in division (b)(1) of this section do not fairly represent the extent of a taxpayer's business activity in the Municipality, the taxpayer may request, or the Tax Administrator of the Municipality may require, that the taxpayer use, with respect to all or any portion of the income of the taxpayer, an alternative apportionment method involving one or more of the following:
- i. Separate accounting;
 - ii. The exclusion of one or more of the factors;
 - iii. The inclusion of one or more additional factors that would provide for a more fair apportionment of the income of the taxpayer to the municipality;
 - iv. A modification of one or more of the factors.
- B. A taxpayer request to use an alternative apportionment method shall be in writing and shall accompany a tax return, timely filed appeal of an assessment, or timely filed amended tax return. The taxpayer may use the requested alternative method unless the Tax Administrator denies the request in an assessment issued within the period prescribed by section 885.19(a) of this chapter.
- C. A Tax Administrator may require a taxpayer to use an alternative apportionment method as described in division (b)(2)A. of this section only by issuing an assessment to the taxpayer within the period prescribed by section 885.19(a) of this chapter.
- D. Nothing in division (b)(2) of this section nullifies or otherwise affects any alternative apportionment arrangement approved by a Tax Administrator or otherwise agreed upon by both the Tax Administrator and taxpayer before January 1, 2016.
- (3) As used in division (b)(1)B. of this section, "wages, salaries, and other compensation" includes only wages, salaries, or other compensation paid to an employee for services performed at any of the following locations:
- A. A location that is owned, controlled, or used by, rented to, or under the possession of one of the following:
 - i. The employer;
 - ii. A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient;
 - iii. A vendor, customer, client, or patient of a person described in division (b)(3)A.ii. of this section, or a related member of such a vendor, customer, client, or patient.

- B. Any location at which a trial, appeal, hearing, investigation, inquiry, review, court-martial, or similar administrative, judicial, or legislative matter or proceeding is being conducted, provided that the compensation is paid for services performed for, or on behalf of, the employer or that the employee's presence at the location directly or indirectly benefits the employer;
 - C. Any other location, if the Tax Administrator determines that the employer directed the employee to perform the services at the other location in lieu of a location described in division (b)(3)A. or B. of this section solely in order to avoid or reduce the employer's municipal income tax liability. If a Tax Administrator makes such a determination, the employer may dispute the determination by establishing, by a preponderance of the evidence, that the Tax Administrator's determination was unreasonable.
- (4) For the purposes of division (b)(1)C. of this section, receipts from sales and rentals made and services performed shall be situated to a municipal corporation as follows:
- A. Gross receipts from the sale of tangible personal property shall be situated to the municipal corporation in which the sale originated. For the purposes of this division, a sale of property originates in a municipal corporation if, regardless of where title passes, the property meets any of the following criteria:
 - i. The property is shipped to or delivered within the municipal corporation from a stock of goods located within the municipal corporation.
 - ii. The property is delivered within the municipal corporation from a location outside the municipal corporation, provided the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such municipal corporation and the sales result from such solicitation or promotion.
 - iii. The property is shipped from a place within the municipal corporation to purchasers outside the municipal corporation, provided that the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.
 - B. Gross receipts from the sale of services shall be situated to the municipal corporation to the extent that such services are performed in the municipal corporation.
 - C. To the extent included in income, gross receipts from the sale of real property located in the municipal corporation shall be situated to the municipal corporation.

- D. To the extent included in income, gross receipts from rents and royalties from real property located in the municipal corporation shall be situated to the municipal corporation.
 - E. Gross receipts from rents and royalties from tangible personal property shall be situated to the municipal corporation based upon the extent to which the tangible personal property is used in the municipal corporation.
- (5) The net profit received by an individual taxpayer from the rental of real estate owned directly by the individual or by a disregarded entity owned by the individual shall be subject to tax only by the municipal corporation in which the property generating the net profit is located and the municipal corporation in which the individual taxpayer that receives the net profit resides.
- A municipal corporation shall allow such taxpayers to elect to use separate accounting for the purpose of calculating net profit situated under this division to the municipal corporation in which the property is located.
- (6) A. Except as provided in division (b)(6)B. of this section, commissions received by a real estate agent or broker relating to the sale, purchase, or lease of real estate shall be situated to the municipal corporation in which the real estate is located. Net profit reported by the real estate agent or broker shall be allocated to a municipal corporation based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease of real estate located in the municipal corporation to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.
- B. An individual who is a resident of a municipal corporation that imposes a municipal income tax shall report the individual's net profit from all real estate activity on the individual's annual tax return for that municipal corporation. The individual may claim a credit for taxes the individual paid on such net profit to another municipal corporation to the extent that such credit is allowed under section 885.08(a) of this chapter.
- (7) If, in computing a taxpayer's adjusted federal taxable income, the taxpayer deducted any amount with respect to a stock option granted to an employee, and if the employee is not required to include in the employee's income any such amount or a portion thereof because it is exempted from taxation under sections 885.03(k)(12) and 885.03(hh)(1)D. this chapter, by a municipal corporation to which the taxpayer has apportioned a portion of its net profit, the taxpayer shall add the amount that is exempt from taxation to the taxpayer's net profit that was apportioned to that municipal corporation. In no case shall a taxpayer be required to add to its net profit that was apportioned to that municipal corporation any amount other than the amount upon which the employee would be required to pay tax were the amount related to the stock option not exempted from taxation.

This division applies solely for the purpose of making an adjustment to the amount of a taxpayer's net profit that was apportioned to a municipal corporation under this section.

- (8) When calculating the ratios described in division (b)(1) of this section for the purposes of that division or division (b)(2) of this section, the owner of a disregarded entity shall include in the owner's ratios the property, payroll, and gross receipts of such disregarded entity.
(ORC 718.02)

(c) Consolidated federal income tax return.

- (1) As used in this section:

- A. "Affiliated group of corporations" means an affiliated group as defined in section 1504 of the Internal Revenue Code, except that, if such a group includes at least one incumbent local exchange carrier that is primarily engaged in the business of providing local exchange telephone service in this state, the affiliated group shall not include any incumbent local exchange carrier that would otherwise be included in the group.
- B. "Consolidated federal income tax return" means a consolidated return filed for federal income tax purposes pursuant to section 1501 of the Internal Revenue Code.
- C. "Consolidated federal taxable income" means the consolidated taxable income of an affiliated group of corporations, as computed for the purposes of filing a consolidated federal income tax return, before consideration of net operating losses or special deductions. "Consolidated federal taxable income" does not include income or loss of an incumbent local exchange carrier that is excluded from the affiliated group under division (c)(1)A. of this section.
- D. "Incumbent local exchange carrier" has the same meaning as in Ohio R.C. 4927.01.
- E. "Local exchange telephone service" has the same meaning as in Ohio R.C. 5727.01.

- (2) A. For taxable years beginning on or after January 1, 2016, a taxpayer that is a member of an affiliated group of corporations may elect to file a consolidated municipal income tax return for a taxable year if at least one member of the affiliated group of corporations is subject to the municipal income tax in that taxable year and if the affiliated group of corporations filed a consolidated federal income tax return with respect to that taxable year.
- i. The election is binding for a five-year period beginning with the first taxable year of the initial election unless a change in the reporting method is required under federal law.

- ii. The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing consolidated municipal income tax returns under division (c)(2)B. of this section; or
 - iii. A taxpayer receives permission from the Tax Administrator. The Tax Administrator shall approve such a request for good cause shown.
 - B. An election to discontinue filing consolidated municipal income tax returns under this section must be made in the first year following the last year of a five-year consolidated municipal income tax return election period in effect under division (c)(2)A. of this section. The election to discontinue filing a consolidated municipal income tax return is binding for a five-year period beginning with the first taxable year of the election.
 - C. An election made under division (c)(2)A. or B. of this section is binding on all members of the affiliated group of corporations subject to a municipal income tax.
- (3) A taxpayer that is a member of an affiliated group of corporations that filed a consolidated federal income tax return for a taxable year shall file a consolidated municipal income tax return for that taxable year if the Tax Administrator determines, by a preponderance of the evidence, that intercompany transactions have not been conducted at arm's length and that there has been a distortive shifting of income or expenses with regard to allocation of net profits to the municipal corporation. A taxpayer that is required to file a consolidated municipal income tax return for a taxable year shall file a consolidated municipal income tax return for all subsequent taxable years unless the taxpayer requests and receives written permission from the Tax Administrator to file a separate return or a taxpayer has experienced a change in circumstances.
- (4) A taxpayer shall prepare a consolidated municipal income tax return in the same manner as is required under the United States Department of Treasury regulations that prescribe procedures for the preparation of the consolidated federal income tax return required to be filed by the common parent of the affiliated group of which the taxpayer is a member.
- (5) A. Except as otherwise provided in divisions (c)(5)B., C., and D. of this section, corporations that file a consolidated municipal income tax return shall compute adjusted federal taxable income, as defined in section 885.03(a) of this chapter, by substituting "consolidated federal taxable income" for "federal taxable income" wherever "federal taxable income" appears in that division and by substituting "an affiliated group of corporation's" for "a C corporation's" wherever "a C corporation's" appears in that division.
 - B. No corporation filing a consolidated municipal income tax return shall make any adjustment otherwise required under section 885.03(a) of

this chapter to the extent that the item of income or deduction otherwise subject to the adjustment has been eliminated or consolidated in the computation of consolidated federal taxable income.

- C. If the net profit or loss of a pass-through entity having at least eighty per cent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, the corporation filing a consolidated municipal income tax return shall do one of the following with respect to that pass-through entity's net profit or loss for that taxable year:
- i. Exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in section 885.06(b) of this chapter, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation. If the entity's net profit or loss is so excluded, the entity shall be subject to taxation as a separate taxpayer on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.
 - ii. Include the pass-through entity's net profit or loss in the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in section 885.06(b) of this Chapter, include the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation. If the entity's net profit or loss is so included, the entity shall not be subject to taxation as a separate taxpayer on the basis of the entity's net profits that are included in the consolidated federal taxable income of the affiliated group.
- D. If the net profit or loss of a pass-through entity having less than eighty per cent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, all of the following shall apply:
- i. The corporation filing the consolidated municipal income tax return shall exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purposes of making the computations required in section 885.06(b) of this chapter, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation;

- ii. The pass-through entity shall be subject to municipal income taxation as a separate taxpayer in accordance with this chapter on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.
- (6) Corporations filing a consolidated municipal income tax return shall make the computations required under section 885.06(b) of this chapter by substituting "consolidated federal taxable income attributable to" for "net profit from" wherever "net profit from" appears in that section and by substituting "affiliated group of corporations" for "taxpayer" wherever "taxpayer" appears in that section.
- (7) Each corporation filing a consolidated municipal income tax return is jointly and severally liable for any tax, interest, penalties, fines, charges, or other amounts imposed by a municipal corporation in accordance with this chapter on the corporation, an affiliated group of which the corporation is a member for any portion of the taxable year, or any one or more members of such an affiliated group.
- (8) Corporations and their affiliates that made an election or entered into an agreement with a municipal corporation before January 1, 2016, to file a consolidated or combined tax return with such municipal corporation may continue to file consolidated or combined tax returns in accordance with such election or agreement for taxable years beginning on and after January 1, 2016.
(ORC 718.06)

(d) Tax credit for businesses that foster new jobs in Ohio. The municipality, by ordinance, may grant a refundable or nonrefundable credit against its tax on income to a taxpayer to foster job creation in the municipality. If a credit is granted under this section, it shall be measured as a percentage of the new income tax revenue the municipality derives from new employees of the taxpayer and shall be for a term not exceeding 15 years. Before the municipality passes an ordinance granting a credit, the municipality and the taxpayer shall enter into an agreement specifying all the conditions of the credit.
(ORC 718.15)

(e) Tax credits to foster job retention. The municipality, by ordinance, may grant a refundable or nonrefundable credit against its tax on income to a taxpayer for the purpose of fostering job retention in the municipality. If a credit is granted under this section, it shall be measured as a percentage of the income tax revenue the municipality derives from the retained employees of the taxpayer, and shall be for a term not exceeding 15 years. Before the municipality passes an ordinance allowing such a credit, the municipality and the taxpayer shall enter into an agreement specifying all the conditions of the credit.
(ORC 718.151) (Ord. 19-15. Passed 11-16-15.)

885.07 DECLARATION OF ESTIMATED TAX.

- (a) As used in this section:
- (1) “Estimated taxes” means the amount that the taxpayer reasonably estimates to be the taxpayer’s tax liability for a municipal corporation’s income tax for the current taxable year.
 - (2) “Tax liability” means the total taxes due to a municipal corporation for the taxable year, after allowing any credit to which the taxpayer is entitled, and after applying any estimated tax payment, withholding payment, or credit from another taxable year.
- (b) (1) Every taxpayer shall make a declaration of estimated taxes for the current taxable year, on the form prescribed by the Tax Administrator, if the amount payable as estimated taxes is at least two hundred dollars. For the purposes of this section:
- A. Taxes withheld from qualifying wages shall be considered as paid to the municipal corporation for which the taxes were withheld in equal amounts on each payment date. If the taxpayer establishes the dates on which all amounts were actually withheld, the amounts withheld shall be considered as paid on the dates on which the amounts were actually withheld.
 - B. An overpayment of tax applied as a credit to a subsequent taxable year is deemed to be paid on the date of the postmark stamped on the cover in which the payment is mailed or, if the payment is made by electronic funds transfer, the date the payment is submitted. As used in this division, “date of the postmark” means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.
 - C. A taxpayer having a taxable year of less than twelve months shall make a declaration under rules prescribed by the Tax Administrator.
 - D. Taxes withheld by a casino operator or by a lottery sales agent under Ohio R.C. 718.031 are deemed to be paid to the municipal corporation for which the taxes were withheld on the date the taxes are withheld from the taxpayer’s winnings.
- (2) Taxpayers filing joint returns shall file joint declarations of estimated taxes.
 - (3) The declaration of estimated taxes shall be filed on or before the date prescribed for the filing of municipal income tax returns under section 885.09(a)(7) of this chapter or on or before the fifteenth day of the fourth month of the first taxable year after the taxpayer becomes subject to tax for the first time.
 - (4) Taxpayers reporting on a fiscal year basis shall file a declaration on or before the fifteenth day of the fourth month after the beginning of each fiscal year or period.

- (5) The original declaration or any subsequent amendment may be increased or decreased on or before any subsequent quarterly payment day as provided in this section.
- (c) (1) The required portion of the tax liability for the taxable year that shall be paid through estimated taxes made payable to the Municipality or Tax Administrator, including the application of tax refunds to estimated taxes and withholding on or before the applicable payment date, shall be as follows:
 - A. On or before the fifteenth day of the fourth month after the beginning of the taxable year, 22.5% of the tax liability for the taxable year;
 - B. On or before the fifteenth day of the sixth month after the beginning of the taxable year, 45% of the tax liability for the taxable year;
 - C. On or before the fifteenth day of the ninth month after the beginning of the taxable year, 67.5% of the tax liability for the taxable year;
 - D. On or before the fifteenth day of the twelfth month of the taxable year, 90% of the tax liability for the taxable year.
- (2) A taxpayer may amend a declaration under rules prescribed by the Tax Administrator. When an amended declaration has been filed, the unpaid balance shown due on the amended declaration shall be paid in equal installments on or before the remaining payment dates. The amended declaration must be filed on the next applicable due date as outlined in (c)(1)A. through D. of this section.
- (3) On or before the fifteenth day of the fourth month of the year following that for which the declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due shall be paid with the return in accordance with section 885.09(a) of this chapter.
 - (a) For taxpayers who are individuals, or who are not individuals and are reporting and filing on a calendar year basis, the annual tax return is due on the same date as the filing of the federal tax return, unless extended pursuant to Ohio R.C. 5747.08(G).
 - (b) For taxpayers who are not individuals, and are reporting and filing on a fiscal year basis or any period other than a calendar year, the annual return is due on the fifteenth day of the fourth month following the end of the taxable year or period.
- (4) An amended declaration is required whenever the taxpayer's estimated tax liability changes during the taxable year. A change in estimated tax liability may either increase or decrease the estimated tax liability for the taxable year.
- (d) (1) In the case of any underpayment of any portion of a tax liability, penalty and interest may be imposed pursuant to section 885.10 of this chapter

upon the amount of underpayment for the period of underpayment, unless the underpayment is due to reasonable cause as described in division (e) of this section. The amount of the underpayment shall be determined as follows:

- (a) For the first payment of estimated taxes each year, 22.5% of the tax liability, less the amount of taxes paid by the date prescribed for that payment;
 - (b) For the second payment of estimated taxes each year, 45% of the tax liability, less the amount of taxes paid by the date prescribed for that payment;
 - (c) For the third payment of estimated taxes each year, 67.5% of the tax liability, less the amount of taxes paid by the date prescribed for that payment;
 - (d) For the fourth payment of estimated taxes each year, 90% of the tax liability, less the amount of taxes paid by the date prescribed for that payment.
- (2) The period of the underpayment shall run from the day the estimated payment was required to be made to the date on which the payment is made. For purposes of this section, a payment of estimated taxes on or before any payment date shall be considered a payment of any previous underpayment only to the extent the payment of estimated taxes exceeds the amount of the payment presently required to be paid to avoid any penalty.

(e) An underpayment of any portion of tax liability determined under division (d) of this section shall be due to reasonable cause and the penalty imposed by this section shall not be added to the taxes for the taxable year if any of the following apply:

- (1) The amount of estimated taxes that were paid equals at least ninety per cent of the tax liability for the current taxable year, determined by annualizing the income received during the year up to the end of the month immediately preceding the month in which the payment is due.
- (2) The amount of estimated taxes that were paid equals at least one hundred per cent of the tax liability shown on the return of the taxpayer for the preceding taxable year, provided that the immediately preceding taxable year reflected a period of twelve months and the taxpayer filed a return with the municipal corporation under section 885.09(a) of this chapter for that year.
- (3) The taxpayer is an individual who resides in the Municipality but was not domiciled there on the first day of January of the calendar year that includes the first day of the taxable year.

(f) A Tax Administrator may waive the requirement for filing a declaration of estimated taxes for any class of taxpayers after finding that the waiver is reasonable and proper in view of administrative costs and other factors.

(ORC 718.08) (Ord. 19-15. Passed 11-16-15.)

885.08 CREDIT FOR TAX PAID.**(a) Credit for tax paid to another municipality.**

- (1) Where a resident of the Municipality is subject to a municipal income tax in another municipal corporation, the resident shall not pay a total municipal income tax on the same income greater than the tax imposed at the highest rate to which the resident is subject.
- (2) Every individual taxpayer who resides in the municipality who receives net profits, salaries, wages, commissions or other personal service compensation for work done or services performed or rendered outside the municipality, if it is made to appear that the taxpayer has paid a municipal income tax on the same income taxable under this chapter to another municipality, shall be allowed a credit against the tax imposed by this chapter of the amount so paid by the taxpayer or on the taxpayer's behalf to such other municipal corporation. The credit shall not exceed the tax assessed by this chapter on such income earned in such other municipal corporation or municipal corporations where such tax is paid. No credit shall be granted for county or school district taxes paid.

(b) Refundable credit for qualifying loss.**(1) As used in this section:**

- A. "Nonqualified deferred compensation plan" means a compensation plan described in section 3121(v)(2)(C) of the Internal Revenue Code.
- B.
 - i. Except as provided in division (b)(1)B.ii. of this section, "qualifying loss" means the excess, if any, of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan over the total amount of income the taxpayer has recognized for federal income tax purposes for all taxable years on a cumulative basis as compensation with respect to the taxpayer's receipt of money and property attributable to distributions in connection with the nonqualified deferred compensation plan.
 - ii. If, for one or more taxable years, the taxpayer has not paid to one or more municipal corporations income tax imposed on the entire amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan, then the "qualifying loss" is the product of the amount resulting from the calculation described in division (b)(1)B.i. of this section computed without regard to division (b)(1)B.ii. of this section and a fraction the numerator of which is the portion of such compensation on which the taxpayer has paid income tax to one or more municipal corporations and the denominator of which is the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan.

- iii. With respect to a nonqualified deferred compensation plan, the taxpayer sustains a qualifying loss only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to that nonqualified deferred compensation plan.
 - C. “Qualifying tax rate” means the applicable tax rate for the taxable year for which the taxpayer paid income tax to a municipal corporation with respect to any portion of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan. If different tax rates applied for different taxable years, then the “qualifying tax rate” is a weighted average of those different tax rates. The weighted average shall be based upon the tax paid to the municipal corporation each year with respect to the nonqualified deferred compensation plan.
- (2) A. Except as provided in division (b)(4) of this section, a refundable credit shall be allowed against the income tax imposed by a municipal corporation for each qualifying loss sustained by a taxpayer during the taxable year. The amount of the credit shall be equal to the product of the qualifying loss and the qualifying tax rate.
- B. A taxpayer shall claim the credit allowed under this section from each municipal corporation to which the taxpayer paid municipal income tax with respect to the nonqualified deferred compensation plan in one or more taxable years.
 - C. If a taxpayer has paid tax to more than one municipal corporation with respect to the nonqualified deferred compensation plan, the amount of the credit that a taxpayer may claim from each municipal corporation shall be calculated on the basis of each municipal corporation’s proportionate share of the total municipal corporation income tax paid by the taxpayer to all municipal corporations with respect to the nonqualified deferred compensation plan.
 - D. In no case shall the amount of the credit allowed under this section exceed the cumulative income tax that a taxpayer has paid to a municipal corporation for all taxable years with respect to the nonqualified deferred compensation plan.
- (3) A. For purposes of this section, municipal corporation income tax that has been withheld with respect to a nonqualified deferred compensation plan shall be considered to have been paid by the taxpayer with respect to the nonqualified deferred compensation plan.
- B. Any municipal income tax that has been refunded or otherwise credited for the benefit of the taxpayer with respect to a nonqualified deferred compensation plan shall not be considered to have been paid to the municipal corporation by the taxpayer.
- (4) The credit allowed under this section is allowed only to the extent the taxpayer’s qualifying loss is attributable to:

- A. The insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan; or
- B. The employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation.
(ORC 718.021)

(c) Credit for person working in joint economic development district or zone. A municipality shall grant a credit against its tax on income to a resident of the Municipality who works in a joint economic development zone created under Ohio R.C. 715.691 or a joint economic development district created under Ohio R.C. 715.70, 715.71, or 715.72 to the same extent that it grants a credit against its tax on income to its residents who are employed in another municipal corporation, pursuant to section 885.08(a) of this chapter.
(ORC 718.16)

(d) Credit for tax beyond statute for obtaining refund.

- (1) Income tax that has been deposited or paid to the municipality, but should have been deposited or paid to another municipal corporation, is allowable by the municipality as a refund, but is subject to the three-year limitation on refunds as provided in section 885.09(f) of this chapter.
- (2) Income tax that should have been deposited or paid to the municipality, but was deposited or paid to another municipal corporation, shall be subject to collection and recovery by the municipality. To the extent a refund of such tax or withholding is barred by the limitation on refunds as provided in section 885.09(f), the municipality will allow a non-refundable credit equal to the tax or withholding paid to the other municipality against the income tax the municipality claims is due. If the municipality's tax rate is higher, the tax representing the net difference of the tax rates is also subject to collection by the municipality, along with any penalty and interest accruing during the period of nonpayment.
- (3) No carryforward of credit will be permitted when the overpayment is beyond the three-year limitation for refunding of same as provided in section 885.09(f) of this chapter.
- (4) Nothing in this section requires a municipality to allow credit for tax paid to another municipal corporation if the municipality has reduced credit for tax paid to another municipal corporation. section 885.08(a) of this chapter regarding any limitation on credit shall prevail.
(ORC 718.121) (Ord. 19-15. Passed 11-16-15.)

885.09 ANNUAL RETURN.

(a) Return and payment of tax.

- (1) A. An annual return with respect to the income tax levied on municipal taxable income by the municipality shall be completed and filed by

every taxpayer for any taxable year for which the taxpayer is subject to the tax, regardless of whether or not income tax is due.

- B. The Tax Administrator shall accept on behalf of all nonresident individual taxpayers a return filed by an employer, agent of an employer, or other payer located in the municipality under subsection 885.05(a)(3) of this chapter when the nonresident individual taxpayer's sole income subject to the tax is the qualifying wages reported by the employer, agent of an employer, or other payer, and no additional tax is due to the municipality.
- C. All resident individual taxpayers, 18 years of age and older, shall file an annual municipal income tax return with the municipality, regardless of income or liability.
 - (2) If an individual is deceased, any return or notice required of that individual shall be completed and filed by that decedent's executor, administrator, or other person charged with the property of that decedent.
 - (3) If an individual is unable to complete and file a return or notice required by the municipality in accordance with this chapter, the return or notice required of that individual shall be completed and filed by the individual's duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual. Such duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual shall provide, with the filing of the return, appropriate documentation to support that they are authorized to file a return or notice on behalf of the taxpayer. This notice shall include any legally binding authorizations, and contact information including name, address, and phone number of the duly authorized agent, guardian, conservator, fiduciary, or other person.
 - (4) Returns or notices required of an estate or a trust shall be completed and filed by the fiduciary of the estate or trust. Such fiduciary shall provide, with the filing of the return, appropriate documentation to support that they are authorized to file a return or notice on behalf of the taxpayer. This notice shall include any legally binding authorizations, and contact information including name, address, and phone number of the fiduciary.
 - (5) No municipal corporation shall deny spouses the ability to file a joint return.
 - (6) A. Each return required to be filed under this section shall contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer, and shall include the taxpayer's social security number or taxpayer identification number. Each return shall be verified by a declaration under penalty of perjury.
 - B. A taxpayer who is an individual is required to include, with each annual return, amended return, or request for refund required under

this section, copies of only the following documents: all of the taxpayer's Internal Revenue Service form W-2, "Wage and Tax Statements," including all information reported on the taxpayer's federal W-2, as well as taxable wages reported or withheld for any municipal corporation; the taxpayer's Internal Revenue Service form 1040; and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return. An individual taxpayer who files the annual return required by this section electronically is not required to provide paper copies of any of the foregoing to the Tax Administrator unless the Tax Administrator requests such copies after the return has been filed.

- C. A taxpayer that is not an individual is required to include, with each annual net profit return, amended net profit return, or request for refund required under this section, copies of only the following documents: the taxpayer's Internal Revenue Service form 1041, form 1065, form 1120, form 1120-REIT, form 1120F, or form 1120S, and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return.
- D. A taxpayer that is not an individual and that files an annual net profit return electronically through the Ohio business gateway or in some other manner shall either mail the documents required under this division to the Tax Administrator at the time of filing or, if electronic submission is available, submit the documents electronically through the Ohio business gateway or a portal provided by Municipality. The department of taxation shall publish a method of electronically submitting the documents required under this division through the Ohio business gateway on or before January 1, 2016. The department shall transmit all documents submitted electronically under this division to the appropriate Tax Administrator.
- E. After a taxpayer files a tax return, the Tax Administrator shall request, and the taxpayer shall provide, any information, statements, or documents required by the Municipality to determine and verify the taxpayer's municipal income tax liability. The requirements imposed under division (a)(6) of this section apply regardless of whether the taxpayer files on a generic form or on a form prescribed by the Tax Administrator.
- F. Any other documentation, including schedules, other municipal income tax returns, or other supporting documentation necessary to verify credits, income, losses, or other pertinent factors on the return shall also be included to avoid delay in processing, or disallowance by the Tax Administrator of undocumented credits or losses.

- (7) A. i. Except as otherwise provided in this chapter, each individual income tax return required to be filed under this section shall be completed and filed as required by the Tax Administrator on or before the date prescribed for the filing of state individual income tax returns under Ohio R.C. 5747.08(G). The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the municipality or Tax Administrator.
 - ii. Except as otherwise provided in this chapter, each annual net profit income tax return required to be filed under this section by a taxpayer that is not an individual shall be completed and filed as required by the tax administrator on or before the fifteenth day of the fourth month following the end of the taxpayer's taxable year or period. The taxpayer shall complete and file the return or notice on forms prescribed by the tax administrator or on generic forms, together with remittance made payable to the municipality or Tax Administrator.
 - iii. In the case of individual income tax return required to be filed by an individual, and net profit income tax return required to be filed by a taxpayer who is not an individual, no remittance is required if the amount shown to be due is ten dollars or less.
 - B. If the Tax Administrator considers it necessary in order to ensure the payment of the tax imposed by the municipality in accordance with this chapter, the Tax Administrator may require taxpayers to file returns and make payments otherwise than as provided in this section, including taxpayers not otherwise required to file annual returns.
 - C. With respect to taxpayers to whom section 885.09(b) of this chapter applies, to the extent that any provision in this division conflicts with any provision in section 885.09(b) of this chapter, the provision in section 885.09(b) of this chapter prevails.
- (8) A. For taxable years beginning after 2015, the municipality shall not require a taxpayer to remit tax with respect to net profits if the amount due is \$10 or less.
 - B. Any taxpayer not required to remit tax to the municipality for a taxable year pursuant to division (a)(8)A. of this section shall file with the municipality an annual net profit return under division (a)(6)C. and D. of this section.
- (9) This division shall not apply to payments required to be made under section 885.05(a)(2)A.ii. of this chapter.
 - A. If any report, claim, statement, or other document required to be filed, or any payment required to be made, within a prescribed period or on or before a prescribed date under this chapter is delivered after that period or that to the Tax Administrator or other municipal official with

which the report, claim, statement, or other document is required to be filed, or to which the payment is required to be made, the date of the postmark stamped on the cover in which the report, claim, statement, or other document, or payment is mailed shall be deemed to be the date of delivery or the date of payment. "The date of postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.

- B. If a payment is required to be made by electronic funds transfer, the payment is considered to be made when the payment is credited to an account designated by the Tax Administrator for the receipt of tax payments, except that, when a payment made by electronic funds transfer is delayed due to circumstances not under the control of the taxpayer, the payment is considered to be made when the taxpayer submitted the payment. For purposes of this section, "submitted the payment" means the date which the taxpayer has designated for the delivery of payment, which may or may not be the same date as the date the payment was initiated by the taxpayer.
- (10) The amounts withheld for the municipality by an employer, the agent of an employer, or other payer as described in section 885.05(a) of this chapter shall be allowed to the recipient of the compensation as credits against payment of the tax imposed on the recipient unless the amounts withheld were not remitted to the municipality and the recipient colluded with the employer, agent, or other payer in connection with the failure to remit the amounts withheld.
- (11) Each return required by the municipality to be filed in accordance with this section shall include a box that the taxpayer may check to authorize another person, including a tax return preparer who prepared the return, to communicate with the Tax Administrator about matters pertaining to the return. The return or instructions accompanying the return shall indicate that by checking the box the taxpayer authorizes the Tax Administrator to contact the preparer or other person concerning questions that arise during the examination or other review of the return and authorizes the preparer or other person only to provide the Tax Administrator with information that is missing from the return, to contact the Tax Administrator for information about the examination or other review of the return or the status of the taxpayer's refund or payments, and to respond to notices about mathematical errors, offsets, or return preparation that the taxpayer has received from the Tax Administrator and has shown to the preparer or other person. Authorization by the taxpayer of another person to communicate with the Tax Administrator about matters pertaining to the return does not preclude the Tax Administrator from contacting the taxpayer regarding such matters.

- (12) The Tax Administrator of the municipality shall accept for filing a generic form of any income tax return, report, or document required by the Municipality in accordance with this chapter, provided that the generic form, once completed and filed, contains all of the information required by ordinances, resolutions, or rules adopted by the municipality or Tax Administrator, and provided that the taxpayer or tax return preparer filing the generic form otherwise complies with the provisions of this chapter and of the municipality's ordinance or resolution governing the filing of returns, reports, or documents.
- (13) When income tax returns, reports, or other documents require the signature of a tax return preparer, the Tax Administrator shall accept a facsimile of such a signature in lieu of a manual signature.
- (14) A. As used in this division, "worksite location" has the same meaning as in section 885.05(b) of this chapter.
- B. A person may notify a tax administrator that the person does not expect to be a taxpayer with respect to the municipal corporation for a taxable year if both of the following conditions apply:
- i. The person was required to file a tax return with the municipal corporation for the immediately preceding taxable year because the person performed services at a worksite location within the municipal corporation, and the person has filed all appropriate and required returns and remitted all applicable income tax and withholding payments as provided by this chapter. The tax administrator is not required to accept an affidavit from a taxpayer who has not complied with the provisions of this chapter.
 - ii. The person no longer provides services in the municipal corporation, and does not expect to be subject to the municipal corporation's income tax for the taxable year.
The person shall provide the notice in a signed affidavit that briefly explains the person's circumstances, including the location of the previous worksite location and the last date on which the person performed services or made any sales within the municipal corporation. The affidavit also shall include the following statement: "The affiant has no plans to perform any services within the municipal corporation, make any sales in the municipal corporation, or otherwise become subject to the tax levied by the municipal corporation during the taxable year. If the affiant does become subject to the tax levied by the municipal corporation for the taxable year, the affiant agrees to be considered a taxpayer and to properly register as a taxpayer with the municipal corporation, if such a registration is required by the municipal corporation's resolutions, ordinances, or rules." The person shall sign the affidavit under penalty of perjury.

- iii. If a person submits an affidavit described in division (a)(14)B. of this section, the tax administrator shall not require the person to file any tax return for the taxable year unless the tax administrator possesses information that conflicts with the affidavit or if the circumstances described in the affidavit change, or the taxpayer has engaged in activity which results in work being performed, services provided, sales made, or other activity that results in municipal taxable income reportable to the Municipality in the taxable year. It shall be the responsibility of the taxpayer to comply with the provisions of this chapter relating to the reporting and filing of municipal taxable income on an annual municipal income tax return, even if an affidavit has been filed with the tax administrator for the taxable year. Nothing in division (a)(14) of this section prohibits the Tax Administrator from performing an audit of the person.
(ORC 718.05)

(b) Return and payment of tax; individuals serving in combat zone.

- (1) Each member of the national guard of any state and each member of a reserve component of the armed forces of the United States called to active duty pursuant to an executive order issued by the President of the United States or an act of the Congress of the United States, and each civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces, may apply to the Tax Administrator of the Municipality for both an extension of time for filing of the return and an extension of time for payment of taxes required by the Municipality in accordance with this chapter during the period of the member's or civilian's duty service and for 180 days thereafter. The application shall be filed on or before the one hundred eightieth day after the member's or civilian's duty terminates. An applicant shall provide such evidence as the Tax Administrator considers necessary to demonstrate eligibility for the extension.
- (2) A. If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the Tax Administrator shall enter into a contract with the applicant for the payment of the tax in installments that begin on the one hundred eighty-first day after the applicant's active duty or service terminates. Except as provided in division (b)(3)C. of this section, the Tax Administrator may prescribe such contract terms as the Tax Administrator considers appropriate.
- B. If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the applicant shall neither be required to file any return, report, or other tax document nor be required to pay any tax otherwise due to the municipality before the one hundred eighty-first day after the applicant's active duty or service terminates.

- C. Taxes paid pursuant to a contract entered into under division (b)(2)A. of this section are not delinquent. The Tax Administrator shall not require any payments of penalties or interest in connection with those taxes for the extension period.
 - (3) A. Nothing in this division denies to any person described in this division the application of divisions (b)(1) and (2) of this section.
 - B. i. A qualifying taxpayer who is eligible for an extension under the Internal Revenue Code shall receive both an extension of time in which to file any return, report, or other tax document and an extension of time in which to make any payment of taxes required by the municipality in accordance with this chapter. The length of any extension granted under division (b)(3)C.i. of this section shall be equal to the length of the corresponding extension that the taxpayer receives under the Internal Revenue Code. As used in this section, “qualifying taxpayer” means a member of the national guard or a member of a reserve component of the armed forces of the United States called to active duty pursuant to either an executive order issued by the President of the United States or an act of the Congress of the United States, or a civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces.
 - ii. Taxes the payment of which is extended in accordance with division (b)(3)B.i. of this section are not delinquent during the extension period. Such taxes become delinquent on the first day after the expiration of the extension period if the taxes are not paid prior to that date. The Tax Administrator shall not require any payment of penalties or interest in connection with those taxes for the extension period. The Tax Administrator shall not include any period of extension granted under division (b)(3)B.i. of this section in calculating the penalty or interest due on any unpaid tax.
 - (4) For each taxable year to which division (b)(1), (2), or (3) of this section applies to a taxpayer, the provisions of divisions (b)(2)B. and C. or (b)(3) of this section, as applicable, apply to the spouse of that taxpayer if the filing status of the spouse and the taxpayer is married filing jointly for that year. (ORC 718.052)
- (c) Use of Ohio business gateway; types of filings authorized.
- (1) Any taxpayer subject to municipal income taxation with respect to the taxpayer’s net profit from a business or profession may file any municipal income tax return or, estimated municipal income tax return, or extension for filing a municipal income tax return, and may make payment of amounts shown to be due on such returns, by using the Ohio Business Gateway.

- (2) Any employer, agent of an employer, or other payer may report the amount of municipal income tax withheld from qualifying wages, and may make remittance of such amounts, by using the Ohio Business Gateway.
- (3) Nothing in this section affects the due dates for filing employer withholding tax returns or deposit of any required tax.
- (4) The use of the Ohio Business Gateway by municipal corporations, taxpayers, or other persons does not affect the legal rights of municipalities or taxpayers as otherwise permitted by law. The State of Ohio shall not be a party to the administration of municipal income taxes or to an appeal of a municipal income tax matter, except as otherwise specifically provided by law.
- (5) Nothing in this section shall be construed as limiting or removing the authority of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax.
(ORC 718.051)

(d) Extension of time to file.

- (1) Any taxpayer that has duly requested an automatic six-month extension for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the fifteenth day of the tenth month after the last day of the taxable year to which the return relates.
- (2) Any taxpayer that qualifies for an automatic federal extension for a period other than six-months for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the same as that of the extended federal income tax return.
- (3) A taxpayer that has not requested or received a six-month extension for filing the taxpayer's federal income tax return may request that the tax administrator grant the taxpayer a six-month extension of the date for filing the taxpayer's municipal income tax return. If the request is received by the tax administrator on or before the date the municipal income tax return is due, the tax administrator shall grant the taxpayer's requested extension.
- (4) An extension of time to file under this chapter is not an extension of the time to pay any tax due unless the Tax Administrator grants an extension of that date.
- (5) If the State Tax Commissioner extends for all taxpayers the date for filing state income tax returns under Ohio R.C. 5747.08(G), a taxpayer shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the same as the extended due date of the state income tax return.
(ORC 718.05)

(e) Amended returns.

- (1) A. A taxpayer shall file an amended return with the Tax Administrator in such form as the Tax Administrator requires if any of the facts, figures, computations, or attachments required in the taxpayer's annual return to determine the tax due levied by the municipality in accordance with this chapter must be altered.
 - B. Within 60 days after the final determination of any federal or state tax liability affecting the taxpayer's municipal tax liability, that taxpayer shall make and file an amended municipal return showing income subject to the municipal income tax based upon such final determination of federal or state tax liability, and pay any additional municipal income tax shown due thereon or make a claim for refund of any overpayment, unless the tax or overpayment is ten dollars or less.
 - C. If a taxpayer intends to file an amended consolidated municipal income tax return, or to amend its type of return from a separate return to a consolidated return, based on the taxpayer's consolidated federal income tax return, the taxpayer shall notify the Tax Administrator before filing the amended return.
- (2) A. In the case of an underpayment, the amended return shall be accompanied by payment of any combined additional tax due together with any penalty and interest thereon. If the combined tax shown to be due is ten dollars or less, such amount need not accompany the amended return. Except as provided under division (e)(2)B. of this section, the amended return shall not reopen those facts, figures, computations, or attachments from a previously filed return that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return unless the applicable statute of limitations for civil actions or prosecutions under section 885.19 of this chapter has not expired for a previously filed return.
 - B. The additional tax to be paid shall not exceed the amount of tax that would be due if all facts, figures, computations, and attachments were reopened.
- (3) A. In the case of an overpayment, a request for refund may be filed under this division within the period prescribed by division (e)(1)B. of this section for filing the amended return even if it is filed beyond the period prescribed in that division if it otherwise conforms to the requirements of that division. If the amount of the refund is ten dollars or less, no refund need be paid by the Municipality to the taxpayer. Except as set forth in division (e)(3)B. of this section, a request filed under this division shall claim refund of overpayments resulting from alterations to only those facts, figures, computations, or attachments required in the taxpayer's annual return that are affected, either directly or indirectly, by the adjustment to the taxpayer's federal or

state income tax return unless it is also filed within the time prescribed in section 885.09(f) of this chapter. Except as set forth in division (e)(3)B. of this section, the request shall not reopen those facts, figures, computations, or attachments that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return.

- B. The amount to be refunded shall not exceed the amount of refund that would be due if all facts, figures, computations, and attachments were reopened.
(ORC 718.12, 718.41)

(f) Refunds.

- (1) Upon receipt of a request for a refund, the Tax Administrator of the municipality, in accordance with this section, shall refund to employers, agents of employers, other payers, or taxpayers, with respect to any income or withholding tax levied by the municipality:
 - A. Overpayments of more than \$10;
 - B. Amounts paid erroneously if the refund requested exceeds ten dollars.
- (2) A. Except as otherwise provided in this chapter, returns setting forth a request for refund shall be filed with the Tax Administrator, within three years after the tax was due or paid, whichever is later. Any documentation that substantiates the taxpayer's claim for a refund must be included with the return filing. Failure to remit all documentation, including schedules, other municipal income tax returns, or other supporting documentation necessary to verify credits, income, losses or other pertinent factors on the return will cause delay in processing, and / or disallowance of undocumented credits or losses.
 - B. On filing of the refund request, the Tax Administrator shall determine the amount of refund due and certify such amount to the appropriate municipal corporation official for payment. Except as provided in division (f)(2)C. of this section, the administrator shall issue an assessment to any taxpayer whose request for refund is fully or partially denied. The assessment shall state the amount of the refund that was denied, the reasons for the denial, and instructions for appealing the assessment.
 - C. If a Tax Administrator denies in whole or in part a refund request included within the taxpayer's originally filed annual income tax return, the Tax Administrator shall notify the taxpayer, in writing, of the amount of the refund that was denied, the reasons for the denial, and instructions for requesting an assessment that may be appealed under section 885.18 of this chapter.
- (3) A request for a refund that is received after the last day for filing specified in division (f)(2) of this section shall be considered to have been filed in a timely manner if any of the following situations exist:

- A. The request is delivered by the postal service, and the earliest postal service postmark on the cover in which the request is enclosed is not later than the last day for filing the request.
 - B. The request is delivered by the postal service, the only postmark on the cover in which the request is enclosed was affixed by a private postal meter, the date of that postmark is not later than the last day for filing the request, and the request is received within seven days of such last day.
 - C. The request is delivered by the postal service, no postmark date was affixed to the cover in which the request is enclosed or the date of the postmark so affixed is not legible, and the request is received within seven days of the last day for making the request.
- (4) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment until the date of the refund of the overpayment, except that if any overpayment is refunded within ninety days after the final filing date of the annual return or ninety days after the completed return is filed, whichever is later, no interest shall be allowed on the refund. For the purpose of computing the payment of interest on amounts overpaid, no amount of tax for any taxable year shall be considered to have been paid before the date on which the return on which the tax is reported is due, without regard to any extension of time for filing that return. Interest shall be paid at the interest rate described in section 885.10(a)(4) of this chapter.
- (5) As used in this section, “withholding tax” has the same meaning as in section 885.10 of this chapter.
(ORC 718.19) (Ord. 19-15. Passed 11-16-15.)

885.10 PENALTY, INTEREST, FEES, AND CHARGES.

- (a) As used in this section:
- (1) “Applicable law” means this chapter, the resolutions, ordinances, codes, directives, instructions, and rules adopted by the Municipality provided such resolutions, ordinances, codes, directives, instructions, and rules impose or directly or indirectly address the levy, payment, remittance, or filing requirements of a municipal income tax.
 - (2) “Federal short-term rate” means the rate of the average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of three years or less, as determined under section 1274 of the Internal Revenue Code, for July of the current year.
 - (3) “Income tax,” “estimated income tax,” and “withholding tax” mean any income tax, estimated income tax, and withholding tax imposed by a municipal corporation pursuant to applicable law, including at any time before January 1, 2016.

- (4) "Interest rate as described in division (A) of this section" means the federal short-term rate, rounded to the nearest whole number per cent, plus 5%. The rate shall apply for the calendar year next following the July of the year in which the federal short-term rate is determined in accordance with division (A)(2) of this section.
 - (5) "Return" includes any tax return, report, reconciliation, schedule, and other document required to be filed with a Tax Administrator or municipal corporation by a taxpayer, employer, any agent of the employer, or any other payer pursuant to applicable law, including at any time before January 1, 2016.
 - (6) "Unpaid estimated income tax" means estimated income tax due but not paid by the date the tax is required to be paid under applicable law.
 - (7) "Unpaid income tax" means income tax due but not paid by the date the income tax is required to be paid under applicable law.
 - (8) "Unpaid withholding tax" means withholding tax due but not paid by the date the withholding tax is required to be paid under applicable law.
 - (9) "Withholding tax" includes amounts an employer, any agent of an employer, or any other payer did not withhold in whole or in part from an employee's qualifying wages, but that, under applicable law, the employer, agent, or other payer is required to withhold from an employee's qualifying wages.
- (b) (1) This section shall apply to the following:
- A. Any return required to be filed under applicable law for taxable years beginning on or after January 1, 2016;
 - B. Income tax, estimated income tax, and withholding tax required to be paid or remitted to the municipality on or after January 1, 2016 for taxable years beginning on or after January 1, 2016
- (2) This section does not apply to returns required to be filed or payments required to be made before January 1, 2016, regardless of the filing or payment date. Returns required to be filed or payments required to be made before January 1, 2016, but filed or paid after that date shall be subject to the ordinances or rules, as adopted from time to time before January 1, 2016 of this municipality.
- (c) The municipality shall impose on a taxpayer, employer, any agent of the employer, and any other payer, and will attempt to collect, the interest amounts and penalties prescribed in this section when the taxpayer, employer, any agent of the employer, or any other payer for any reason fails, in whole or in part, to make to the municipality timely and full payment or remittance of income tax, estimated income tax, or withholding tax or to file timely with the municipality any return required to be filed.
- (1) Interest shall be imposed at the rate defined as "interest rate as described in division (A) of this section", per annum, on all unpaid income tax, unpaid estimated income tax, and unpaid withholding tax. This imposition of interest shall be assessed per month, or fraction of a month.

- (2) With respect to unpaid income tax and unpaid estimated income tax, a penalty equal to 15% of the amount not timely paid shall be imposed.
- (3) With respect to any unpaid withholding tax, a penalty equal to 50% of the amount not timely paid shall be imposed.
- (4) With respect to returns other than estimated income tax returns, the municipality shall impose a monthly penalty of \$25 for each failure to timely file each return, regardless of the liability shown thereon for each month, or any fraction thereof, during which the return remains unfiled regardless of the liability shown thereon. The penalty shall not exceed a total of \$150 in assessed penalty for each failure to timely file a return.

(d) With respect to income taxes, estimated income taxes, withholding taxes, and returns, the municipality shall not impose, seek to collect, or collect any penalty, amount of interest, charges or additional fees not described in this section.

(e) With respect to income taxes, estimated income taxes, withholding taxes, and returns, the municipality shall not refund or credit any penalty, amount of interest, charges, or additional fees that were properly imposed or collected before January 1, 2016.

(f) The Tax Administrator may, in the Tax Administrator's sole discretion, abate or partially abate penalties or interest imposed under this section when the Tax Administrator deems such abatement or partial abatement to be appropriate. Such abatement or partial abatement shall be properly documented and maintained on the record of the taxpayer who received benefit of such abatement or partial abatement.

(g) The municipality shall impose on the taxpayer, employer, any agent of the employer, or any other payer the municipality's post-judgment collection costs and fees, including attorney's fees.

(ORC 718.27) (Ord. 19-15. Passed 11-16-15.)

885.11 AUDIT.

(a) At or before the commencement of an audit, as defined in section 885.03(c) of this chapter, the Tax Administrator shall provide to the taxpayer a written description of the roles of the Tax Administrator and of the taxpayer during an audit and a statement of the taxpayer's rights, including any right to obtain a refund of an overpayment of tax. At or before the commencement of an audit, the Tax Administrator shall inform the taxpayer when the audit is considered to have commenced.

(b) Except in cases involving suspected criminal activity, the Tax Administrator shall conduct an audit of a taxpayer during regular business hours and after providing reasonable notice to the taxpayer. A taxpayer who is unable to comply with a proposed time for an audit on the grounds that the proposed time would cause inconvenience or hardship must offer reasonable alternative dates for the audit.

(c) At all stages of an audit by the Tax Administrator, a taxpayer is entitled to be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner. The Tax Administrator shall prescribe a form by which a taxpayer may designate such a person to assist or represent the taxpayer in the conduct of any proceedings resulting from actions by the Tax Administrator. If a taxpayer has not submitted such a form, the Tax Administrator may accept other evidence, as the Tax Administrator considers appropriate, that a person is the authorized representative of a taxpayer.

A taxpayer may refuse to answer any questions asked by the person conducting an audit until the taxpayer has an opportunity to consult with the taxpayer's attorney, accountant, bookkeeper, or other tax practitioner. This division does not authorize the practice of law by a person who is not an attorney.

(d) A taxpayer may record, electronically or otherwise, the audit examination.

(e) The failure of the Tax Administrator to comply with a provision of this section shall neither excuse a taxpayer from payment of any taxes owed by the taxpayer nor cure any procedural defect in a taxpayer's case.

(f) If the Tax Administrator fails to substantially comply with the provisions of this section, the Tax Administrator, upon application by the taxpayer, shall excuse the taxpayer from penalties and interest arising from the audit.

(ORC 718.36) (Ord. 19-15. Passed 11-16-15.)

885.12 ROUNDING.

A person may round to the nearest whole dollar all amounts the person is required to enter on any return, report, voucher, or other document required under this chapter. Any fractional part of a dollar that equals or exceeds \$0.50 shall be rounded to the next whole dollar, and any fractional part of a dollar that is less than \$0.50 shall be dropped, rounding down to the nearest whole dollar. If a person chooses to round amounts entered on a document, the person shall round all amounts entered on the document.

(ORC 718.25) (Ord. 19-15. Passed 11-16-15.)

885.13 AUTHORITY AND POWERS OF THE TAX ADMINISTRATOR.

(a) Authority of Tax Administrator; administrative powers of the tax administrator. The Tax Administrator has the authority to perform all duties and functions necessary and appropriate to implement the provisions of this chapter, including without limitation:

- (1) Exercise all powers whatsoever of an inquisitorial nature as provided by law, including, the right to inspect books, accounts, records, memorandums, and federal and state income tax returns, to examine persons under oath, to issue orders or subpoenas for the production of books, accounts, papers, records, documents, and testimony, to take depositions, to apply to a court for attachment proceedings as for contempt, to approve vouchers for the fees of officers and witnesses, and to administer oaths; provided that the powers

referred to in this division of this section shall be exercised by the Tax Administrator only in connection with the performance of the duties respectively assigned to the Tax Administrator under a municipal corporation income tax ordinance or resolution adopted in accordance with this chapter;

- (2) Appoint agents and prescribe their powers and duties;
 - (3) Confer and meet with officers of other municipal corporations and states and officers of the United States on any matters pertaining to their respective official duties as provided by law;
 - (4) Exercise the authority provided by law, including orders from bankruptcy courts, relative to remitting or refunding taxes, including penalties and interest thereon, illegally or erroneously imposed or collected, or for any other reason overpaid, and, in addition, the Tax Administrator may investigate any claim of overpayment and make a written statement of the Tax Administrator's findings, and, if the Tax Administrator finds that there has been an overpayment, approve and issue a refund payable to the taxpayer, the taxpayer's assigns, or legal representative as provided in this chapter;
 - (5) Exercise the authority provided by law relative to consenting to the compromise and settlement of tax claims;
 - (6) Exercise the authority provided by law relative to the use of alternative apportionment methods by taxpayers in accordance with section 885.06(b) of this chapter;
 - (7) Make all tax findings, determinations, computations, assessments and orders the Tax Administrator is by law authorized and required to make and, pursuant to time limitations provided by law, on the Tax Administrator's own motion, review, redetermine, or correct any tax findings, determinations, computations, assessments or orders the Tax Administrator has made, but the Tax Administrator shall not review, redetermine, or correct any tax finding, determination, computation, assessment or order which the Tax Administrator has made for which an appeal has been filed with the Local Board of Tax Review or other appropriate tribunal, unless such appeal or application is withdrawn by the appellant or applicant, is dismissed, or is otherwise final;
 - (8) Destroy any or all returns or other tax documents in the manner authorized by law;
 - (9) Enter into an agreement with a taxpayer to simplify the withholding obligations described in section 885.05(a) of this chapter.
- (ORC 718.24)

(b) Authority of Tax Administrator; compromise of claim and payment over time.

- (1) As used in this division (b), "claim" means a claim for an amount payable to the Municipality that arises pursuant to the municipal income tax imposed in accordance with this chapter.

- (2) The Tax Administrator may do either of the following if such action is in the best interests of the municipality:
 - A. Compromise a claim;
 - B. Extend for a reasonable period the time for payment of a claim by agreeing to accept monthly or other periodic payments, upon such terms and conditions as the Tax Administrator may require.
- (3) The Tax Administrator's rejection of a compromise or payment-over-time agreement proposed by a person with respect to a claim shall not be appealable.
- (4) A compromise or payment-over-time agreement with respect to a claim shall be binding upon and shall inure to the benefit of only the parties to the compromise or agreement, and shall not extinguish or otherwise affect the liability of any other person.
- (5)
 - A. A compromise or payment-over-time agreement with respect to a claim shall be void if the taxpayer defaults under the compromise or agreement or if the compromise or agreement was obtained by fraud or by misrepresentation of a material fact. Any amount that was due before the compromise or agreement and that is unpaid shall remain due, and any penalties or interest that would have accrued in the absence of the compromise or agreement shall continue to accrue and be due.
 - B. The Tax Administrator shall have sole discretion to determine whether or not penalty, interest, charges or applicable fees will be assessed through the duration of any compromise or payment-over-time agreement.
- (6) The Tax Administrator may require that the taxpayer provide detailed financial documentation and information, in order to determine whether or not a payment-over-time agreement will be authorized. The taxpayer's failure to provide the necessary and required information by the Tax Administrator shall preclude consideration of a payment-over-time agreement.
(ORC 718.28)

(c) Authority of Tax Administrator; right to examine.

- (1) The Tax Administrator, or any authorized agent or employee thereof may examine the books, papers, records, and federal and state income tax returns of any employer, taxpayer, or other person that is subject to, or that the Tax 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 filed, to ascertain the tax due under this chapter. Upon written request by the Tax Administrator or a duly authorized agent or employee thereof, every employer, taxpayer, or other person subject to this section is required to furnish the opportunity for the Tax Administrator, authorized

agent, or employee to investigate and examine such books, papers, records, and federal and state income tax returns at a reasonable time and place designated in the request.

- (2) The records and other documents of any taxpayer, employer, or other person that is subject to, or that a Tax Administrator believes is subject to, the provisions of this chapter shall be open to the Tax Administrator's inspection during business hours and shall be preserved for a period of six years following the end of the taxable year to which the records or documents relate, unless the Tax Administrator, in writing, consents to their destruction within that period, or by order requires that they be kept longer. The Tax Administrator of a municipal corporation may require any person, by notice served on that person, to keep such records as the Tax Administrator determines necessary to show whether or not that person is liable, and the extent of such liability, for the income tax levied by the Municipality or for the withholding of such tax.
- (3) The Tax Administrator may examine under oath any person that the Tax Administrator reasonably believes has knowledge concerning any income that was or would have been returned for taxation or any transaction tending to affect such income. The Tax Administrator may, for this purpose, compel any such person to attend a hearing or examination and to produce any books, papers, records, and federal and state income tax returns in such person's possession or control. The person may be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner at any such hearing or examination. This division does not authorize the practice of law by a person who is not an attorney.
- (4) No person issued written notice by the Tax Administrator compelling attendance at a hearing or examination or the production of books, papers, records, or federal and state income tax returns under this section shall fail to comply.
(ORC 718.23)

(d) Authority of Tax Administrator; requiring identifying information.

- (1) The Tax Administrator may require any person filing a tax document with the Tax Administrator to provide identifying information, which may include the person's social security number, federal employer identification number, or other identification number requested by the Tax Administrator. A person required by the Tax Administrator to provide identifying information that has experienced any change with respect to that information shall notify the Tax Administrator of the change before, or upon, filing the next tax document requiring the identifying information.
- (2) A. If the Tax Administrator makes a request for identifying information and the Tax Administrator does not receive valid identifying information within 30 days of making the request, nothing in this

chapter prohibits the Tax Administrator from imposing a penalty upon the person to whom the request was directed pursuant to section 885.10 of this chapter, in addition to any applicable penalty described in section 885.99 of this chapter.

- B. If a person required by the Tax Administrator to provide identifying information does not notify the Tax Administrator of a change with respect to that information as required under division (d)(1) of this section within 30 days after filing the next tax document requiring such identifying information, nothing in this chapter prohibits the Tax Administrator from imposing a penalty pursuant to section 885.10 of this chapter.
- C. The penalties provided for under divisions (d)(2)A. and B. of this section may be billed and imposed in the same manner as the tax or fee with respect to which the identifying information is sought and are in addition to any applicable criminal penalties described in section 885.99 of this chapter for a violation of 885.15 of this chapter and any other penalties that may be imposed by the Tax Administrator by law. (ORC 718.26) (Ord. 19-15. Passed 11-16-15.)

885.14 CONFIDENTIALITY.

(a) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by Ohio R.C. Ch. 718 or by the charter or ordinance of the Municipality is confidential, and no person shall access or disclose such information except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of the Municipality or as authorized by Ohio R.C. Ch. 718 or the charter or ordinance authorizing the levy. The Tax Administrator of the Municipality or a designee thereof may furnish copies of returns filed or otherwise received under this chapter and other related tax information to the Internal Revenue Service, the State Tax Commissioner, and Tax Administrators of other municipal corporations.

(b) This section does not prohibit the Municipality from publishing or disclosing statistics in a form that does not disclose information with respect to particular taxpayers. (ORC 718.13) (Ord. 19-15. Passed 11-16-15.)

885.15 FRAUD.

No person shall knowingly make, present, aid, or assist in the preparation or presentation of a false or fraudulent report, return, schedule, statement, claim, or document authorized or required by municipal corporation ordinance or state law to be filed with the Tax Administrator, or knowingly procure, counsel, or advise the preparation or presentation of such report, return, schedule, statement, claim, or document, or knowingly change, alter, or amend, or knowingly procure, counsel or advise such change,

alteration, or amendment of the records upon which such report, return, schedule, statement, claim, or document is based with intent to defraud the municipality or the Tax Administrator.

(ORC 718.35) (Ord. 19-15. Passed 11-16-15.)

885.16 OPINION OF THE TAX ADMINISTRATOR.

(a) An “opinion of the Tax Administrator” means an opinion issued under this section with respect to prospective municipal income tax liability. It does not include ordinary correspondence of the Tax Administrator.

(b) A taxpayer may submit a written request for an opinion of the Tax Administrator as to whether or how certain income, source of income, or a certain activity or transaction will be taxed. The written response of the Tax Administrator shall be an “opinion of the Tax Administrator” and shall bind the Tax Administrator, in accordance with divisions (C), (G), and (H) of this section, provided all of the following conditions are satisfied:

- (1) The taxpayer’s request fully and accurately describes the specific facts or circumstances relevant to a determination of the taxability of the income, source of income, activity, or transaction, and, if an activity or transaction, all parties involved in the activity or transaction are clearly identified by name, location, or other pertinent facts.
- (2) The request relates to a tax imposed by the municipality in accordance with this chapter.
- (3) The Tax Administrator’s response is signed by the Tax Administrator and designated as an “opinion of the Tax Administrator.”

(c) An opinion of the Tax Administrator shall remain in effect and shall protect the taxpayer for whom the opinion was prepared and who reasonably relies on it from liability for any taxes, penalty, or interest otherwise chargeable on the activity or transaction specifically held by the Tax Administrator’s opinion to be taxable in a particular manner or not to be subject to taxation for any taxable years that may be specified in the opinion, or until the earliest of the following dates:

- (1) The effective date of a written revocation by the Tax Administrator sent to the taxpayer by certified mail, return receipt requested. The effective date of the revocation shall be the taxpayer’s date of receipt or one year after the issuance of the opinion, whichever is later;
- (2) The effective date of any amendment or enactment of a relevant section of the Ohio Revised Code, uncodified state law, or the Municipality’s income tax ordinance that would substantially change the analysis and conclusion of the opinion of the Tax Administrator;
- (3) The date on which a court issues an opinion establishing or changing relevant case law with respect to the Ohio Revised Code, uncodified state law, or the municipality’s income tax ordinance;

- (4) If the opinion of the Tax Administrator was based on the interpretation of federal law, the effective date of any change in the relevant federal statutes or regulations, or the date on which a court issues an opinion establishing or changing relevant case law with respect to federal statutes or regulations;
 - (5) The effective date of any change in the taxpayer's material facts or circumstances;
 - (6) The effective date of the expiration of the opinion, if specified in the opinion.
 - (d)
 - (1) A taxpayer is not relieved of tax liability for any activity or transaction related to a request for an opinion that contained any misrepresentation or omission of one or more material facts.
 - (2) If the taxpayer knowingly has misrepresented the pertinent facts or omitted material facts with intent to defraud the municipality in order to obtain a more favorable opinion, the taxpayer may be in violation of section 885.15 of this chapter.
 - (e) If a Tax Administrator provides written advice under this section, the opinion shall include a statement that:
 - (1) The tax consequences stated in the opinion may be subject to change for any of the reasons stated in division (c) of this section;
 - (2) It is the duty of the taxpayer to be aware of such changes.
 - (f) A Tax Administrator may refuse to offer an opinion on any request received under this section.
 - (g) This section binds a Tax Administrator only with respect to opinions of the Tax Administrator issued on or after January 1, 2016.
 - (h) An opinion of a Tax Administrator binds that Tax Administrator only with respect to the taxpayer for whom the opinion was prepared and does not bind the Tax Administrator of any other municipal corporation.
 - (i) A Tax Administrator shall make available the text of all opinions issued under this section, except those opinions prepared for a taxpayer who has requested that the text of the opinion remain confidential. In no event shall the text of an opinion be made available until the Tax Administrator has removed all information that identifies the taxpayer and any other parties involved in the activity or transaction.
 - (j) An opinion of the Tax Administrator issued under this section or a refusal to offer an opinion under subsection (f) may not be appealed.
(ORC 718.38) (Ord. 19-15. Passed 11-16-15.)

885.17 ASSESSMENT; APPEAL BASED ON PRESUMPTION OF DELIVERY.

- (a)
 - (1) The Tax Administrator shall serve an assessment either by personal service, by certified mail, or by a delivery service authorized under Ohio R.C. 5703.056.
 - (2) The Tax Administrator may deliver the assessment through alternative means as provided in this section, including, but not limited to, delivery by secure electronic mail. Such alternative delivery method must be authorized by the person subject to the assessment.
 - (3) Once service of the assessment has been made by the Tax Administrator or other municipal official, or the designee of either, the person to whom the assessment is directed may protest the ruling of that assessment by filing an appeal with the Local Board of Tax Review within sixty days after the receipt of service. The delivery of an assessment of the Tax Administrator as prescribed in Ohio R.C. 718.18 is prima facie evidence that delivery is complete and that the assessment is served.

- (b)
 - (1) A person may challenge the presumption of delivery and service as set forth in this division. A person disputing the presumption of delivery and service under this section bears the burden of proving by a preponderance of the evidence that the address to which the assessment was sent was not an address with which the person was associated at the time the Tax Administrator originally mailed the assessment by certified mail. For the purposes of this section, a person is associated with an address at the time the Tax Administrator originally mailed the assessment if, at that time, the person was residing, receiving legal documents, or conducting business at the address; or if, before that time, the person had conducted business at the address and, when the assessment was mailed, the person's agent or the person's affiliate was conducting business at the address. For the purposes of this section, a person's affiliate is any other person that, at the time the assessment was mailed, owned or controlled at least 20%, as determined by voting rights, of the addressee's business.
 - (2) If a person elects to appeal an assessment on the basis described in division (b)(1) of this section, and if that assessment is subject to collection and is not otherwise appealable, the person must do so within 60 days after the initial contact by the Tax Administrator or other municipal official, or the designee of either, with the person. Nothing in this division prevents the Tax Administrator or other official from entering into a compromise with the person if the person does not actually file such an appeal with the Local Board of Tax Review.
(ORC 718.18) (Ord. 19-15. Passed 11-16-15.)

885.18 LOCAL BOARD OF TAX REVIEW; APPEAL TO LOCAL BOARD OF TAX REVIEW.

- (a) (1) The legislative authority of the Municipality shall maintain a Local Board of Tax Review to hear appeals as provided in Ohio R.C. Ch. 718.
- (2) The Local Board of Tax Review shall consist of three members. The three members of the Local Board of Tax Review may be domiciled in the municipality, but the appointing authority may consider membership from individuals who are not domiciled within the municipality. Two members shall be appointed by the legislative authority of the municipality, and may not be employees, elected officials, or contractors with the municipality at any time during their term or in the five years immediately preceding the date of appointment. One member shall be appointed by the top administrative official of the Municipality. This member may be an employee of the municipality, but may not be the director of finance or equivalent officer, or the Tax Administrator or other similar official or an employee directly involved in municipal tax matters, or any direct subordinate thereof.
- (3) The term for members of the Local Board of Tax Review appointed by the legislative authority of the municipality shall be two years. There is no limit on the number of terms that a member may serve should the member be reappointed by the legislative authority. The board member appointed by the top administrative official of the municipality shall serve at the discretion of the administrative official.
- (4) Members of the Local Board of Tax Review appointed by the legislative authority may be removed by the legislative authority as set forth in Ohio R.C. 718.11(A)(4).
- (5) A member of the board who, for any reason, ceases to meet the qualifications for the position prescribed by this section shall resign immediately by operation of law.
- (6) A vacancy in an unexpired term shall be filled in the same manner as the original appointment within 60 days of when the vacancy was created. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. No vacancy on the Board shall impair the power and authority of the remaining members to exercise all the powers of the board.
- (7) If a member is temporarily unable to serve on the Board due to a conflict of interest, illness, absence, or similar reason, the legislative authority or top administrative official that appointed the member shall appoint another individual to temporarily serve on the board in the member's place. This appointment shall be subject to the same requirements and limitations as are applicable to the appointment of the member temporarily unable to serve.

- (8) No member of the Local Board of Tax Review shall receive compensation, fee, or reimbursement of expenses for service on the board.

(b) Whenever a Tax Administrator issues an assessment, the Tax Administrator shall notify the taxpayer in writing at the same time of the taxpayer's right to appeal the assessment, the manner in which the taxpayer may appeal the assessment, and the address to which the appeal should be directed, and to whom the appeal should be directed.

(c) Any person who has been issued an assessment may appeal the assessment to the board by filing a request with the board. The request shall be in writing, shall specify the reason or reasons why the assessment should be deemed incorrect or unlawful, and shall be filed within 60 days after the taxpayer receives the assessment.

(d) The Local Board of Tax Review shall schedule a hearing to be held within 60 days after receiving an appeal of an assessment under division (C) of this section, unless the taxpayer requests additional time to prepare or waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the board and/or may be represented by an attorney at law, certified public accountant, or other representative. The board may allow a hearing to be continued as jointly agreed to by the parties. In such a case, the hearing must be completed within 120 days after the first day of the hearing unless the parties agree otherwise.

(e) The board may affirm, reverse, or modify the Tax Administrator's assessment or any part of that assessment. The board shall issue a final determination on the appeal within ninety days after the board's final hearing on the appeal, and send a copy of its final determination by ordinary mail to all of the parties to the appeal within fifteen days after issuing the final determination. The taxpayer or the Tax Administrator may appeal the board's final determination as provided in Ohio R.C. 5717.011.

(f) The Local Board of Tax Review created pursuant to this section shall adopt rules governing its procedures, including a schedule of related costs, and shall keep a record of its transactions. The rules governing the Local Board of Tax Review procedures shall be in writing, and may be amended as needed by the Local Board of Tax Review. Such records are not public records available for inspection under Ohio R.C. 149.43. For this reason, any documentation, copies of returns or reports, final determinations, or working papers for each case must be maintained in a secure location under the control of the Tax Administrator. No member of the Local Board of Tax Review may remove such documentation, copies of returns or reports, final determinations, or working papers from the hearing. Hearings requested by a taxpayer before a Local Board of Tax Review created pursuant to this section are not meetings of a public body subject to Ohio R.C. 121.22. For this reason, such hearings shall not be open to the public, and only those parties to the case may be present during the hearing.

(ORC 718.11) (Ord. 19-15. Passed 11-16-15.)

885.19 ACTIONS TO RECOVER; STATUTE OF LIMITATIONS.

- (a) (1) A. Civil actions to recover municipal income taxes and penalties and interest on municipal income taxes shall be brought within the latter of:
- i. Three years after the tax was due or the return was filed, whichever is later; or
 - ii. One year after the conclusion of the qualifying deferral period, if any.
- B. The time limit described in division (a)(1)A. of this section may be extended at any time if both the Tax Administrator and the employer, agent of the employer, other payer, or taxpayer consent in writing to the extension. Any extension shall also extend for the same period of time the time limit described in division (c) of this section.
- (2) As used in this section, “qualifying deferral period” means a period of time beginning and ending as follows:
- A. Beginning on the date a person who is aggrieved by an assessment files with a Local Board of Tax Review the request described in section 885.18 of this chapter. That date shall not be affected by any subsequent decision, finding, or holding by any administrative body or court that the Local Board of Tax Review with which the aggrieved person filed the request did not have jurisdiction to affirm, reverse, or modify the assessment or any part of that assessment.
 - B. Ending the later of the sixtieth day after the date on which the final determination of the Local Board of Tax Review becomes final or, if any party appeals from the determination of the Local Board of Tax Review, the sixtieth day after the date on which the final determination of the Local Board of Tax Review is either ultimately affirmed in whole or in part or ultimately reversed and no further appeal of either that affirmation, in whole or in part, or that reversal is available or taken.
- (b) Prosecutions for an offense made punishable under a resolution or ordinance imposing an income tax shall be commenced within three years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of 25% or more of income required to be reported, prosecutions may be commenced within six years after the commission of the offense.
- (c) A claim for a refund of municipal income taxes shall be brought within the time limitation provided in section 885.09(f) of this chapter.
- (d) (1) Notwithstanding the fact that an appeal is pending, the petitioner may pay all or a portion of the assessment that is the subject of the appeal. The acceptance of a payment by the municipality does not prejudice any claim for refund upon final determination of the appeal.

- (2) If upon final determination of the appeal an error in the assessment is corrected by the Tax Administrator, upon an appeal so filed or pursuant to a final determination of the Local Board of Tax Review created under section 885.18 of this chapter, of the Ohio Board of Tax Appeals, or any court to which the decision of the Ohio board of tax appeals has been appealed, so that the amount due from the party assessed under the corrected assessment is less than the amount paid, there shall be issued to the appellant or to the appellant's assigns or legal representative a refund in the amount of the overpayment as provided by section 885.09(f) of this chapter, with interest on that amount as provided by division (d) of this section.

(e) No civil action to recover municipal income tax or related penalties or interest shall be brought during either of the following time periods:

- (1) The period during which a taxpayer has a right to appeal the imposition of that tax or interest or those penalties;
- (2) The period during which an appeal related to the imposition of that tax or interest or those penalties is pending.
(ORC 718.12) (Ord. 19-15. Passed 11-16-15.)

885.20 ADOPTION OF RULES.

(a) Pursuant to Ohio R.C. 718.3, the municipality, pursuant to this chapter, grants authority to the Tax Administrator, to adopt rules to administer the income tax imposed by the municipality.

(b) All rules adopted under this section shall be published and posted on the internet.
(ORC 718.30) (Ord. 19-15. Passed 11-16-15.)

885.30 INFORMATIONAL OBLIGATIONS OF OWNERS OF RENTAL PROPERTY.

(a) The owner of any real property in the municipality who rents or leases the same to any other person, firm or corporation shall, within thirty days following the first day of occupancy by said person, firm or corporation, give the Tax Administrator the name, mailing address and date occupancy began of said tenant.

(b) The Tax Administrator shall, by regular mail, mail a copy of this section of the Centerville Municipal Code to all ascertainable owners of property which property is presently being rented to others from time to time as same are ascertained.

(c) Within 30 days after the receipt of a copy of this ordinance as provided above, all owners of property who rent the same shall furnish to the Tax Administrator the information required by division (a) above.

(d) All owners of property, which property is being rented to others shall, no later than the 31st day of August each year, furnish to the Tax Administrator a complete list of the names, mailing addresses and date occupancy began of all persons and entities who are tenants of said owners along with the date occupancy ended for the previous tenant(s).

(e) Whoever violates or fails to comply with any of the provisions of this section shall be subject to the penalties set forth in Section 885.99 of this chapter.
(Ord. 19-15. Passed 11-16-15.) Penalty, see section 885.99

885.40 AUTHORIZATION FOR COLLECTION AGENCY AND RECOVERY OF COLLECTION EXPENSES.

(a) To the extent allowed by law, the City Manager is hereby authorized and empowered to execute a contract with a competent municipal collection agency for the administration and collection of taxes provided for in this chapter. All taxes imposed by this chapter shall be collectible by a collection agency as other debts of like amount are recoverable, together with any interest and penalties, as well as any collection agency fees and expenses incurred by the municipality.

(b) To the extent allowed by law, all taxes imposed by this chapter shall be collectible by civil suit as other debts of like amount are recoverable, together with any interest and penalties, collection expenses and reasonable attorney's fees incurred by the Municipality with regard to that collection or litigation.
(Ord. 19-15. Passed 11-16-15.)

885.97 COLLECTION AFTER TERMINATION OF CHAPTER.

(a) This chapter shall continue in full force and effect 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 in full force and effect until all of the taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitations contained in section 885.19.

(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 section 885.09(a) as though the same were continuing.
(Ord. 19-15. Passed 11-16-15.)

885.98 SAVINGS CLAUSE.

If any sentence, clause, section or part of this chapter, or any tax imposed against, or exemption from tax granted to, any taxpayer or forms of income 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 so found and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other

parts of this chapter. It is hereby declared to be the intention of the legislative authority of the municipality that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included in this chapter. (Ord. 19-15. Passed 11-16-15.)

885.99 VIOLATIONS; PENALTY.

(a) Except as provided in division (b) of this section, whoever violates section 885.15 of this chapter, section 885.14(a) of this chapter, or section 885.05(a) of this chapter by failing to remit municipal income taxes deducted and withheld from an employee, shall be guilty of a misdemeanor of the first degree and shall be subject to a fine of not more than \$1,000 or imprisonment for a term of up to six months, or both. In addition, the violation is punishable by dismissal from office or discharge from employment, or both.

(b) Any person who discloses information received from the Internal Revenue Service in violation of Internal Revenue Code Sec. 7213(a), 7213A, or 7431 shall be guilty of a felony of the fifth degree and shall be subject to a fine of not more than \$5,000 plus the costs of prosecution, or imprisonment for a term not exceeding five years, or both. In addition, the violation is punishable by dismissal from office or discharge from employment, or both.

(c) Each instance of access or disclosure in violation of section 885.14(a) of this chapter constitutes a separate offense.

(d) Whoever violates any provision of this chapter for which violation no penalty is otherwise provided, is guilty of a misdemeanor of the third degree and shall be fined not more than \$500 or imprisoned not more than 60 days, or both, for each offense. A separated offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues. By way of an illustrative enumeration, violations of this chapter shall include but not be limited to the following acts, conduct, and/or omissions:

- (1) Fail, neglect or refuse to make any return or declaration required by this chapter; or
- (2) Knowingly make any incomplete return; or
- (3) Willfully fail, neglect, or refuse to pay the tax, penalties, and interest, or any combination thereof, imposed by this chapter; or
- (4) Cause to not be remitted the city income tax withheld from qualifying wages of employees to the Municipality municipal corporation as required by section 885.05(a); or
- (5) Neglect or refuse to withhold or remit municipal income tax from employees; or
- (6) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his or her books, records, papers, federal and state income tax returns, or any documentation relating to the income or net profits of a taxpayer; or

- (7) Fail to appear before the Tax Administrator and to produce his or her books, records, papers, federal and state income tax returns, or any documentation relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator; or
- (8) Refuse to disclose to the Tax Administrator any information with respect to such person's income or net profits, or in the case of a person responsible for maintaining information relating to his or her employers' income or net profits, such person's employer's income or net profits; or
- (9) Fail to comply with the provisions of this chapter or any order or subpoena of the Tax Administrator; or
- (10) To avoid imposition or collection of municipal income tax, willfully give to an employer or prospective employer false information as to his or her true name, correct social security number and residence address, or willfully fail to promptly notify an employer or a prospective employer of any change in residence address and date thereof; or
- (11) Fail, as an employer, agent of an employer, or other payer, to maintain proper records of employees residence addresses, total qualifying wages paid and municipal tax withheld, or to knowingly give the Tax Administrator false information; or
- (12) Willfully fail, neglect, or refuse to make any payment of estimated municipal income tax for any taxable year or any part of any taxable year in accordance with this chapter; or
- (13) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter.

(e) For purposes of this section, any violation that does not specify a culpable mental state or intent, shall be one of strict liability and no culpable mental state or intent shall be required for a person to be guilty of that violation.

(f) For purposes of this section, the term "person" shall, in addition to the meaning prescribed in section 885.03, include in the case of a corporation, association, pass-through entity or unincorporated business entity not having any resident owner or officer within the city, any employee or agent of such corporation, association, pass-through entity or unincorporated business entity who has control or supervision over or is charged with the responsibility of filing the municipal income tax returns and making the payments of the municipal income tax as required by this chapter.
(ORC 718.99) (Ord. 19-15. Passed 11-16-15.)

CHAPTER 890
Community Reinvestment Area

- 890.01 Purpose; establishment.
- 890.02 Boundaries.
- 890.03 Tax exemptions.
- 890.04 Housing officer.

890.05 Council findings.

890.06 Appeals.

890.07 Copy to be forwarded to ~~CROSS REFERENCES~~

Community reinvestment areas - see Ohio R.C. 3735.65 et seq.

Tax levy law - see Ohio R.C. Ch. 5705

Taxable property; exemptions - see Ohio R.C. Ch. 5709, 5713.07 to 5713.082

Assessing real estate - see Ohio R.C. Ch. 5713

Community Reinvestment Area Housing Council - see ADM. Ch. 289

890.01 PURPOSE; ESTABLISHMENT.

For the purpose of fulfilling the requirements set forth under Ohio R.C. 3735.65 through 3735.70, a Community Reinvestment Area is hereby established.
(Res. 33-98. Passed 9-21-98; Res. 56-10. Passed 12-20-10.)

890.02 BOUNDARIES.

The boundaries of the Community Reinvestment Area are the same as the boundaries of the present corporate boundaries of the City, located within Montgomery County, Ohio, all of which boundaries are more particularly described on the map marked Exhibit 2010.2 attached hereto and incorporated herein by reference. This Council hereby finds that the area included in the Community Reinvestment Area is one in which housing facilities or structures of historical significance are located and new housing construction and repair of existing facilities or structures are discouraged.

(Res. 33-98. Passed 9-21-98; Res. 56-10. Passed 12-20-10.)

890.03 TAX EXEMPTIONS.

(a) Within the Community Reinvestment Area, tax exemptions for improvements to real property as described in Ohio R.C. 3735.67 will be granted for the following periods:

- (1) Ten years for the remodeling of every dwelling, not less than twenty-five years old at the time of remodeling, containing not more than two family units upon which the cost of remodeling is at least two thousand, five hundred dollars (\$2,500) as described in Ohio R.C. 3735.67(D)(1).

- (2) Twelve years for the remodeling of every dwelling containing more than two units, not less than twenty-five years old at the time of remodeling, and commercial or industrial properties upon which the cost of remodeling is at least five thousand dollars (\$5,000) as provided for in Ohio R.C. 3735.67(D)(2).
- (3) Fifteen years for the construction of every or commercial or industrial structure as provided for in Ohio R.C. 3735.67(D)(3).

(b) The foregoing criteria shall not apply, and the criteria in effect under Resolution No. 57-80, as previously amended (the "Prior CRA Resolution"), shall apply, to any applications for tax exemptions under the Prior CRA Resolution currently pending with the housing officer.

(Res. 33-98. Passed 9-21-98; Res. 56-10. Passed 12-20-10.)

890.04 HOUSING OFFICER.

To administer and implement the provisions of this chapter, the Manager or his or her duly authorized designate is hereby designated as the Housing Officer, as described in Ohio R.C. 3735.65 through 3735.68.

(Res. 33-98. Passed 9-21-98; Res. 56-10. Passed 12-20-10.)

890.05 COUNCIL FINDINGS.

Council finds that the area included within the foregoing description as the Community Reinvestment Area is one in which housing facilities or structures of historical significance are located and new housing construction and repair of existing facilities or structures are discouraged.

(Res. 33-98. Passed 9-21-98; Res. 56-10. Passed 12-20-10.)

890.06 APPEALS.

Any person aggrieved under Ohio R.C. 3735.65 through 3735.69 shall have the right of appeal as provided for in Ohio R.C. 3735.70.

(Res. 33-98. Passed 9-21-98; Res. 56-10. Passed 12-20-10.)

890.07 COPY TO BE FORWARDED TO COUNTY AUDITOR.

A copy of this chapter will be forwarded to the County Auditor by the Clerk of Council for information and reference.

(Res. 33-98. Passed 9-21-98; Res. 56-10. Passed 12-20-10.)

CHAPTER 892
Municipal Motor Vehicle License Tax

892.01	Purpose.	892.04	Commencement of tax.
892.02	District of registration.	892.05	Payment at time of application for registration.
892.03	Additional tax.		

892.01 PURPOSE.

For the purpose of paying the costs and expenses of enforcing and administering the tax provided for in Ohio R.C. 4504.172, for the purpose of supplementing the revenue already available to municipal corporations under Ohio R.C. 4504.04, 4504.06, 4504.17 or 4504.171, and to provide additional revenue for the purposes set forth in those Ohio Revised Code sections, the City hereby levees an annual license tax in the amount of five dollars (\$5.00) per motor vehicle registered in the City.
(Ord. 12-15. Passed 6-15-15.)

892.02 DISTRICT OF REGISTRATION.

The license tax established herein is hereby levied on all motor vehicles, the district of registration of which, as defined in Ohio R.C. 4503.10, is in the City of Centerville, Montgomery County.
(Ord. 12-15. Passed 6-15-15.)

892.03 ADDITIONAL TAX.

This additional motor vehicle license tax is in addition to any other motor vehicle license tax currently being levied in the City.
(Ord. 12-15. Passed 6-15-15.)

892.04 COMMENCEMENT OF TAX.

The tax imposed by this chapter shall commence at the earliest possible time and shall continue in effect until repealed.
(Ord. 12-15. Passed 6-15-15.)

892.05 PAYMENT AT TIME OF APPLICATION FOR REGISTRATION.

The tax imposed by this chapter shall be paid to the Registrar of Motor Vehicles of the State of Ohio or to a Deputy Registrar at the time application for registration of a motor vehicle is made as provided in Ohio R.C. 4503.10.
(Ord. 12-15. Passed 6-15-15.)

