

CODIFIED ORDINANCES OF PICKERINGTON

TITLE FOUR – Taxation Chapter 882. Municipal Income Tax Chapter 884. Hotel and Motel Tax Chapter 886. Motor Vehicle License Tax Chapter 888. Motor Vehicle License Tax II

CHAPTER 882 Municipal Income Tax

882.01	Purposes	882.12	Collection of unpaid taxes and refunds of overpayments
882.02	Definitions		
882.03	Imposition of tax		
882.04	Allocation of Net Profits	882.13	Reserved for future use
882.05	Effective period	882.14	Violations
882.06	Return and payment of tax	882.15	Board of Review
		882.16	Allocation and disbursement of funds
882.07	Collection at source		
882.08	Declarations	882.17	Credit for tax paid to another municipality
882.09	Duties of Administrator		
882.10	Investigative powers of Administrator; divulging confidential information	882.18	Separability
		882.19	Collection of tax after termination of chapter
882.11	Interest and penalties	882.20	Municipal contracts
		882.21	Mandatory registration
		882.99	Penalty

882.01 PURPOSES

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 Municipality of Pickerington, there shall be and is hereby levied a tax at the rate of one percent (1%) per annum on income, qualifying wages, commissions and other compensation, and on net profits, as hereby provided in Ordinance 79-60, passed 12-4-79, and as subsequently amended from time to time.

882.02 DEFINITIONS

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

“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.

“Administrator” means the individual designated by ordinance, whether appointed or elected, to administer and enforce the provisions of this chapter.

“Association” means a partnership, limited partnership, limited liability company, Chapter S corporation 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 in Section 882.15.

“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, including, but not limited to, the renting or leasing of property, real, personal or mixed.

“Corporation” means a 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, but not a Chapter S Corporation as defined in the federal tax code, 26 U.S.C. 1361.

“Domicile” - 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, wages, salary, commission or other type of compensation or other income in the service 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 a salary, wage, commission or other compensation or other income basis.

“Fiscal year” means an accounting period of twelve months or less ending on any day other than December 31.

“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 Pickerington’s regular tax return and estimated payment forms, and are in a similar format that will allow processing of the generic forms without altering Pickerington’s procedures for processing forms.

“Gross receipts” means the total revenue derived from sales, work done, or services rendered, before any deductions, exceptions, or credits are claimed.

“Income” - Shall include all monies derived from any source whatsoever, including but not limited to:

(A) All salaries, wages, commissions, other compensation and other income from whatever source received by residents of the Municipality of Pickerington.

(B) All salaries, wages, commissions, other compensation and other income from whatsoever source received by nonresidents for work done or services performed or rendered or activities conducted in the Municipality of Pickerington.

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

“Income from a Pass-through Entity” means partnership income of partners, distributive shares of shareholders of an S Corporation, membership interest of members of a Limited Liability Company, or other distributive or proportionate ownership share of other Pass-through Entities.

“Limited Liability Company” means a Limited Liability Company formed under Chapter 1705 of the Revised Code or under the laws of another state.

“Municipality” means the City of Pickerington, Ohio.

“Net Profits” - (See “Adjusted federal taxable income”).

“Nonresident” means an individual domiciled outside this Municipality.

“Nonresident unincorporated business entity” means an unincorporated business entity not having an office or place of business within this Municipality.

“Owner” means a partner of a partnership, a shareholder of an S. Corporation, a member of a Limited Liability Company, or other person with an ownership interest in any type of Pass-through Entity.

“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.

“Person” means every natural person, partnership, fiduciary, association or corporation. 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, or any 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 the Municipality. This definition is effective January 1, 2004.

“Resident” means an individual domiciled in this Municipality.

“Resident unincorporated business entity” means an unincorporated business entity having an office or place of business within the Municipality.

“Taxable income” means income minus the deductions and credits allowed by this chapter.

“Taxable year” means the calendar year or the fiscal year upon the basis of which 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.

“Taxpayer” means a person, whether an individual, partnership, association, corporation or other entity, required hereunder to file a return or pay a tax.

(b) The singular includes the plural, and the masculine includes the feminine and the neuter.

882.03 IMPOSITION OF TAX.

(a) Rate. Subject to the provisions of Section 882.17, an annual tax for the purposes specified in Section 882.01 shall be imposed on and after January 1, 1980, at the rate of one percent per annum upon the following:

- (1) On all income, qualifying wages, commissions and other compensation earned or received during the effective period of this chapter by residents of this Municipality, including lottery income in the amount of five thousand dollars (\$5,000) or more.
- (2) On all income, qualifying wages, commissions and other compensation earned or received during the effective period of this chapter by nonresidents for work done or services performed or rendered in this Municipality.
- (3) A. On the portion attributable to this Municipality of the net profits earned 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 this Municipality.
B. On the portion of the distributive share of the net profits earned or received during the effective period of this chapter of a resident partner, member, or owner of a resident association or unincorporated business entity, if such distributive share was not attributable to this Municipality and on which the tax was not paid by the entity. If tax was paid by the entity, credit for tax paid shall be given in accordance with the provisions of Section 882.17.
- C. For the purposes of paragraphs (a)(3)A. and B. hereof, an association shall be taxed as an entity on the net profits of the association derived from sales made, work done or services performed or rendered and business or other activity conducted in the Municipality, whether or not such association has its principal or any place of business located in the Municipality, effective for all accounting periods commencing on or after January 1, 1999.
- D. For the purposes of paragraph (a)(3) A. hereof, a resident of the Municipality 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 (a)(3)A. above.
- E. On the net profits of all corporations, estates and trusts derived from sales made, work done or service performed or rendered and business or other activities conducted in the Municipality, whether or not such corporations, estates and trusts have their principal or any place of business located in the Municipality.
- (4) A. On the portion attributable to this Municipality of the net profits earned during the effective period of this chapter of all nonresident associations, unincorporated businesses, professions or other entities, derived from sales made, work done, services performed or rendered and business or other activities conducted in this Municipality, whether or not such associations, unincorporated businesses, professions or other entities have an office or place of business in this Municipality.
 - B. On the portion of the distributive share of the net profits earned or received during the effective period of this chapter of a resident partner, member, or owner of a nonresident association or unincorporated business entity, if such distributive share was not attributable to this Municipality and on which the tax was not paid by the entity. If tax was paid by the entity, credit for tax paid shall be given in accordance with the provisions of Section 882.17.
- (5) Effective for tax years 2004 and later, the distributive share of income paid to an S corporation shareholder shall be taxable in the following manner:
 - A. If no portion of the net profits of the S corporation are allocated or apportioned to the State of Ohio, the distributive share is taxable only to the extent that it represents wages or net earnings from self-employment.
 - B. If any portion of the net profits of the S corporation are allocated or apportioned to the State of Ohio, the full amount of the distributive share is taxable.
- (6) On the portion attributable to this Municipality of the net profits earned 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 this Municipality, whether or not such corporations have an office or place of business in this Municipality.
- (7) Occasional Entrant.
 - A. Effective January 1, 2001, Pickerington shall not tax the compensation paid to a non-resident individual for personal services or work performed by the individual in the Municipality on twelve (12) or fewer days in a calendar year (which hereby classifies the individual as an "occasional entrant") unless one of the following applies:

1. The individual is the employee of another person, the principal place of business in which the employee normally works 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 athlete, the promoter of a professional entertainment or sports event, or an employee of such promoter, all as may be reasonably defined by the Municipality.
- B. For purposes of the 12-day calculation, any portion of a day worked in the Municipality shall be counted as one day worked in the Municipality.
 - C. Beginning with the thirteenth day, the employer of said individual shall begin withholding the Municipality income tax from remuneration paid by the employer to the individual, and shall remit the withheld income tax to the Municipality in accordance with Section 882.07 of the income tax 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 Municipality by the individual for the first twelve (12) days. If the individual is self-employed or an independent contractor, it shall be the responsibility of the individual to remit the appropriate income tax to the Municipality.
 - D. Any tax withheld for the Municipality under 882.03(a)(6) is subject to being refunded only to the municipality in which the employer's principal place of business is located, and only after that municipality has established that the individual employee has a liability to them

(b) Determination of Portion of Net Profits Attributable to Municipality. The portion of the net profits attributable to this Municipality of taxpayers conducting a business, profession or other activity both within and without the boundaries of the Municipality shall be determined as provided in Ohio R.C. 718.01 AND 718.02 and in accordance with the rules and regulations adopted by the Administrator pursuant to this chapter.

(c) Operating Loss-Carry Forward.

- (1) If a net operating loss has been sustained in any taxable year, such losses may be carried forward for not more than one taxable year. There shall be no backward net operating loss credits to any taxable year.
 - A. The portion of a net operating loss sustained shall be allocated to this Municipality in the same manner as provided herein for allocating net profits to this Municipality.

- B. The Administrator shall provide, by rules and regulations, the manner in which such net operating loss-carry forward shall be determined.
- (2) 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 of business allocation percentage formula, unless the affiliated corporations file a consolidated return. (See 882.03(d).
 - (3) A loss sustained by an individual who is engaged in a business, in addition to being a partner or member of another association or business, may not be set off against the profits of the other association or business, nor against the salary, wage, other income, commission or other personal service compensation (if any) which he may earn in another capacity. Nor may the business loss of an association or business be set off against the profits of another association or business engaged in by a member or partner of such association or business, or against the salary, wage, other income, commission or other personal service compensation which a member or partner may earn in another capacity. In the case of an individual who runs two or more businesses as individual proprietorships, loss from one such business may be set off against the net profits of the other (but not against salaries, wages, other income, or other personal service compensation). The one percent (1%) tax shall be levied on the final net business incomes of the individual proprietor.
 - (4) A business or rental loss is not allowed as an offset against Federal Form W-2 income on salaries, wages, other compensation or other income.
- (d) Consolidated Returns.
- (1) 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 Municipality. However, once the affiliated group has elected to file a consolidated return or a separate return with the Municipality, the affiliated group may not change their method of filing in any subsequent tax year without written approval from the Municipality.
 - (2) 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 this Municipality constituting a portion only of its total business, the Administrator shall require such additional information as he or she may deem necessary to ascertain whether net profits are properly allocated to this Municipality. If the Administrator finds net profits are not properly allocated to this Municipality 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 this Municipality.

- (e) Exceptions. The following shall not be considered taxable:
- (1) Poor relief, unemployment insurance benefits, supplemental unemployment benefits, old age pensions or similar payments received from local or State governments or the Federal government or charitable or religious organizations.
 - (2) Proceeds of insurance, annuities, workers' compensation insurance, social security benefits, pensions, compensation for damages for personal injuries and like reimbursements, not including damages for loss of profits.
 - (3) Compensation for damage to property by way of insurance or otherwise.
 - (4) Military pay or allowances of members of the Armed Forces of the United States and of members of their reserve components, including the Ohio National Guard.
 - (5) The gross income and gross receipts 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. Tax exempt activities shall include receipts by bona fide charitable, religious and educational organizations and associations, when those receipts are from casual entertainment, amusements, sports events and health and welfare activities conducted by bona fide charitable, religious and educational organizations and associations.
 - A. Any association or organization falling in the category listed in this paragraph is required to file declarations and final returns and remit the taxes levied under this chapter on all net profits from activities, the income from which is not specifically exempt from taxation in Ohio R.C. 718.01.
 - B. Where such nonprofit association or organization conducts income-producing business both within and without the corporate limits, it shall calculate its profits allocable to this Municipality under the method or methods provided above.
 - (6) Personal earnings of any individual under eighteen years of age.
 - (7) Scholarships or work study programs upon documentation from the college delineating the type of compensation and amount.
 - (8) Personal earnings of mentally retarded and developmentally disabled employees earning less than the minimum hourly wage while employed at government-sponsored sheltered workshops.
 - (9) Parsonage allowance, to the extent of the rental allowance or rental value of a house provided as a part of an ordained minister's compensation. The minister must be duly ordained, commissioned,

- or licensed by a religious body constituting a church or church denomination.
- (10) Gains from involuntary conversion, cancellation of indebtedness, interest on federal obligations, items of income already taxed by the state from which the Municipality 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).
 - (11) Expenses deductible on federal form 2106, subject to audit and approval by the Administrator.
 - (12) Compensation paid under section 3501.28 or 3501.36 of the Revised Code to a person serving as a precinct election official, to the extent that such compensation does not exceed one thousand dollars annually.
 - (13) Income, qualifying wages, commissions, other compensation, other income 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.
 - (14) Income, qualifying wages, commissions, other compensation, other income and net profits, including interest and dividends as provided in 718.01 R.C., the taxation of which is prohibited by the Constitution of the State or any act of the Ohio General Assembly limiting the power of the Municipality to impose net income taxes.

882.04 ALLOCATION OF NET PROFITS.

(a) 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 the purpose of the tax in the same proportion as the average ratio of:

- (1) The average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession of 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, 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.

- (2) Wages, salaries and other compensation and other income paid during the taxable period to persons employed in the business or profession for services performed in the Municipality to wages, salaries and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed.
- (3) Gross receipts of the business or profession from sales made and services performed during the taxable period in the Municipality to

gross receipt of the business or profession during the same period from sales and services, wherever made or performed.

(b) In the event that the foregoing apportionment formula does not produce an equitable result, another basis may, under uniform regulations, be substituted by the Administrator or his or her delegate, so as to produce such result.

- (c) As used in this chapter, "sales made in the Municipality" means:
- (1) All sales of tangible personal property which is delivered within the Municipality regardless of where title passes, if shipped or delivered from a stock of goods within the Municipality.
 - (2) All sales of tangible personal property which is delivered within the Municipality, regardless of where title passes, even though transported from a point outside of the Municipality, if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the Municipality and the sales result from such solicitation or promotion, and;
 - (3) All sales of tangible personal property which is shipped from a place within the Municipality to purchasers outside the Municipality, 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.

882.05 EFFECTIVE PERIOD.

The tax shall be levied, collected and paid with respect to the income, salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professions or other activities, earned or received on and after January 1, 1980.

882.06 RETURN AND PAYMENT OF TAX.

(a) Each taxpayer 18 years of age or older, except as herein provided, shall, whether or not a tax be 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 on or before the fifteenth day of the fourth month after the close of that fiscal year or other period. If a taxpayer's entire income is exempt from taxation by the Municipality, the taxpayer need not file a return, provided that the Administrator has been notified in writing of said exempt status.

(b) Every employer or officer of a corporation is deemed to be a trustee for this Municipality in collecting and holding the tax required under this chapter to be withheld and the funds so collected by such withholding are deemed to be trust funds.

Those officers or the employees having control or supervision of or charged with the responsibility of filing the report and making payment, are personally liable for failure to file the report or pay the tax due as required by this section. The dissolution, bankruptcy, or reorganization of a corporation, association, or other entity

does not discharge an officer's or employee's liability for a prior failure of the corporation, association, or other entity to file returns or pay tax due.

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

- (1) Income.
 - A. The aggregate amount of salaries, wages, commissions, lottery winnings of five thousand dollars (\$5,000) or more and other compensation or other income earned or received; and
 - B. The gross income from a business, profession or other activity, less expenses allowable in the calculation of Adjusted Federal Taxable Income for tax years 2004 and later.
- (2) Taxes.
 - A. The amount of tax imposed by this chapter on such income and profits; and
 - B. Any credits to which the taxpayer may be entitled under the provisions of Sections 882.07, 882.08 and 882.17; and
- (3) Other Information. Such other pertinent statements, information returns or other information as the Administrator may require.

(d) Any taxpayer that has requested an extension for filing a Federal income tax return may request an extension for the filing of the Municipality income tax return. The taxpayer shall make the request by filing a copy of the taxpayer's request for a Federal filing extension with the individual or office charged with the administration of the Municipal income tax. The request for extension shall be filed not later than the last day for filing the Municipal income tax return as prescribed by ordinance or rule of the Municipality. For tax years prior to 2004 the Municipality shall grant such a request for extension for a period not less than the period of the Federal extension request. For taxable year 2004 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. For taxable years subsequent to 2004 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. The Municipality may deny a taxpayer's request for extension if the taxpayer's income tax account with the Municipality is delinquent in any way. The granting of an extension for filing a Municipal income tax return does not extend the last date for paying the tax without penalty. No late fee shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended, but penalty and interest shall be assessed on any unpaid tax which was due as of the original tax filing deadline.

- (e) (1) The taxpayer making a return shall, at the time of the filing thereof, pay to the Administrator the amount of taxes shown as due thereon, provided, however, that where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of Section 882.07 or where any portion of such tax shall

have been paid by the taxpayer pursuant to the provisions of Section 882.08, or where an income tax has been paid to another Municipality, credit for the amount so paid in accordance with Section 882.17, 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.

- (2) A taxpayer who has overpaid the amount of tax to which the Municipality is entitled under the provisions of this chapter may have such overpayment applied against any subsequent liability hereunder, or, at this or her election indicated on the return, such overpayment, or part thereof, shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded.
- (f) (1) Where necessary, an amended return shall 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 Sections 882.12 and 882.17. Such amended returns shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting (i.e., either cash or accrual) 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 tax liability to this Municipality, such taxpayer shall make and file an amended return showing income subject to the income tax of this Municipality based upon such final determination of Federal tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment.
- (g) Any business, profession, association or corporation reporting a net loss is subject to the filing requirements of this ordinance.

882.07 COLLECTION AT SOURCE.

(a) In accordance with rules and regulations prescribed by the Administrator, each employer within or doing business within this Municipality shall deduct, at the time of the payment of such salary, wage, commission, other compensation, or other income the tax of one percent of the gross income, qualifying wages, commissions, other compensation, or other income due by the employer to the employee or the tips or gratuities reported to the employer by each employee for Social Security or Federal Income Tax purposes, and shall, in accordance with the payment schedule prescribed in paragraphs (a)(1) and (2) hereof, make a return showing that all taxes deducted have been paid to the Administrator. The returns shall be on forms prescribed by or acceptable to the Administrator and shall be subject to the rules and regulations proscribed therefore by the Administrator. Such 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.

Employers shall pay to the Administrator all income taxes withheld or required to be deducted and withheld on either a monthly or quarterly basis depending on the amount of taxes involved according to the following schedule:

- (1) Monthly payments of taxes withheld shall be made by an employer if the taxes withheld during the previous tax year exceeded an average one hundred dollars (\$100.00) per month. Such payment shall be made to the Administrator within fifteen calendar days after the close of each calendar month.
- (2) All employers not required to make monthly payments of taxes withheld under paragraph (a)(1) hereof shall make quarterly payments no later than the last day of the month following each quarter.

(b) The employer of a domestic worker shall be required to withhold income tax on wages, salaries, commissions, other compensation and other income paid by the employer to the domestic worker, and remit such withheld tax to the Municipality in accordance with (a) of this Section.

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

(d) On or before February 28 of each year beginning with the year 1980, each employer shall file a withholding return setting for the names, addresses, and social security numbers 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 Administrator. The Administrator may grant an extension of not more than thirty days. All payments not subject to withholding shall be reported on a form required by the Administrator. There shall be a penalty of twenty-five dollars (\$25.00) per month or part of a month, up to a maximum of one hundred dollars (\$100.00), for noncompliance with this subsection.

(e) The Administrator, for good cause, may require immediate returns and payments to be submitted to his or her office.

882.08 DECLARATIONS.

(a) Every person who anticipates any taxable income which is not subject to Section 882.06, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 882.03, and anticipates a tax liability of fifty dollars (\$50.00) or more, 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, provided, however, that if a person's income is wholly from wages which the tax will be withheld and remitted to this Municipality in accordance with Section 882.06, such person need not file a declaration.

- (b)
 - (1) Such declaration shall be filed on or before April 15 of each year during the life of this chapter, except that no penalties or interest shall be assessed, for not filing a declaration, on any resident taxpayer who was not domiciled in the Municipality on the first day of January of 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.
 - (2) Those taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year or period.

- (c)
 - (1) Such declaration shall be filed upon a form furnished by, or obtainable from, the Administrator, or shall be filed upon a generic form, provided, however, that credit shall be taken for this Municipality's income tax to be withheld from any portion of such income. In accordance with the provisions of Section 882.17, credit may be taken for tax to be paid to or to be withheld and remitted to another taxing Municipality.
 - (2) 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. The safe harbor method shall be considered a good faith estimate and no taxpayer shall be penalized for late payment or nonpayment of estimated taxes by charging a penalty, interest, or similar charge if the taxpayer pays estimated taxes equal to 90% of the taxpayer's gross tax liability for the current year, or 100% of the taxpayer's reported tax liability for the preceding year, provided the return for the preceding year reflected a twelve (12) month period and the taxpayer actually filed a return for that year. Nor may a taxpayer be penalized for the late payment or nonpayment of estimated taxes if the taxpayer is a resident individual who was not domiciled in the Municipality on January 1 of the calendar year for which the tax is due. (See subsection (b) (1)).

(d) Such declaration of estimated tax to be paid to the Municipality shall be accompanied by a payment of twenty-two and one-half percent (22.5%) of the estimated tax. An additional payment of twenty-two and one-half percent (22.5%) of the estimated tax shall be due not later than the fifteenth day of the seventh month after the beginning of the taxable year, an additional payment of twenty-two and one-half percent (22.5%) of the estimated tax shall be due not later than the fifteenth day of the tenth month after the beginning of the taxable year, and a payment of forty-five percent (45%) of the estimated tax shall be due not later than the fifteenth day of the twelfth month after the beginning of the taxable year. However, if an amended declaration has been filed, the unpaid balance shown due thereon shall be paid on the remaining payment date.

(e) On or before the fifteenth day of the fourth month of the year following that for which such declaration was required to be filed, an annual return shall be filed and any balance which may be due this Municipality shall be paid therewith in accordance with the provisions of Section 882.05.

(f) Any installment remaining unpaid ten days after it becomes due shall be liable to a penalty of ten percent of the amount owed and interest at the rate of one and one-half percent per month or fraction thereof from the time the estimated payment was due.

(g) Failure to file and pay a declaration and estimate within the specified time period will result in a twenty-five dollar (\$25.00) fee for non-compliance, in addition to the interest and penalty charge.

882.09 DUTIES OF ADMINISTRATOR.

(a) (1) It shall be the duty of the Tax Administrator to receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers, to keep an accurate record thereof and to report all moneys so received.

(2) It shall be the duty of the Administrator to enforce payment of all taxes owing this Municipality, to keep accurate records for a minimum of six years showing the amount due from each taxpayer required to file a declaration and/or to make any return, including taxes withheld, and to show the dates and amounts of payments thereof.

(b) The Administrator 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, 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. Taxpayers are hereby required to comply with said rules and regulations.

(c) 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 Administrator may determine the amount of tax appearing to be due this Municipality from the taxpayer and shall send to such taxpayer a written proposed assessment showing the amount of tax so determined, together with interest and penalties thereon, if any. A taxpayer may, within thirty days after the date the proposed assessment was mailed, file a written protest with the Administrator stating the reasons for protesting the assessment. If no protest is filed the proposed assessment shall become final and the amount so assessed become due. If a protest is filed, then within thirty days after the filing the Administrator shall withdraw the assessment, shall adjust the assessment, or shall reaffirm the assessment, and it shall then become final. A

protest of the final assessment may be filed with the Board of Review only if the proposed assessment was protested with the Administrator.

(d) The Administrator 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 Administrator 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 and the provisions of Sections 882.12 and 882.14 shall apply.

(e) The Administrator shall have the power to compromise any interest or penalty, or both, imposed by Section 882.11.

882.10 INVESTIGATIVE POWERS OF ADMINISTRATOR; DIVULGING CONFIDENTIAL INFORMATION

(a) The Administrator, or any authorized employee, is hereby authorized to examine the books, papers, records and Federal Income Tax Returns and State of Ohio income tax returns of any employer or of any taxpayer or person subject to, or whom the 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 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 Administrator, or his or her duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations are as hereby authorized.

(b) The Administrator 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 reported for taxation or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and Federal Income Tax Returns and State of Ohio 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 information pertinent to such inquiry. 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 Administrator, or his employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

(c) The refusal to produce books, papers, records and Federal Income Tax Returns and State of Ohio 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 Administrator authorized hereby, shall be deemed a violation of this chapter, punishable as provided in Section 882.99.

(d) Any information gained as a result of any returns, investigations, verifications or hearings before the Administrator, required by this chapter or authorized by these rules and regulations, shall be confidential and no disclosure thereof shall be made, except for official tax purposes or as ordered by a court of competent jurisdiction. No person shall divulge such information in violation of this section.

(e) Every taxpayer shall retain all records necessary to compute his or her tax liability for a period of six years from the date his or her return is filed, or the withholding taxes are paid.

882.11 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 rate of one and one-half percent per month.

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

- (1) In the case of employers required to withhold taxes from employees under the provisions of this chapter, a penalty shall be imposed at the rate of:
 - A. Ten percent of the amount of the unpaid tax if the tax is paid within thirty days of the due date;
 - B. Fifteen percent of the amount of the unpaid tax if the tax is paid within sixty days of the due date;
 - C. Twenty percent of the amount of the unpaid tax if the tax is paid within ninety days of the due date;
 - D. Twenty-five percent of the amount of the unpaid tax if the tax is paid more than ninety days after the due date of the withholding tax.
- (2) In the case of taxpayers who fail to file tax returns when due as required by this chapter, the following penalties shall be imposed;
Fifteen dollars (\$15.00) if the complete tax return is filed not by the due date;
- (3) In the case of taxpayers who file tax returns but fail to pay taxes due, other than taxes withheld, a penalty shall be imposed at the rate of ten percent (10%) of the amount due.
- (4) Filings shall be deemed to be timely made if postmarked by the due date.

(c) A penalty shall not be assessed on an additional tax assessment made by the Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Administrator, provided that, in the absence of fraud, neither a 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 a final determination of the Federal tax liability.

(d) The Administrator may abate penalty or interest, or both, or upon an appeal to the Board of Review from the refusal of the Administrator to recommend abatement of penalty and/or interest, the Board may nevertheless abate penalty or interest or both.

882.12 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS

(a) All taxes imposed by this chapter shall be collectible, together with any non-filing or late fees, interest and penalties thereon, by a civil action at law. Except in the case of fraud, omission of twenty-five percent (25%) or more of income subject to this tax, or failure to file a return, all additional assessments shall be made and all civil actions to recover Municipal income taxes and penalties, interest and non-filing or late fees thereon, shall be brought within three years after the tax was due or the return was filed, whichever is later. 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.

(b) Taxes erroneously paid shall not be refunded unless a claim for a refund is made. Claims for refund of Municipal income taxes shall be brought within three years from the date on which such payment was made or the return was due, or within three months after final determination of the Federal tax liability, whichever is later. However, 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 nonqualified compensation.

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

(d) Amounts of less than one dollar (\$1.00) shall not be collected or refunded.

882.13

THIS SECTION RESERVED FOR FUTURE USE.

882.14 VIOLATIONS

- (a) No person shall:
- (1) Fail, neglect or refuse to make any return or declaration required by this chapter; or
 - (2) Make any incomplete, false or fraudulent return; or
 - (3) Willfully fail, neglect or refuse to pay the tax, penalties, interest or non-filing or late fees imposed by this chapter; or
 - (4) Willfully fail, neglect or refuse to withhold the tax from his or her employees or remit such withholding to the Administrator; or
 - (5) Refuse to permit the Administrator or any duly authorized agent or employee to examine his or her books, records, papers and Federal and State of Ohio Income Tax Returns relating to the income or net profits of a taxpayer; or
 - (6) Fail to appear before the Administrator and to produce his or her books, records, papers or Federal and State of Ohio Income Tax Returns relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator; or
 - (7) Refuse to disclose to the Administrator any information with respect to the income or net profits to a taxpayer; or
 - (8) Fail to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized hereby; or
 - (9) Give to an employer false information as to his or her true name, correct social Security number and residence address, or fail to promptly notify an employer of any change in residence address and the date thereof; or

- (10) Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and this Municipality's income tax withheld, or knowingly give the Administrator false information; or
- (11) 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.

(b) Prosecutions for an offense made punishable under this section or any other provision of this chapter shall be commenced within three years after the commission of the offense, provided that in the case fraud, failure to file a return, or the omissions of twenty-five percent or more of income required to be reported, prosecutions may be commenced within six years after the commission of the offense.

(c) The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, return or declaration, from filing such form or from paying the tax.

882.15 BOARD OF REVIEW.

(a) A Board of Review, consisting of a chairperson and two other individuals to be appointed by Council, is hereby created. 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. Any hearing by the Board shall be conducted privately and the provisions of Section 882.10 with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as may be heard before the Board on appeal.

(b) The Board is created to hear appeals brought by taxpayers in regard to rulings and decisions made by the Administrator pursuant to this chapter. The Board is empowered to adjudicate the dispute and modify the amount owed by the taxpayer to the Municipality.

(c) Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this chapter may appeal therefrom to the Board of Review within thirty days from the announcement of such ruling or decision by the Administrator, provided the taxpayer making the appeal has filed with the Municipality the required return or other documents concerning the obligation at issue. The appeal shall be in writing and shall state why the decision should be deemed incorrect or unlawful. The Board of Review must schedule a hearing within forty-five (45) days after receiving a request, unless the taxpayer waives the hearing. If a taxpayer does not waive the hearing, the taxpayer is entitled to appear before the Board and be represented by an attorney at law, certified public accountant, or other representative. The Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof. The Board must issue a decision within ninety (90) days after the final hearing and send a notice of its decision to the taxpayer within fifteen (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 (30) 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.

882.16 ALLOCATION AND DISBURSEMENT OF FUNDS.

The funds collected under the provisions of this chapter shall be deposited in the General Fund and shall be appropriated and disbursed in the order established from time to time by an ordinance of Council.

882.17 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(a) When the taxable income of a resident of this Municipality is subject to a municipal income tax in another municipality on the income taxable under this chapter, such resident shall be allowed a credit of the amount of income tax paid on such taxable income to such other municipality, equal to fifty percent of the amount obtained by multiplying the lower of the tax rate of such other municipality or of this Municipality by the taxable income earned in or attributable to the municipality of employment or business activity. For the purposes of this section, "taxable income" includes the distributive share of net profits of a resident partner or owner of an unincorporated business entity.

(b) The method of applying for a credit set forth in subsection (a) hereof shall be as follows:

- (1) No credit will be given unless the taxpayer claims such on his or her final return or other form prescribed by the Administrator, and presents such evidence of the payment of a similar tax to another municipality, as the Administrator may require.
- (2) A statement satisfactory to the Administrator from the taxing authority of the municipality to which the taxes are paid that a Pickerington resident or his or her employer is paying the tax shall be considered as fulfilling the requirement of this section.

882.18 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 clause, sentence or 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 council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

882.19 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 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 any and all suits and prosecutions for the collection of such taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Sections 882.12 and 882.14.

(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 882.06 and 882.07 as though the same were continuing.

882.20 MUNICIPAL CONTRACTS

No contract on behalf of the Municipality for works or improvements of the Municipality shall be binding or valid unless such contract contains the following provisions:

Said _____ hereby further agrees to withhold Municipality income tax due or payable under the provisions of Chapter 882 of the Codified Advances of Pickerington for wages, salaries, income, commissions and other compensation paid to its employees and further agrees that any of its subcontractors shall be required to agree to withhold and pay any such Municipal income taxes due under such chapter for services performed under this contract.

882.21 MANDATORY REGISTRATION

(a) All employers, contractors or subcontractors who do work in the Municipality shall register with the Administrator, and shall present a list of all employees, subcontractors, contractors or others who may do work for them and whose profits, wages or earnings are not presently subject to withholdings of the income tax. This list is due immediately upon commencement of a project or projects, or, if unknown at the time of the project, as soon as such information is available. Upon completion of a project, all employers, contractors, or subcontractors shall update the list to state the amounts paid to each individual or business on the list. Failure by employers, contractors, and subcontractors to remain current in the filing of required tax documents, failure to remain current in the required payment of taxes, and failure to comply with this Section shall be cause for suspension of work prior to the construction work commencing and/or during the performance of the construction work. Subsequent proof of compliance shall be necessary to commence or resume suspended construction work.

(b) Commencing January 1, 1992, each owner or his or her duly designated agent of one or more units of real property located within the Municipality and which are rented or are available for rent as of that date shall submit to the Tax

Administrator a list of those tenants presently occupying these rental units and those units presently vacant. For the purposes of this section, "rental units" includes any unit or real property which is subject to a rental agreement, whether oral or written, for residential, commercial or industrial purposes. Owners of more than one unit are required to submit a list of tenants at the end of each calendar quarter.

(c) Each new resident of the Municipality shall register with the Administrator within thirty (30) days of residence in the Municipality. All residents of the Municipality shall return the resident survey/questionnaire within thirty (30) days of the date on the form.

(d) In the event that a taxpayer changes his or her address, it is the taxpayer's responsibility to notify the Administrator of his or her new address within thirty (30) days.

882.99 PENALTY.

(a) Whoever violates any of the provisions of this chapter, for which no penalty is otherwise provided, is guilty of a misdemeanor of the first degree and shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

(b) Whoever divulges confidential information in violation of Section 882.10 shall be guilty of a misdemeanor punishable by a maximum fine of five hundred dollars (\$500.00) or imprisonment for not more than six months, or both. Each disclosure shall constitute a separate offense.

In addition to the above penalty, any employee of this Municipality who violates the provisions of Section 882.10 relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

(c) Any person who violates Section 882.21 is guilty of a minor misdemeanor and shall be fined not more than one hundred dollars (\$100.00).