

ORDINANCE NO. 101 -02

By: Mr. Rohyans

An Ordinance to enact and amend various provisions of Chapter 880. of Title Four of the Bexley Municipal Code regarding the taxation of the net profits of pass-through entities to the owners and to declare an emergency.

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

Section 1. That Section 880.01 is hereby amended to read as follows:

880.01 DEFINITIONS.

As used in this chapter, unless 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) "Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, fiduciary, trust, association, pass-through entity, corporation or any other entity.
- (c) "Corporation" means a corporation or joint stock association organized under the laws of the United States, this State or any other state, territory or foreign country or dependency.
- (d) "Employee" means one who works for wages, salary, commissions or other type of compensation in the service of an employer.
- (e) "Employer" means an individual, partnership, association, pass-through entity, corporation, governmental body, unit or agency or any other entity, whether or not organized for profit, that employs one or more persons on a salary, wage, commission or other compensation basis.
- (f) "Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31.
- (g) "Gross receipts" means the total income from any source whatsoever.
- (h) "Limited liability company" means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the similar laws of another state.
- (i) "Net profits" means the net gain from the operation of a business, profession or enterprise or other activity, whether or not such business, profession, enterprise or other activity is conducted for profit or is ordinarily conducted for profit, after provision for all ordinary and necessary expenses, either paid or accrued in accordance with the accounting system used by the taxpayer for Federal income tax purposes without deduction of taxes imposed by this chapter or Federal, State and other taxes based on income, and, in the case of an association, without deduction of salaries paid to partners and other owners, and otherwise adjusted to the requirements of this chapter.

- (j) "Nonresident individual" means an individual who is not domiciled in the City and whose usual place of abode is outside the City.
- (k) "Nonresident unincorporated business entity" means an unincorporated business entity, including a pass-through entity, not having an office or place of business within the City.
- (l) "Pass-through entity" means a partnership, limited liability company, S corporation, or any other class of entity, the income or profits from which are given pass-through treatment under the Internal Revenue Code.
- (m) "Person" means every natural person, partnership, fiduciary, association, pass-through entity, or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person," as applied to any unincorporated entity, means the parties or members thereof, and as applied to corporations, the officers thereof.
- (n) "Place of business" means any bona fide office (other than a mere statutory office), factory, warehouse or other place which is occupied and used by the taxpayer in carrying on any business activity individually or through any one or more of his regular employees regularly in attendance.
- (o) "Resident individual" means any individual who is domiciled in the City or whose usual place of abode is in the City.
- (p) "Resident unincorporated business entity" means an unincorporated business entity, including a pass-through entity, having an office or place of business within the City.
- (q) "S corporation" means a corporation for which an election under Subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code has been made for its taxable year.
- (r) "Taxable income" means wages, salaries, commissions and other compensation paid by an employer before any deductions and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this chapter.
- (s) "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.
- (t) The singular includes the plural and the masculine includes the feminine and the neuter.

Section 2. That Section 880.02(c) is hereby amended as follows:

- (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.

Section 3. That Section 880.02(e) and 880.02(f) are hereby enacted as follows:

- (e) On and after January 1, 2003, on the entire distributive share, whether distributed or not, of the annual net profits of pass-through entities of a resident individual. If a resident has an ownership interest in two or more pass-through entities, the resident's share of the net loss of one pass-through entity (except any portion of a loss separately reportable for municipal income tax purposes to another taxing entity) may be used to offset the resident's share of the net profits of another pass-through entity for purposes of arriving at overall net profits derived from pass-through entities. As provided in section 880.14 of this Chapter, a credit shall be allowed for tax paid to any other municipal corporation with respect to the individual's distributive share of the net profits of pass-through entities, provided that the credit shall be reduced to the extent that the individual's distributive share of the net profits from pass-through entities was offset by the individual's distributive share of the net losses from pass-through entities.
- (f) On and after January 1, 2003, on that portion of the distributive share, whether distributed or not, of that portion of the annual profits of pass-through entities derived from work done or services performed or rendered and business or other activities conducted in the City, of a nonresident individual.

Section 4. That the provisions of Sections 880.01 and 880.02 amended by this Ordinance as presently in effect are hereby repealed and Sections 880.01 and 880.02, as amended by this Ordinance, shall remain in full force and effect.

Section 5. That this Ordinance is an emergency measure necessary for the protection of the public health, welfare or safety, said emergency being the need to provide uninterrupted benefits to and services by City officials and employees covered by the Ordinance, and shall be effective as of January 1, 2003, upon passage by Council and signing by the Mayor.

Passed: _____, 2002

President of Council

Attest: _____
Clerk of Council

11-26-02 First Reading
12-10-02 Second Reading
12/17/02 Substitute w/amended ordinance @ 3rd reading

Approved: _____, 2002

David H. Madison, Mayor

AMENDED ORDINANCE NO. 101-02

By: Mr. Rohyans

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

Section 1. That Section 880.01 is amended to read as follows:

880.01 DEFINITIONS.

As used in this chapter, unless 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, *other than a partnership or*
- (b) "Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, fiduciary, trust, association, pass-through entity, S corporation, corporation or any other entity. *limited partnership.*
- (c) "Corporation" means a corporation or joint stock association organized under the laws of the United States, this State or any other state, territory or foreign country or dependency.
- (d) "Employee" means one who works for wages, salary, commissions or other type of compensation in the service of an employer.
- (e) "Employer" means an individual, partnership, association, pass-through entity, S corporation, corporation, governmental body, unit or agency or any other entity, whether or not organized for profit, that employs one or more persons on a salary, wage, commission or other compensation basis.
- (f) "Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31.
- (g) "Gross receipts" means the total income from any source whatsoever.
- (h) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.
- (i) "Limited liability company" means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the similar laws of another state.
- (j) "Net profits" means the net gain from the operation of a business, profession or enterprise or other activity, whether or not such business, profession, enterprise or other activity is conducted for profit or is ordinarily conducted for profit, after provision for all ordinary and necessary expenses, either paid or accrued in accordance with the accounting system used by the taxpayer for Federal income tax purposes without deduction of taxes imposed by this chapter or Federal, State and other taxes based on income, and, in the case of an association, without

deduction of salaries paid to partners and other owners, and otherwise adjusted to the requirements of this chapter.

- (k) "Nonresident individual" means an individual who is not domiciled in the City and whose usual place of abode is outside the City.
- (l) "Nonresident unincorporated business entity" means an unincorporated business entity, including a pass-through entity, not having an office or place of business within the City.
- (m) "Pass-through entity" means a partnership, limited liability company, or any other class of entity, other than an S corporation, the income or profits from which are given pass-through treatment under the Internal Revenue Code.
- (n) "Person" means every natural person, partnership, fiduciary, association, pass-through entity, S corporation, or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person," as applied to any unincorporated entity, means the parties or members thereof, and as applied to corporations, the officers thereof.
- (o) "Place of business" means any bona fide office (other than a mere statutory office), factory, warehouse or other place which is occupied and used by the taxpayer in carrying on any business activity individually or through any one or more of his regular employees regularly in attendance.
- (p) "Resident individual" means any individual who is domiciled in the City or whose usual place of abode is in the City.
- (q) "Resident unincorporated business entity" means an unincorporated business entity, including a pass-through entity, having an office or place of business within the City.
- (r) "S corporation" means a corporation for which an election under Subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code has been made for its taxable year.
- (s) "Taxable income" means wages, salaries, commissions and other compensation paid by an employer before any deductions and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this chapter.
- (t) "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.
- (u) The singular includes the plural and the masculine includes the feminine and the neuter.

Section 2. That Section 880.02(a) and (b) are amended as follows:

- (a) On all salaries, wages, commissions and other compensation, lottery winnings, and gambling winnings earned or received by residents of the City;
- (b) On all salaries, wages, commissions and other compensation, lottery winnings, or gambling winnings earned or received by nonresidents of the City for work done or services performed or rendered, or activities conducted in the City;

Section 3. That Section 880.02(e) and (f) are enacted as follows:

- (e) (1) On and after January 1, 2003, on the entire distributive share, whether distributed or not, of the annual net profits of pass-through entities of a resident individual.
- (2) On and after January 1, 2003, on the entire distributive share, whether distributed or not, of the annual net profits of S corporations of a resident individual, except to the extent such distributive share does not represent 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 and would not be allocated or apportioned to Ohio under division (B)(1) and (2) of section 5733.05 of the Ohio Revised Code if the S corporation were a corporation subject to the taxes imposed under Chapter 5733. of the Ohio Revised Code.
- (3) For purposes of divisions (e)(1) and (e)(2) of this section, if a resident has an ownership interest in two or more pass-through entities or S corporations, the resident's share of the net loss of one pass-through entity or S corporation (except any portion of a loss separately reportable for municipal income tax purposes to another taxing entity, or, in the case of an S corporation, that would not be allocated or apportioned to Ohio under division (B)(1) and (2) of section 5733.05 of the Ohio Revised Code if the S corporation were a corporation subject to the taxes imposed under Chapter 5733. of the Ohio Revised Code) may be used to offset the resident's share of the net profits of another pass-through entity or S corporation for purposes of arriving at overall net profits derived from pass-through entities or S corporations.
- (4) As provided in section 880.14 of this Chapter, a credit shall be allowed for tax paid to any other municipal corporation with respect to the individual's distributive share of the net profits of pass-through entities and S corporations, provided that the credit shall be reduced to the extent that the individual's distributive share of the net profits from pass-through entities and S corporations was offset by the individual's distributive share of the net losses from pass-through entities or corporations.
- (f) On and after January 1, 2003, on that portion of the distributive share, whether distributed or not, of that portion of the annual net profits of pass-through entities and S corporations derived from work done or services performed or rendered and business or other activities conducted in the City, of a nonresident individual.

Section 4. That the provisions of Sections 880.01 and 880.02 amended by this Ordinance as presently in effect are hereby repealed and Sections 880.01 and 880.02, as amended by this Ordinance, shall remain in full force and effect.

Section 5. That this Ordinance is an emergency measure necessary for the protection of the public health, welfare or safety, said emergency being the need to provide uninterrupted benefits to and services by City officials and employees covered by the Ordinance, and shall be effective as of January 1, 2003, upon passage by Council and signing by the Mayor.

Passed: 12/17/02, 2002

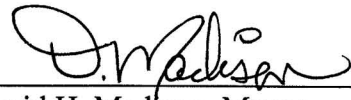


President of Council

Attest: 

Clerk of Council

Approved: 12/17, 2002



David H. Madison, Mayor

12/17/02. Third reading
Amended Ordinance
Substituted. Passed