

CITY OF LONDON, OHIO
CHAPTER 880
Municipal Income Tax

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880.01 PURPOSE.

There is hereby levied a tax on income, qualifying wages, commissions and other compensation, and on net profits as hereinafter provided, to provide funds for the purposes of general Municipal operations, maintenance, new equipment, extension and enlargement of Municipal services and facilities and capital improvements of the City.

880.02 DEFINITIONS.

As used in this chapter, except as and if the context clearly indicates or requires a different meaning. The singular includes the plural and the masculine includes the feminine and the neuter.

“Adjusted federal taxable income” means A “C” corporation’s federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, but including subsequent adjustments from required additions and deductions. Pass-through entities must compute “Adjusted Federal Taxable Income” as if the pass-through entity was a “C” corporation. This definition does not apply to any taxpayer required to file a return under Ohio Revised Code (ORC) section 5745.03 or to the net profit from a sole proprietorship. This definition is effective for tax years beginning on or after January 1, 2004. (For calculation of “adjusted federal taxable income” see Ohio Revised Code (O.R.C.) 718.01(A).)

"Association" means partnership, limited partnership, Limited Liability Company, S Corporations as defined in the federal tax code, 26 U.S.C. 1361, or any other form of unincorporated enterprise.

"Board of Review" means the Board created by and constituted as provided for in this chapter.

"Business" means an enterprise, activity, profession or undertaking of any nature, conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity.

"City" means the City of London, Ohio.

"Corporation" means a corporation (not including S Corporations as defined in the federal tax code, 26 U.S.C. 1361), 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.

"Director" means the Director of Taxation of the City or the person executing the duties of the aforesaid Director of Taxation.

"Domicile" means the permanent legal residence of a taxpayer. A taxpayer may have more than one residence but not more than one domicile.

"Employee" means one who works for income, qualifying wages, commission or other type of compensation in the service and under the control of an employer.

"Employer" means an individual, partnership, association, corporation, governmental body, unit or agency or any other entity, whether or not organized for profit, who or that employs one or more persons on an income, qualifying salary, wage, commission or other compensation basis.

"Fiscal year" means an accounting period of twelve months or less ending on the last day of any month other than December.

"Generic Form" means an electronic or paper form designed for reporting estimated municipal income taxes, and/or annual municipal income tax liability, and/or separate requests for refunds that contain all the information required on London's regular tax return and estimated payment forms, and are in a similar format that will allow processing of the generic forms without altering London's procedures for processing forms.

"Gross receipts" means the total revenue derived from sales, work done, or service rendered.

“Income” means All monies and compensation in any form, subject to limitations imposed by ORC 718, derived from any source whatsoever, including but not limited to:

(a) All income, qualifying wages, commissions, and other compensation from whatever source received by residents of London.

(b) All income, qualifying wages, commissions, and other compensation from whatsoever source received by nonresidents for work done or services performed or rendered or activities conducted in London.

(c) The portion attributable to the city of the net profits of all businesses, associations, professions, corporations, or other entities, from sales made, work done, services performed or rendered, and business or other activities conducted in London.

“Landlord” means any individual or entity (whether for profit or non-profit) that are owners of real property who rent or lease to tenants of residential, commercial or industrial premises.

"Net profits" means, for taxable years prior to 2004, the net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system (i.e., same as used for the federal return) used by the taxpayer for Federal income tax purposes, without deduction of taxes imposed by this chapter, Federal, State and other taxes based on income and, in the case of an association, without deduction of salaries paid to partners or other owners, and otherwise adjusted to the requirements of this chapter. (For taxable years 2004 and later, see “adjusted federal taxable income”.)

"Nonresident" means an individual domiciled outside the City.

"Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the City.

“Pass-through entity” means a partnership, 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. Unless otherwise specified, for purposes of this ordinance the tax treatment for pass-throughs is the same as “Association”.

"Person" means every individual, partnership, fiduciary, association, corporation or other entity. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to any unincorporated entity, means the partners or members thereof, and as applied to corporations, the officers thereof.

"Place of business" means any bona-fide office, other than a mere statutory office, factory, warehouse or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his or her regular employees regularly in attendance.

"Qualifying wage" means Wages as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, but including subsequent adjustments from required additions and deductions. "Qualifying wage" represents employees' income from which municipal tax shall be deducted by the employer, and any wages not considered a part of "qualifying wage" shall not be taxed by a Municipality. This definition is effective January 1, 2004, for taxable years 2004 and later. (For calculation of "qualifying wage" see Ohio Revised Code (O.R.C.) 718.03(A)(2))

"Resident" means an individual domiciled in the City.

"Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the City.

"Taxable income" means Income minus the deductions and credits allowed by this ordinance.

"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.

"Taxing municipality" means any municipal corporation levying a municipal income tax on qualifying wages, commissions, other compensation and other income earned and/or received by individuals, and on the net profits earned from the operation of a business, profession or other activity.

"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.

880.03 IMPOSITION OF TAX.

(a) An annual tax for the purposes specified in Section 880.01 shall be imposed on and after November 1, 1968 at the rate of one percent (1%) per annum upon the following:

(1) On all income, qualifying wages, commissions and other compensation earned and/or received on and after November 1, 1968, by residents of the City, including compensation made to employees by or for an employer for vacation pay, a wage continuation plan during periods of disability and/or sickness. For further clarification "income" includes, but is not limited to:

A. Spousal support received (i.e., alimony).
B. Lottery, gambling and sports winnings, games of chance, and prizes and/or awards.

1. If the taxpayer is not considered a professional gambler for federal income tax purposes, the tax shall apply to all income of six hundred dollars (\$600.00) or more per event won by the taxpayer. An "event" shall mean a singular game or contest on which a wager is placed or entered.

2. If the taxpayer is considered a professional gambler for federal income tax purposes, related deductions as permitted by the Internal Revenue Code shall be allowed against gambling and sports winnings.

(2) On all income, qualifying wages, commissions and other compensation earned and/or received on and after November 1, 1968, by nonresidents for work done or services performed or rendered in the City, including compensation made to employees by or for an employer for vacation pay, a wage continuation plan during periods of disability and/or sickness. Separation pay, termination pay, reduction-in-force pay, and other compensation paid as a result of an employee leaving the service of an employer shall be allocable only to the City.

A. London shall not, however, tax the compensation of a non-resident individual who will be deemed to be an occasional entrant if all of the following apply:

1. The compensation is paid for personal services performed by the individual in the City on twelve or fewer days during the calendar year, in which case the individual shall be considered an occasional entrant for purposes of the City income tax. A day is a full day or any fractional part of a day.

2. In the case of an individual who is an employee, the principal place of business of the individual's employer is located outside the City and the individual pays tax on compensation described in Section 890.03(b) to the municipality, if any, in which the employer's principal place of business is located, and no portion of that tax is refunded to the individual.

3. The individual is not 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.

B. Beginning with the thirteenth day an individual deemed to have been an occasional entrant to the City performs services within the City, the employer of said individual shall begin withholding the City income tax from remuneration paid by the employer to the individual, and shall remit the withheld income tax to the City in accordance with the requirements of this ordinance. Since the individual can no longer be considered to have been an occasional entrant, the employer is further required to remit taxes on income earned in the City by the individual for the first twelve days.

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

(3) A. On the portion attributable to the City of the net profits earned on and after November 1, 1968, of all resident unincorporated businesses, professions, associations, or other entities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the City.

B. On the portion of the distributive share of the net profits earned and/or received on and after November 1, 1968, of a resident partner or owner of a resident unincorporated business entity not attributable to the City and not levied against such unincorporated business entity.

(4) A. On the portion attributable to the City of the net profits earned on and after November 1, 1968, of all nonresident unincorporated businesses, professions, associations, 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 unincorporated business entity has an office or place of business in the City.

B. On the portion of the distributive share of the net profits earned and/or received on and after November 1, 1968, of a resident partner or owner of a nonresident unincorporated business entity not attributable to the City and not levied against such unincorporated business entity.

(5) On the portion attributable to the City, of the net profits earned on and after November 1, 1968, 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 an office or place of business in the City.

(6) Effective for tax years 2004 and later, the distributive share of income paid to an S corporation shareholder shall be taxable only to the extent of the portion, if any, that represents wages, or net earnings from self-employment.

(b) The portion of the net profits attributable to the City of a taxpayer conducting a business, profession or other activity both within and without the boundaries of the City shall be determined as provided in Ohio R.C. 718.02 and in accordance with the rules and regulations adopted by the Director of Taxation pursuant to this chapter.

(c) (1) Commencing with taxable years beginning subsequent to December 31, 1992, the portion of a net operating loss sustained in any taxable year allocable to the City may not be offset against salaries, wages, commissions and other compensation but may be applied against the portion of the profit of succeeding years allocable to the City until exhausted, but in no event for more than five taxable years. Commencing with taxable years beginning January 1, 2008, the portion of a net operating loss sustained in any taxable year allocable to the City may not be offset against salaries, wages, commissions and other compensation but may be applied against the portion of the profit for years 2008, 2009 and 2010 allocable to the City until exhausted. Effective January 1, 2010, no net operating loss may be applied toward any profit. No portion of a net operating loss shall be carried back against net profits of any prior year.

(2) 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.

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

(d) (1) Consolidated Returns. Any affiliated group which files a consolidated return for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code may file a consolidated return with the City.

(2) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within the City constituting a portion only of its total business, the Director shall require such additional information as he or she deems necessary to ascertain whether net profits are properly allocated to the City. If the Director finds 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.

(e) (1) Rentals received by the taxpayer are to be included only if and to the extent that the rental, ownership, management or operation of the real estate from which such rentals are derived, whether so rented, managed or operated by the taxpayer individually or through agents or other representatives, constitutes a business activity of the taxpayer in whole or in part.

(2) Where the gross monthly rental of any real properties, regardless of number and value, aggregate in excess of one hundred dollars (\$100.00) per month, it shall be prima-facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental properties shall be subject to tax; provided, that in case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds one hundred dollars (\$100.00) per month; provided, further, that in the case of farm property, the owner shall be considered engaged in a business activity when he or she shares in the crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds one hundred dollars (\$100.00) per month; and provided, further, that the person who operates a rooming house of five or more rooms rented shall be considered in business whether or not the gross income exceeds one hundred dollars (\$100.00) per month.

(3) In determining the amount of gross monthly rental of any real property, periods during which, by reason of vacancy or any other cause, rentals are not received shall not be taken into consideration by the taxpayer.

(4) Rentals received by a taxpayer engaged in the business of buying and selling real estate shall be considered as part of business income.

(5) Real property, as used in this section, includes commercial property, residential property, farm property and any and all other types of real estate.

(6) In determining the taxable income from rentals, the deductible expenses shall be of the same nature, extent and amount as are allowed by the Internal Revenue Service for Federal income tax purposes.

(7) Residents of the City are subject to taxation upon the net income from rentals, to the extent above specified in paragraphs (e)(1) through (6) hereof, regardless of the location of the real property owned.

(8) Nonresidents of the City are subject to such taxation only if the real property is situated within the City. Nonresidents, in determining whether gross monthly rentals exceed one hundred dollars (\$100.00), shall take into consideration only real estate situated within the City.

(9) Corporations owning or managing real estate are taxable only on that portion of income derived from property located in the City.

(10) Where the gross monthly rental of any and all real properties, regardless of number and value, aggregates in one hundred dollars (\$100.00) per month or less and therefore may not be considered a business activity, the income shall be taxed as ordinary income.

(f) Exemptions. The tax provided for herein shall not be levied upon:

(1) The military pay or allowances of members of the armed forces of the United States, and of members of their reserve components, including the National Guard.

(2) The net profits of any civic, charitable, religious, fraternal or other organization specified in Ohio R.C. 718.01 to the extent that such net profits are exempted from municipal income taxes under such section.

(3) Poor relief, unemployment benefits, payments from retirement pensions, including permanent disability benefits, received from local, State or Federal governments or charitable, religious or educational organizations.

(4) Proceeds or insurance paid by reason of the death of the insured, pensions, permanent disability benefits, annuities or gratuities not in the nature of compensation for service rendered from whatever source derived.

(5) 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 has tax exempt activities. This exemption does not include unrelated income that is subject to federal tax.

(6) Receipts by bona fide charitable, religious and educational organizations and associations, when those receipts are from seasonal or casual entertainment, amusement, sports events and health and welfare activities when any such are conducted by bona fide charitable, religious or educational organizations and associations and only to the extent that the said income is exempt from Federal income tax.

(7) Compensation for personal injuries or for damages to property by way of insurance or otherwise, but this exclusion does not apply to compensation paid for lost salaries or wages or to compensation from punitive damages.

(8) Income of all individuals under 18 years of age, whether residents or nonresidents.

(9) Gains from involuntary conversion, cancellation of indebtedness, items of income already taxed by the State of Ohio from which the Municipality is specifically prohibited from taxing and interest on Federal obligations and income of a decedent's estate during the period of administration.

(10) Compensation paid to a precinct election official, to the extent that such compensation does not exceed \$1,000 annually.

(11) Parsonage allowance, to the extent of the rental allowance or rental value of a house provided as a part of an ordained clergy's compensation. The clergy must be duly ordained, commissioned, or licensed by a religious body constituting a religious denomination, and must have authority to perform all sacraments of the religious body.

(12) Interest, dividends and other revenue from intangible property.

(13) Unreimbursed employee business expenses deductible on federal form 2106. The amount deducted for the City shall initially be the same as the federal deduction, but shall be subject to adjustment after review and audit by the City. The expenses must be allocated proportionate to the related income.

(14) Income, salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the states or their political subdivisions to impose net income taxes on income derived from interstate commerce, and/or is

prohibited by the Constitution of the State of Ohio or any act of the Ohio General Assembly limiting the power of a municipality to impose net income taxes.

880.04 EFFECTIVE DATE.

The municipal income tax imposed under this chapter shall be levied, collected and paid with respect to the income, salaries, wages, commissions and other compensation earned on and after November 1, 1968, and with respect to the net profits of businesses, professions or other activities earned on and after November 1, 1968.

880.05 RETURN AND PAYMENT OF TAX.

(a) Each taxpayer, including each resident individual eighteen years of age or older, or person who engages in business, or whose income, salaries, wages, commissions and other compensation are subject to the tax imposed by this chapter shall, whether or not a tax is due thereon, make and file a return. The return shall be filed on or before April 15 of each year following the effective date of this chapter and, beginning with tax year 2008, on or before the federal filing date if it is other than April 15th. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within three and one-half months from the end of such fiscal year or period and, beginning with tax year 2008, on or before the federal filing date if it is other than the 15th day of the fourth month from the end of such fiscal year or period.

(b) The return shall be filed with the Director on a form or forms furnished by or obtainable upon request from such Director, or on an acceptable generic form as defined in this Chapter, setting forth:

(1) The aggregate amounts of income, qualifying wages, commissions and other compensation earned and/or received by him, and/or gross income from a business, profession or other activity, less allowable expenses incurred in the acquisition of such gross income, which income includes only income earned during the year, or portion thereof, covered by the return and subject to the tax imposed by this chapter;

(2) The amount of the tax imposed by this chapter on income reported and any credits to which the taxpayer may be entitled under the provisions of this chapter; and

(3) Such other pertinent statements, information returns or other information as the Director may require, including but not limited to copies of all W-2 forms, 1099 Miscellaneous Income Forms, page one of form 1040, page one and two of Form 1120, 1120S (including (K-1), 2106, 1065, Schedule C (including cost of goods manufactured and/or sold), Schedule E, schedule F and any other Federal Schedules, if applicable.

(c) The Director may extend the time for filing of the annual return upon the request of the taxpayer.

(1) In the case of individuals the extended due date shall be the last day of the month following the month to which the due date of the federal income tax return has been extended.

(2) In the case of businesses, the extended due date shall be the last day of the month to which the due date of the federal income tax return has been extended, if the annual return is filed through the Ohio Business Gateway. If not filed through the Ohio Business gateway the extended due date remains the last day of the month following the month to which the due date of the federal income tax return has been extended.

(3) The Director may deny the extension if the taxpayer fails to file the request timely, fails to file a copy of the federal extension request, or if the taxpayer's income tax account with the City is delinquent in any way.

(4) The Director may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due. No penalty shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended, but interest shall be assessed from the original due date of the return.

(d) (1) The taxpayer making a return shall, at the time of filing thereof, pay to the Director the balance of tax due, if any, after deducting the amount of City income tax deducted or withheld at source, pursuant to this chapter, together with such portion of the tax as has been paid on declaration by the taxpayer and any credit allowable under the provisions of this chapter.

(2) Should the return or the records of the Director indicate an overpayment of the tax to which the City is entitled under the provisions of this chapter, such overpayment shall first be applied against any existing liability, and the balance, if any, at the election of the taxpayer communicated to the Director, shall be refunded or transferred against any subsequent liability. However, overpayments of less than one dollar (\$1.00) shall not be refunded.

(e) (1) 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 this chapter. Such amended returns shall be on a form obtainable on request from the Director. A taxpayer may not change the method of accounting (i.e., same as used for the federal return) or apportionment of net profits after the due date for filing the original return.

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

(f) Each taxpayer may offset business losses against business net profits from any business conducted in the City or in any municipality that does not levy an income tax on net profits therefrom.

(g) Business losses may not be used as an offset against non-business income.

(H) Any business, profession, association, corporation, or other entity reporting a net loss is subject to the filing requirements of this ordinance.

(I) The officer or employee of such employer having control or supervision or charged with the responsibility of filing the return and making the payment shall be personally liable for failure to file the return or pay the tax, penalties, or interest due as required herein. The dissolution, bankruptcy or reorganization of any such employer

does not discharge an officer's or employee's liability for a prior failure of such business to file the return or pay taxes, penalties, or interest due.

(J) The failure of any taxpayer to receive or procure a return, declaration or other required form shall not excuse the taxpayer from filing such forms or from paying the tax due.

880.06 COLLECTION AT SOURCE.

(a) Each employer within or doing business within the City and who employs one or more persons on an income, qualifying wage, commission or other compensation basis shall deduct, at the time of the payment of income, qualifying wage, commission or other compensation, the tax of one percent (1%) of the income, qualifying wages, commissions or other compensation due by such employer to the employee and shall, on or before the last day of the month following the close of each calendar quarter, make a return and pay to the Director the amount of taxes so deducted. The returns shall be on a form or forms prescribed by or acceptable to the Director and shall be subject to the rules and regulations prescribed therefore by the Director. Each employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in fact been withheld.

(b) Such employer in collecting such 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.

(c) No person shall be required to withhold the tax on the wages or other compensation paid domestic servants employed exclusively in or about such person's residence, but such servants shall be subject to the provisions of this chapter.

(d) On or before February 28th of each year, each employer shall file a withholding return setting forth the name, address, and social security number of all employees from whose compensation the tax was withheld during the preceding calendar year and the amount of tax withheld from his employees and such other information as may be required by the Director.

(e) On or before February 28 of each year all individuals, businesses, employers, brokers or others who engage persons, either on a fee or commission basis or as independent contractors and not employees (i.e., those who are not subject to withholding) must provide the City Income Tax Department with copies of all 1099 Miscellaneous Income Forms and/or a list of names, addresses, Social Security numbers and a total amount of earnings, payments, bonuses, commissions and/or fees paid to each person for any services provided in the city.

(f) All employers that provide any contractual service within the City, and who employ subcontractors in conjunction with that service shall, prior to commencement of the service, provide the City the names, addresses and federal identification numbers of the subcontractors. The subcontractors shall be responsible for all income tax employer requirements under this chapter.

(g) The officer or the employee having control or supervision of or charged with the responsibility of withholding the tax, and/or of filing the report and making payment, is personally liable for failure to file the report or pay the tax due as required by this section. The dissolution of a corporation or limited partnership does not

discharge an officer's or employee's liability for a prior failure of the corporation or limited partnership to file returns or pay the tax due.

880.07 MANDATORY REGISTRATION WITH DIRECTOR; RENTAL REPORTING.

(a) Each new resident of the City shall register with the Director of Taxation within thirty days of residence in the City.

(b) On October 1, 2009, and every year thereafter, all landlords who rent property within the City shall submit a current list of their tenants, with addresses, to the Director. A penalty of \$75 per year will be assessed for late submission of the tenant list. The Director will notify the landlords in writing of the filing requirement at least thirty (30) days prior to the due date for the annual tenant list.

880.08 DECLARATIONS.

(a) Every person who anticipates any taxable income which is not subject to Section 880.06 in whole or in part, or who engages in any business, profession, enterprise or activity subject to the tax imposed by this chapter, shall file a declaration setting forth such estimated income and/or the estimated profit or loss from such business activity, together with the estimated tax due thereon, if any. However, if a person's income is income from which the tax will be fully withheld and remitted to the City in accordance with Section 880.06, or the amount of the estimated tax not withheld or not fully withheld is less than one hundred dollars (\$100), such person need not file a declaration.

(b) Such declaration shall be filed on or before April 15 of each year during the life of this chapter and, beginning with tax year 2008, on or before the federal filing date if it is other than April 15th. Those taxpayers reporting on a fiscal year basis shall file a declaration within three and one-half months after the beginning of each fiscal year or period and, beginning with tax year 2008, on or before the federal filing date if it is other than the 15th day of the fourth month from the end of such fiscal year or period.

(c) Such declaration shall be filed upon a form or forms furnished by or obtainable upon request from the Director, or on an acceptable generic form as defined in this Chapter, which form or forms may require a statement that the figures used in making such declaration are the figures used in making the declaration of the estimate for the Federal income tax adjusted to set forth only such income as is taxable under the provisions of this chapter. Credit shall be taken for City income tax to be withheld, if any, from any portion of such income.

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

(e) Such declaration of estimated tax to be paid the City shall be accompanied by a payment of at least one-fourth of the estimated tax due from income from which the tax is non-withheld and/or under-withheld. However, in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

(f) If the taxpayer is an individual, at least a similar amount shall be paid on or before the last day of the seventh (7th), tenth (10th), and thirteenth (13th) months

after the beginning of the taxpayer's taxable year, provided that in case an amended declaration has been filed, or the taxpayer is taxable for a portion of the year only, the unpaid balance shall be paid in equal installments on or before the remaining payment dates.

(g) If the taxpayer is a corporation or association, at least a similar amount shall be paid on or before the fifteenth day of the sixth, ninth, and twelfth months of the taxable year; provided, however, that in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

(h) no penalties or interest shall be assessed, for not filing a declaration, on any resident taxpayer who was not domiciled in the City on the first day of January in the year in which they became subject to estimated payments, nor shall penalties or interest be assessed on estimated payments if the taxpayer has remitted an amount equal to one hundred percent of the previous year's tax liability, provided that the previous year reflected a twelve-month period and the taxpayer filed a return for that year, nor shall penalties or interest be assessed on estimated payments if the taxpayer has remitted an amount equal to ninety percent of the final tax liability for the tax year due on or before the federal annual return filing date of the current year.

(i) On or before the federal annual return filing date of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the City shall be paid therewith in accordance with the provisions of this chapter.

880.09 DUTIES OF THE DIRECTOR OF TAXATION.

(a) (1) It shall be the duty of the Director of Taxation to collect and receive the tax imposed by this chapter, in the manner prescribed by this chapter, from the taxpayers. It shall also be his or her duty to keep an accurate record for a minimum of six (6) years showing the amount received by him or her from each taxpayer required to file a declaration and/or make a return and the date of such receipt. Records need not be kept longer than six (6) years unless an account is not paid in full, or unless an investigation is pending on an account.

(2) The Director shall make a written report to the City Administration, City Auditor, and City Council each quarter of all moneys collected hereunder during the preceding quarter, shall report on the status of delinquencies, and shall provide other requested information, if any, that is not confidential.

(b) The Director is hereby charged with the enforcement of the provisions of this chapter, and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this chapter, including provisions for the re-examination and correction of returns and payments. Taxpayers are required to comply with the requirements of this ordinance and any rules and regulations.

(c) The Director is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proved to the Director that, due to certain hardship conditions, he or she is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper

returns are filed by the taxpayer for all amounts owed by him or her under this chapter. Failure to make any deferred payment when due shall cause the total unpaid amount, including penalty and interest, to become payable on demand.

(d) In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Director shall fix the amount of tax actually due the City from the taxpayer and shall send to such taxpayer by certified mail a written statement (i.e., assessment) showing the amount of tax so fixed, together with interest and penalties thereon, if any. Such determination of the Director may be modified or amended based upon information or data subsequently secured by or made available to the Director. If the taxpayer fails to respond to the assessment notice within thirty (30) days, the tax, penalties, and interest assessed shall become due and payable and collectible as are other unpaid taxes, penalty, and interest.

(e) The Director shall have the power to compromise any interest or penalty, or both. In those cases where interest and/or penalty have been abated in whole or in part, a report of those actions shall be presented by the Director to the Board of review at the subsequent meeting of the parties.

(f) The Director of Taxation shall deposit, with the properly designated depository, payments received within one (1) business day of receipt of said payments if the total of the payments exceeds one thousand dollars (\$1,000); if the total does not exceed one thousand dollars (\$1,000) the payments shall be deposited within three (3) business days of receipt of said payments. All unopened correspondence containing said payments shall be kept in a locked compartment until opened.

880.10 INVESTIGATIVE POWERS OF DIRECTOR; DIVULGING CONFIDENTIAL INFORMATION.

(a) The Director of Taxation, or any authorized employee, is hereby authorized to examine the books, papers, records and Federal and State income tax returns of any employer or of any taxpayer or person subject to the tax 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 (10) calendar days following a written request by the Director or his or her duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

(b) The Director or any authorized employee is hereby authorized to order or subpoena any person to appear at the office of the Director and to examine any person, under oath, concerning any income which was or should have been returned for taxation or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and Federal and State 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 Federal and State tax returns, or the refusal of 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 Director authorized hereby, shall be deemed a violation of this chapter, punishable as provided in Section 880.99.

(d) Information gained as the result of any returns, investigations, hearings or verifications required or authorized by this chapter shall not be deemed to be a public record, as defined in Ohio R.C. 149.43. Such information shall be confidential except for official tax purposes or except in accordance with proper judicial order. Any person divulging such information in violation of this chapter shall be subject to the penalty provided in Section 880.99. Each disclosure shall constitute a separate offense. In addition to the penalties, any employee of the City who violates this section relative to disclosure of confidential information shall be immediately dismissed from the service of the City, or if such employee is in the classified civil service, proper removal charges shall immediately be brought against such employee and other steps shall be taken in conformity to the rules and regulations of the civil service laws applicable thereto.

880.11 INTEREST AND PENALTIES.

(a) All taxes imposed, including estimated taxes, 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 rate of one and one-half percent (1.5%) per month or fraction of a month thereof.

(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 tax due, other than tax withheld, one and one-half percent (1.5%) per month or fraction of a month thereof.

(2) For failure to remit taxes withheld from employee, one and one-half percent (1.5%) per month or fraction of a month thereof.

(3) In addition to the above:

A. a taxpayer who fails to file a return shall be subject to a failure-to-file penalty of fifty dollars (\$50.00).

B. a taxpayer who files a late return shall be subject to a ten percent (10%) penalty of the tax amount due the City.

(c) A fine of fifty dollars (\$50) shall be imposed for not supplying copies of federal form 1099 as required by this chapter.

(d) A penalty shall not be assessed on an additional tax assessment made by the Director of Taxation when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Director. 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.

(e) Upon recommendation of the Director, the Board of Review may abate penalty or interest, or both, or, upon an appeal from the refusal of the Director to recommend abatement of penalty and interest, the Board may nevertheless abate penalty or interest, or both.

880.12 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 a substantial portion of income subject to this tax or failure to file a return, an additional assessment shall not be made after three years after the tax was due or the return was filed, whichever is later. However, In the case of fraud, omission of 25% or more of income subject to this tax, or failure to file a return, all additional assessments shall be made and all prosecutions to recover Municipal income taxes and penalties and interest thereon shall be brought within six (6) years after the tax was due or the return was filed, whichever is later. In those cases in which the Federal Commissioner of Internal Revenue and the taxpayer have executed waiver of the Federal statute of limitation, the period within which an additional assessment may be made by the Director of Taxation shall be one year from the time of the final determination of the Federal tax liability.

(b) Claims for refund of City income taxes shall be brought within three years after the tax was due or the return was filed, whichever is later. In addition, the following shall apply regarding refunds of tax withheld from non-qualified deferred compensation plans (NDCP):

(1) A taxpayer may be eligible for a refund if the taxpayer has suffered a loss from a NDCP. The loss will be considered sustained only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to the NDCP. Full loss is sustained if no distribution of money and property will be made by the NDCP.

(2) A taxpayer who receives income as a result of payments from a NDCP, and that income is less than the amount of income deferred to the NDCP and upon which municipal tax was withheld, then a refund will be issued on the amount representing the difference between the deferred income that was taxed and the income received from the NDCP. If different tax rates applied to the tax years in which deferrals, a weighted average of the different tax rates will be used to compute the refund amount.

(3) Refunds shall be allowed only if the loss is attributable to the bankruptcy of the employer who had established the NDCP, or the employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the non-qualified compensation.

(c) Income tax that has been deposited with the City of London, but should have been deposited with another municipality, is allowable by the City of London as a refund but is subject to the three-year limitation on refunds. Income tax that should have been deposited with the City of London, but was deposited with another municipality, shall be subject to recovery by the City of London. The City of London will allow a non-refundable credit for any amount owed the City of London that is in excess of the amount to be refunded by the other municipality, as long as the tax rate of the other municipality is the same or higher than the City of London's tax rate. If the City of London's tax rate is higher, the tax representing the net difference of the rates is also subject to collection by the City of London.

(d) Payments on delinquent amounts shall be applied in the following manner:

(1) To the taxes owed for any previous year in the order in which such taxes became due.

(2) To unpaid penalty and interest assessments in the order in which such assessments became due.

(3) To the taxpayer's current estimated tax liability.

880.13 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) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter;

(4) Fail, neglect or refuse to withhold the tax from his or her employees or fail, neglect or refuse to remit such withholding to the Director of Taxation;

(5) Refuse to permit the Director or any duly authorized agent or employee to examine his or her books, records, papers and Federal and State income tax returns relating to the income or net profits of a taxpayer;

(6) Fail to appear before the Director and produce his or her books, records, papers or Federal and State income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Director;

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

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

(9) 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 who violates any of the provisions above shall be guilty of a misdemeanor of the third degree and shall be subject to the penalties contained in Section 880.99.

(c) Prosecution for an offense made punishable under this section or any other provision of this chapter shall be commenced within three (3) years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five percent (25%) or more of taxable income, prosecution may be commenced within six (6) years after the commission of the offense.

(d) The failure of any employer or 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 form or from paying the tax.

880.14 INCOME TAX BOARD OF REVIEW.

(a) (1) There is hereby established, in and for the City, an Income Tax Board of Review, consisting of a Chairperson and two other individuals each to be appointed by the Mayor with the approval of Council. After the original appointments all appointments shall be for a term of six years, except in the case of a vacancy, in which event the appointment shall be for the unexpired term.

(2) A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions.

(3) Any hearing by the Board shall be conducted privately and the provisions of this chapter with reference to the confidential character of information required to be disclosed shall apply to such matters as may be heard before the Board on appeal.

(4) A majority of the members of the Board shall constitute a quorum. The Board shall elect a Chair. The Board shall adopt its own procedural rules and shall keep a record of its transactions. The Board shall follow Robert's Rules of Order, except as its own adopted procedures differ.

(b) All rules and regulations and amendments or changes thereto, which are adopted by the Director under the authority conferred by this chapter, must be approved by the Board before the same become effective.

(c) Any person dissatisfied with any ruling or decision of the Director which is made under the authority conferred by this chapter, and who has filed the required returns or other documents pertaining to the contested issue, may appeal therefrom to the Board within thirty days from the announcement of such ruling or decision by the Director. The appeal shall be in writing and shall state why the decision should be deemed incorrect or unlawful. The Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision or any part thereof. The Board must schedule a hearing within forty-five (45) calendar days of receiving the appeal. The Board must issue a written decision within ninety (90) days after the final hearing and send a notice of its decision by ordinary mail to the taxpayer within 15 days after issuing the decision.

(d) Any person dissatisfied with any ruling or decision of the Board of Review may appeal therefrom to a court of competent jurisdiction within thirty days from the announcement of such ruling or decision. For matters relating to tax years beginning on or after January 1, 2004, any ruling or decision of the Board of Appeal may be appealed to a court of competent jurisdiction or to the State Board of Tax Appeals.

880.15 ALLOCATION OF FUNDS.

The funds collected under the provisions of this chapter shall be applied in accordance with the provisions contained in the annual "Appropriations Ordinance".

880.16 NO CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES.

Effective January 1, 1984, a taxpayer shall be required to pay the City income tax imposed by this chapter notwithstanding the fact that the taxpayer is subject to tax in more than one municipality on the same income.

880.17 SAVING CLAUSE.

If any sentence, clause, section or part of this chapter, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such

clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of City Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

880.18 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

(a) This chapter shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied in the aforesaid period 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 in the aforesaid period are fully paid and 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 880.12 and 880.13 hereof.

(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 880.05 and 880.06 as though the same were continuing.

880.99 PENALTY.

Whoever violates any of the provisions of this chapter is guilty of a misdemeanor of the third degree and shall be fined not less than fifty dollars (\$50) or 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.