

## SUBSTITUTE ORDINANCE NO. 91-90

BY: John T. Loehnert

An Ordinance to amend Sections 880.02, 880.05, 880.08 and 880.14, and to enact Section 880.20 of the Codified Ordinances of the City of Bexley, to impose a mandatory earned income tax filing requirement on all residents of the City eighteen years of age or older, to subject all unincorporated businesses and other entities to the tax, to disallow the offset of net losses from unincorporated business activities against salaries, wages, commissions or other compensation, to require owners of rental real estate within the City to register with the City, and to declare an emergency.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BEXLEY, OHIO:

Section 1. That Sections 880.02, 880.05, 880.08 and 880.14 be amended and Section 880.20 of the Codified Ordinances of the City of Bexley be enacted to read as follows:

880.02 IMPOSITION OF TAX.

To provide for the purposes of general Municipal operations, maintenance, new equipment and capital improvements of the City, there is hereby levied a tax at the rate of two percent per year commencing January 1, 1988, upon the following:

- (a) On all salaries, wages, commissions and other compensation earned by residents of the City;
- (b) On all salaries, wages, commissions and other compensation earned by non-residents of the City for work done or services performed or rendered in the City;
- (c) Net profits:
  - (1) On the net profits earned of all unincorporated businesses, professions or other activities conducted by residents of the City; and
  - (2) On the net profits earned of all unincorporated businesses, professions or other activities conducted in the City by nonresidents.
  - (3) For the purposes of paragraphs (c)(1) and (2) hereof, ~~an association shall not be taxable as an entity, but any member thereof who is a resident of the City shall be taxed individually on his entire share, whether distributed or not, of the annual net profits of the association, and any nonresident member thereof shall be taxed individually only on that portion of his share, whether distributed or not, of the annual net profits of the association as is derived from work done, services performed or rendered and business or other activities conducted in the City~~ BE TAXED AS AN ENTITY, ON THE NET PROFITS OF THE ASSOCIATION DERIVED FROM WORK DONE OR SERVICES PERFORMED OR RENDERED AND BUSINESS OR OTHER ACTIVITIES CONDUCTED IN THE CITY, WHETHER OR NOT SUCH ASSOCIATION HAS ITS PRINCIPAL OR ANY PLACE OF BUSINESS LOCATED IN THE CITY.
  - (4) FOR THE PURPOSES OF PARAGRAPH (C)(1) ABOVE, A RESIDENT OF THE CITY WHO IS A MEMBER OF AN ASSOCIATION IS TAXED INDIVIDUALLY ON THAT RESIDENT'S ENTIRE SHARE, WHETHER DISTRIBUTED OR NOT, OF THE ANNUAL NET PROFITS OF THE ASSOCIATION WHICH ARE NOT SUBJECT TO ENTITY FILING UNDER PARAGRAPH (C)(3) ABOVE.
- (d) On the net profits of all corporations, estates and trusts derived from work done or services performed or rendered and business or other activities conducted in the City, whether or not such corporations, estates and trusts have their principal or any place of business located in the City.

880.05 RETURN AND PAYMENT OF TAX.

- (A) EACH PERSON RESIDING IN THE CITY AND EIGHTEEN YEARS OF AGE OR OLDER SHALL BE REQUIRED TO FILE WITH THE CITY AUDITOR A CITY INCOME TAX RETURN ON OR BEFORE APRIL 15 OF EACH YEAR, WHETHER OR NOT SUCH PERSON HAS TAXABLE INCOME.
- ~~(a)~~(B) Each taxpayer who engages in business, or whose 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 on or before April 15 of each year with the City Auditor on a form furnished by or obtainable from the City Auditor, setting forth the aggregate amount of salaries, wages, commissions and other compensation earned and/or net profits earned and/or gross income from such business less allowable expenses in the acquisition of such gross income earned during the preceding year and subject to the tax, together with such other pertinent information as the City Auditor may require. However, when the return is made for a fiscal year or other period different from the calendar year, the return shall be made on or before the fifteenth day of the fourth month after the close of such fiscal year or other period.
- ~~(b)~~(C) ~~Each taxpayer whose salaries, wages, commissions and other compensation are subject to the tax imposed by this chapter may offset losses from any business or professional activity when conducted in this City or in any municipality that does not levy an income tax on net profits therefrom. THE NET LOSS FROM AN UNINCORPORATED BUSINESS ACTIVITY CONDUCTED IN THE CITY OR ELSEWHERE MAY NOT BE USED TO OFFSET SALARIES, WAGES, COMMISSIONS OR OTHER COMPENSATION. HOWEVER, IF A TAXPAYER IS ENGAGED IN TWO OR MORE TAXABLE BUSINESS ACTIVITIES TO BE INCLUDED IN THE SAME RETURN, THE NET LOSS OF ONE UNINCORPORATED BUSINESS ACTIVITY CONDUCTED IN THE CITY (EXCEPT ANY PORTION OF A LOSS SEPARATELY REPORTABLE FOR MUNICIPAL TAX PURPOSES TO ANOTHER TAXING ENTITY) MAY BE USED TO OFFSET THE PROFITS OF ANOTHER UNINCORPORATED BUSINESS ACTIVITY CONDUCTED IN THE CITY FOR PURPOSES OF ARRIVING AT OVERALL NET PROFITS. A husband and wife, in any taxable year, may elect to file separate or joint returns. If joint returns are filed, a husband or wife may offset losses from any business or professional activity when conducted in this City or in any municipality that does not levy an income tax on net profits therefrom.~~
- ~~(c)~~(D) If a net operating loss has been sustained in any taxable year, such losses may not be carried forward or backward to any other taxable year.
- ~~(d)~~(E) Affiliated corporations may not deduct a loss from any other corporation having a taxable profit, and operations of any affiliated corporation having a loss may not be taken into consideration in computing net profits or business allocation percentage formula.
- ~~(e)~~(F) The taxpayer making a return shall, at the time of the filing thereof, pay to the City Auditor the amount of taxes shown as due thereon. However, where any portion of the tax so due has been deducted at the source pursuant to the provisions of Section 880.07, or where any portion of such tax has been paid by the taxpayer pursuant to the provisions of Section 880.08, or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with Section 880.14 shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing such return.
- ~~(f)~~(G) A taxpayer who has overpaid his income tax in any taxable year may request a refund, provided there is no other tax liability and provided, further, that no

amount of less than one dollar (\$1.00) will be refunded or collected.

- (g) (H) The City Auditor shall have the authority to extend the time for filing the annual return upon the request of the taxpayer for a period 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 City Auditor 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.
- (I) WHEN THE LAST DAY FOR FILING A RETURN FALLS UPON A SATURDAY, SUNDAY OR FEDERAL HOLIDAY, THE TAXPAYER SHALL BE PERMITTED TO FILE ON OR BEFORE THE FIRST BUSINESS DAY FOLLOWING SAID SATURDAY, SUNDAY OR FEDERAL HOLIDAY WITHOUT PENALTY.

#### 880.08 DECLARATIONS.

Every person who anticipates any taxable income which is not subject to Section 880.07, or who engages in any business, profession, enterprise or activity subject to the ANY tax imposed by Section 880.02(c)(1) and Section 880.02(e)(2) shall file a declaration setting forth such estimated income 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 wholly from wages, salaries, commissions or other compensation from which the tax will be withheld and remitted to the City in accordance with Section 880.07, such person need not file a declaration.

Such declarations shall be filed on or before April 15 of each year during the life of this chapter, or on or before the fifteenth day of the fourth month the taxpayer becomes subject to tax for the first time.

Those 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.

Such declaration shall be filed upon a form furnished by or obtainable from the City Auditor, provided that credit shall be taken for the City tax to be withheld from any portion of such income. In accordance with the provisions of Sections 880.07 and 880.14, 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 increased or decreased on or before any subsequent quarterly payment day as provided for herein.

Such declarations of estimated tax to be paid the City shall be accompanied by a payment of at least one-fourth of the estimated annual tax, and at least a similar amount shall be paid on or before the fifteenth day of the sixth, ninth and twelfth months after the beginning of the taxable year. 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.

On or before the fifteenth day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the City shall be paid therewith in accordance with the provisions of Section 880.05.

A declaration of estimated tax which is less than eighty percent of the tax shown on the final return shall not be considered filed in good faith. The difference shall be subject to penalties and interest as provided for in Section 880.17.

#### 880.14 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

Every individual taxpayer who resides in the City but who received net profits, salaries, wages, commissions or other compensation for work done or services performed or rendered outside of the City, if it is made to appear that he OR ANY

PERSON ACTING ON HIS BEHALF (SUCH AS A PARTNERSHIP ACTING ON BEHALF OF ITS PARTNERS), has paid a municipal income tax or excise tax based on income on such net profits, salaries, wages, commissions or compensation in another municipality, shall be allowed a credit for the amount so paid by him or ~~in~~ ON his behalf, in such other municipality, this credit to be applied only to the extent of the tax assessed by this chapter, by reason of such net profits, salaries, wages, commissions or compensation earned in such other municipality where such tax is paid.

880.20 REGISTRATION.

EACH OWNER, OR THE DULY DESIGNATED AGENT THEREOF, OF ONE (1) OR MORE UNITS OF REAL PROPERTY LOCATED WITHIN THE CITY AND WHICH ARE RENTED OR AVAILABLE FOR RENT AS OF JANUARY 1, 1991, SHALL SUBMIT TO THE CITY AUDITOR, OR THE DESIGNEE THEREOF, ON OR BEFORE SEPTEMBER 30 OF EACH YEAR A LIST OF TENANTS PRESENTLY OCCUPYING THOSE RENTAL UNITS AND THOSE UNITS VACANT. FOR THE PURPOSES OF THIS SECTION, "RENTED UNITS" INCLUDES ANY UNIT OF REAL PROPERTY WHICH IS SUBJECT TO A RENTAL AGREEMENT, WHETHER ORAL OR WRITTEN, FOR RESIDENTIAL, COMMERCIAL OR INDUSTRIAL PURPOSES.

Section 2. That existing Sections 880.02, 880.05, 880.08, and 880.14 of the Codified Ordinances of the City of Bexley are hereby repealed.

Section 3. That this Ordinance is an emergency ordinance necessary for the immediate preservation of the public peace, health and safety, said emergency being the impending commencement of a new tax year and the desirability of having these changes in effect for a full tax year, therefore this Ordinance shall go into effect on January 1, 1991.

Passed: Dec. 19, 1990.

  
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President of Council

Attest:   
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Clerk of Council

Approved: Dec. 19, 1990.

  
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David H. Madison, Mayor

*Dec. 11, 1990 - 1<sup>st</sup> reading*  
*Dec. 18, 1990 - 2<sup>nd</sup> reading*  
*Dec. 19, 1990 - 3<sup>rd</sup> reading*  
*Substitute is adopted*