

**NORTH KINGSVILLE INCOME TAX ORDINANCE
O-04-038**

880.01 DEFINITIONS.

As used in this chapter, unless the context clearly indicates otherwise:

"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.

"Association" means a partnership, limited partnership, limited liability company, Sub-S Corporation as defined in the Federal Tax Code, 26 USC 1361, or any other form of unincorporated enterprise owned by one or more persons.

"Board of Review" means the Board created by and constituted as set forth in Section 880.12.

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

"Corporation" means a corporation or joint stock association organized under the laws of the United States, the State or any other state, territory, foreign country or dependency, but not including Sub-S Corporations.

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

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

"Employer" means an individual, partnership, association, corporation (including a corporation not for profit), governmental agency, board, body, bureau, department, subdivision, or unit or any other entity who or that employs one or more persons on an income, salary, wage, commission or other compensation basis whether or not such employer is engaged in business, or that provides any source of taxable income.

"Fiduciary" means a guardian, trustee, executor, administrator, or any other person acting in any fiduciary capacity for any individual, trust or estate.

"Fiscal Year" means an accounting period of twelve months ending on any day other than December 31. Only fiscal years accepted by the Internal Revenue Service for federal income tax purposes may be used for the Village of North Kingsville tax purposes.

"Generic Form" means an electronic or paper form designated 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 the Village of North Kingsville's regular tax return and estimated payment forms and refund request forms, and are in a similar format that will allow processing of the generic forms without altering the Village's procedures for processing forms.

"Gross Receipts" means the total revenue derived from sales, work done, or service rendered, before any deductions, exceptions, or credits are claimed.

"Income" means all monies, subject to limitations imposed by ORC 718, derived from any source whatsoever, including but not limited to:

(A) All salaries, income, qualifying wages, commissions, and other compensation from whatever source received by residents of the Village of North Kingsville, including distributive shares of an unincorporated business entity or association against which the Village of North Kingsville municipal income tax is not already levied.

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

(C) The portion attributable to the Village of North Kingsville 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 Village of North Kingsville.

"Income Tax Clerk" means the individual designated by the ordinance to administer and enforce the provisions of the ordinance. The Income Tax Clerk shall be responsible to, and function as, an assistant to the Clerk-Treasurer.

"Net Profits", for taxable years prior to 2004, means the net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary and necessary expenses incurred in the conduct thereof either paid or accrued in accordance with the accounting system (i.e., either cash or accrual) used by the taxpayer for Federal income tax purposes, providing such accounting method does not conflict with any provision of this chapter or Rules and Regulations that the Income Tax Clerk has adopted or may adopt and without deduction of taxes imposed by this chapter, Federal, State or other taxes based on income, or in the case of an unincorporated entity, without deduction of salaries or withdrawals of partners or other owners. (For taxable years 2004 and later, see "adjusted federal taxable income".)

"Nonresident" means an individual domiciled outside the Village of North Kingsville.

"Nonresident Unincorporated Business Entity" means an unincorporated business entity not having any office or place of business within the Village of North Kingsville.

"Other Entity" means any person or unincorporated body not previously named or defined and includes fiduciaries located in the Village of North Kingsville.

"Pension" means income earned or received, as a result of retirement, from employment and/or from an IRS qualified retirement plan and which is generally, although not exclusively, reported to the taxpayer by the payer on a form 1099-R or similar form.

"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, shall mean the partners or members thereof, and as applied to a corporation, the officers thereof.

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

"Resident" means an individual domiciled in the Village of North Kingsville.

"Resident Unincorporated Business Entity" means an unincorporated business entity having an office or place of business within the Village of North Kingsville.

"Taxable Year" means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the net profits are to be computed under this chapter and, in the case of a return for a fractional part of a year, the period for which such return is required to be made. Unless another accounting period is approved by the Income Tax Clerk the taxable year of an individual shall be a calendar year.

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

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

880.02 IMPOSITION OF TAX.

A. To provide funds for the purposes of general Municipal operations, maintenance of equipment, new equipment, extension, enlargement and improvement of Municipal services and facilities and capital improvements of the Village of North Kingsville, there is hereby levied a tax upon income and net profits at the rate of one percent upon the following:

1. On all income, qualifying wages, commissions and other compensation earned or received on and after January 1, 1992, by resident individuals of the Village of North Kingsville;

2. On all income, qualifying wages, commissions and other compensation earned or received on and after January 1, 1992, by nonresident individuals for work done or services performed or rendered in the Village of North Kingsville;
3. On the portion of the distributive share of the net profits attributable to the Municipality earned on and after January 1, 1992, of a resident partner or owner of a resident unincorporated business, association (excluding a Sub-S corporation) professions and/or other activity, derived from work done or services rendered or performed and business or other activities conducted in the Village of North Kingsville;
4. On the net profits attributable to the Village of North Kingsville earned on and after January 1, 1992, of all nonresident unincorporated businesses, associations (excluding a Sub-S corporation), professions or other entities, derived from work done or services rendered or performed and business or other activities conducted in the Village of North Kingsville, whether or not such unincorporated business entity, profession or other entity has an office or place of business in the Village of North Kingsville;
5. On the portion of the net profits earned on and after January 1, 1992, of a resident individual, partner or owner of a nonresident unincorporated business entity not attributable to the Village of North Kingsville and not levied against such unincorporated business entity;
6. On the portion of the distributive share of the net profit of an individual, partner or owner of a resident unincorporated enterprise or association attributable to North Kingsville, but only if the tax was not paid by such unincorporated enterprise or association on behalf of the individual, partner, or owner.
7. 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.
8. On the net profits earned on and after January 1, 1992, of all corporations, derived from work done or services rendered or performed and business or other activities conducted in the Village of North Kingsville.
9. On all income derived anywhere from gaming, wagering, lotteries, or schemes of chance by residents of the Village of North Kingsville.

B. Business Losses

1. Losses incurred from the operation of a business, including rental, may not be carried forward or backward.
2. Business losses incurred by a taxpayer who may also have income from employment as shown on the taxpayer's W-2 form, may not be used to reduce the taxpayer's income as shown on the W-2 form.
3. A taxpayer who incurs a combination of losses and profits from the operation of two or more resident businesses, including rental, during the same tax year, may

offset the business losses against the business profits to compute the taxpayer's taxable Village of North Kingsville income.

4. If a resident of the Village of North Kingsville operates a business or businesses, including rental, in another taxing municipality in Ohio and the business or businesses incur a loss, the amount of the loss is deemed primarily subject to the taxing jurisdiction of the other taxing municipality and may not be used to reduce the taxpayer's Village of North Kingsville tax base.

880.03 DETERMINATION OF INCOME SUBJECT TO TAX.

A. Net profit from a business or profession conducted within the boundaries of the Village of North Kingsville shall be considered as having a taxable situs in the Village of North Kingsville for purposes of income taxation 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 in the Village of North Kingsville 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 this paragraph, "real property" includes property rented or leased by the taxpayer. The value for such property shall be determined by multiplying the annual rental there-on by eight.
2. Wages, salaries and other compensation paid during the taxable period to persons employed in the business or profession for services performed in the Village of North Kingsville, to wages, salaries and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed. Wages, salaries, and other compensation shall be included to the extent that they represent qualifying wages.
3. The gross receipts of the business or profession during the same period from sales and services wherever made or performed.

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

- B. As used in this section, "sales made in the Village of North Kingsville" means:
1. All sales of tangible personal property which is delivered within the Village of North Kingsville, regardless of where title passes, if shipped or delivered from a stock of goods within the Village of North Kingsville;
 2. All sales of tangible personal property which is delivered within the Village of North Kingsville, regardless of where title passes, even though transported from a point outside the Village of North Kingsville, if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the Village of North Kingsville 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 Village of North Kingsville to purchasers outside the Village of

North Kingsville, 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.

880.04 EFFECTIVE DATE.

The tax imposed under this chapter shall be levied, collected and paid with respect to income, salaries, wages, commissions and other compensation earned or received on and after January 1, 1992, and with respect to the net profit of businesses, professions and other activities earned on and after January 1, 1992, provided, however, that where the fiscal year of the business, profession or other activity differs from the calendar year, the tax shall be applied to that part of the net profit for the fiscal year as is earned on and after January 1, 1992, to the close of the taxpayer's fiscal year. Thereafter, the taxpayer shall report on its fiscal year basis. Ordinance _____, passed _____, amends and replaces previous ordinances and amendments thereto from the effective date of this ordinance.

880.05 RETURN AND PAYMENT OF TAX.

A. Each taxpayer, eighteen (18) years of age or older if an individual, whose income and/or net profits are subject to the tax imposed by this chapter shall, whether or not tax is due thereon, make and file a final return with the Income Tax Clerk on or before April 15th of each year, on a form obtainable from the Income Tax Clerk or a generic form, setting forth the aggregate amount of income, salaries, wages or other compensation and net profits earned or received by him or her during the preceding year or period. However, when the final return is made for a fiscal year or other period different from the calendar year, the return shall be made within one hundred five (105) days from the end of such fiscal year or other period. The final tax return for each year shall be accompanied by W-2's and 1099's issued to and received by the taxpayer.

B. The return shall also show the amount of the tax imposed on such income and profits. The taxpayer making the return shall, at the time of the filing thereof, pay to the Village of North Kingsville the amount of taxes shown as due thereon. However, where any portion of such tax has been paid by such taxpayer pursuant to Section 880.06, Tax Withheld by Employer, and/or Section 880.07, Estimated Tax Payments, or Section 880.08, Credits, credit for the amount so paid 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 final return. Schedules needed to support the tax returns are to be filed with the tax return, as well as other pertinent statements, information returns or other information as the Income Tax Clerk may require.

C. The W-2 Form of any employer or employee showing the amount of tax deducted by such employer from the income, salaries, wages or compensation of any nonresident employee, and paid by him or her to the Village of North Kingsville, shall, at the discretion of the Clerk Treasurer, be accepted as the return required of any employee whose sole income subject to the tax of one percent is such income, salaries, wages or compensation.

D. Extension of time for filing returns.

1. Taxpayers granted extensions of time for filing their federal income tax returns may have an extension for filing their North Kingsville Tax Return provided that a copy of the federal extension is filed with the Income Tax Clerk on or before the original due date of

the North Kingsville Tax Return. The Income Tax Clerk can refuse an extension if the taxpayer did not file a timely request or the taxpayer's Village of North Kingsville tax account is delinquent in any manner (i.e., failed to file required documents or owes delinquent taxes, ~~or~~ penalties, and/or interest).

2. The extended date for filing the North Kingsville return will be the same as the extended date for the federal return regardless of the original due date of the tax return, excepting that 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, and for tax years 2005 and later shall be the last day of the month to which the due date of the federal income tax return has been extended. The granting of an extension for the filing of a Village of North Kingsville Income Tax Return does not extend payment; hence, interest will be charged from the original due date of the return until date of actual payment, at the rate of one (1) percent per month.

3. If a taxpayer wishes to extend the time for filing the North Kingsville tax return to a date beyond that provided above, the taxpayer must file such a request in writing to the Income Tax Clerk prior to the due date of the automatic extension.

E. Where necessary, an amended return shall be filed in order to report additional income and pay any additional tax due, or claim a return of tax overpaid, subject to the requirements and/or limitations contained in Section 880.15. Such amended return shall be on a form obtainable on request from the Income Tax Clerk. A taxpayer may not change the method of accounting (i.e., cash or accrual) or apportionment of net profits after the due date for filing the annual return.

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

G. The officer and/or employee of such employer having control or supervision or charged with the responsibility of filing the return and making the payment, shall be personally liable for failure to file the return or pay the tax, penalties, or interest due as required herein. The dissolution, bankruptcy or reorganization of any such employer does not discharge any officer's or employee's liability for a prior failure of such business to file a return and/or pay taxes, penalties, and/or interest due.

H. The Tax Return is considered received if mailed, on the date postmarked by the United States Post Office Postal Service or on the date delivered without mailing to the Village of North Kingsville Tax Office.

I. Consolidated Returns.

1. Consolidated returns may be filed by a group of corporations who are affiliated through stock ownership provided such group files consolidated returns for federal income tax purposes. For a subsidiary corporation to be included in a consolidated return 80% of its stock must be owned by the other members of the affiliated group. A consolidated return must include all companies which are so affiliated.

2. Once a consolidated return has been filed for any taxable year the consolidated group must continue to file consolidated returns in subsequent years unless:

- a. Permission in writing is granted by the Tax Clerk to file separate returns.

b. A new corporation other than a corporation created or organized by a member of the group has become a member of the group during the taxable year.

c. A corporation member of the group is sold or exchanged. Liquidating a corporation or merging one of the corporations of the group into another will not qualify the group for filing separate returns.

3. If a corporation becomes a member of the group during the taxable year, the consolidated return must include the income from the entire taxable year of the common parent corporation and any subsidiaries which were members of the group for the entire year, plus the income of each subsidiary which becomes a member of the group during the year for the period beginning with the date it became a member of the affiliated group. For the period prior to the time any subsidiary became a member of the group, separate returns must be filed for that subsidiary. When a subsidiary ceases to be a member of the affiliated group, the consolidated return must include the income of such subsidiary for the period during which it was a member of the group, but separate returns must be filed for the period after it ceases to be a member. If a corporation has been a member of the affiliated group for less than one month of the taxable year of the group, it may be considered as not being part of the group. Similarly, a subsidiary may be considered as being a member of the affiliated group during the entire taxable year of the group if the period during which it was not a member of the group does not exceed one month. If a subsidiary is a member of a consolidated group for only part of a taxable year, the income considered to be earned in such fractional part of the year shall be that portion of the net income for the entire year which the number of days it was a member of the group bears to the total number of days in the taxable year.

4. In determining the allocation fraction where a corporation becomes a member of the group or ceases to be a member of the group during the taxable year, the property factor (Step 1 of the formula) shall be determined on the basis of the average net book value of the property during the period such corporation was a member of the group. The rental portion of the factor, however, shall be computed at 8 times the annual rent. The gross receipts and wage factors shall be based on the actual figures.

5. All subsidiary corporations must agree in writing to the filing of the consolidated return, as they will be liable for the tax as well as the parent corporation.

J. Any business, profession, association or corporation reporting a net loss is subject to the filing requirements of this Chapter.

K. Payments received for taxes due shall be allocated first to penalties due, then to interest due, and then to taxes due.

L. If it appears that such taxpayer has paid more than the amount of tax to which the Village of North Kingsville is entitled, a refund of the amount so overpaid shall be made or the same may be applied toward the declaration of tax due for the ensuing year.

880.06 COLLECTION AT SOURCE - WITHHOLDING BY EMPLOYER.

A. Each employer within or doing business within the Village of North Kingsville who employs one or more persons on a salary, wage, commission, income, or other compensation basis shall deduct from each periodic compensation paid, and at the time of the payment of such salary, wage, commission, income, or other compensation, the tax at the current rate of Municipal Income Tax from salaries, wages, commissions, income, or other compensation paid by the said employer to the said employee.

B. Each such employer shall, on or before the last day of the month following the close of each calendar quarter, make a return and remit the tax hereby required to be withheld to the Village of North Kingsville. However, any employer who deducted taxes in the average amount of one hundred dollars (\$100.00) or more per month in the previous tax year shall, on or before the last day of the month following the month for which taxes have been withheld, make a return and remit the tax hereby required to be withheld to the Income Tax Clerk. Such return shall be on a form or forms prescribed by or acceptable to the Income Tax Clerk and shall be subject to the rules and regulations prescribed therefor by the Income Tax Clerk. Such employer shall be liable for the payment of taxes hereby required to be deducted and withheld, whether or not such taxes have in fact been so deducted and withheld.

C. Such employer in collecting such tax shall be deemed to hold the same, until payment is made by such employer to the Village of North Kingsville, as a trustee for the benefit of the Village of North Kingsville, and any such tax collected by such employer from its employees shall, until the same is paid to the Village of North Kingsville, be deemed a trust fund in the hands of such employer.

D. The officer and/or the employee having control of or charged with the responsibility of filing the return and making payment, shall be personally liable for failure to file the return or pay the tax due as required by this section. The dissolution, bankruptcy or reorganization of any such employer does not discharge an officer's or employee's liability for a prior failure of the corporation to file returns and/or pay taxes, penalties, and/or interest due.

E. On or before January 31 following any calendar year, such employer shall file with the Income Tax Clerk an annual reconciliation return along with an information return for such employee from whom North Kingsville Income Tax has been or should have been withheld, showing the name, address and Social Security number of the employee, the total amount of compensation paid during the year and the amount of municipal income tax withheld from the employee with the municipality for which said tax was withheld identified. The information return shall also include all of the information required to be reported by the employer to IRS on a W-2 form. At the time of filing the annual reconciliation return the employer shall pay over any amounts deducted or which should have been deducted during the preceding year but which were not remitted. The annual reconciliation form shall be obtained from the Income Tax Clerk.

F. All individuals, businesses, employers, brokers or others who are required under the Internal Revenue Code to furnish forms 1099 to IRS for individuals or businesses to whom or which they have non-employee compensation shall furnish copies of the said form 1099's to the Income Tax Clerk or in lieu thereof, a list containing the same information as required by IRS on the 1099's on or before the due date for such forms 1099's as established by IRS. Failure to provide the foregoing information may result in any deduction for payment by the taxpayer taken on the taxpayer's return to be disallowed.

G. Every employer shall retain all records necessary to compute withholding taxes due North Kingsville for a period of six years from the date the Reconciliation form, W-2 Forms, and 1099 forms are filed.

H. All returns and forms required to be filed by an employer are considered received on the date postmarked by the United States Postal Service or on the date delivered without mailing by the taxpayer to the North Kingsville Tax Office.

I. The failure of any employer to receive or procure a return, or other required form shall not excuse the employer from preparing any information return, withholding tax returns or from filing such forms or from paying the tax due.

J. Payments received for withholding taxes due shall be applied first to penalties due, then to interest due, and then to taxes due.

K. All employers that provide any contractual service within the Village of North Kingsville, and who employ subcontractors in conjunction with that service, shall provide the Village of North Kingsville the names and addresses of the subcontractors. The subcontractors shall be responsible for all income tax withholding requirements under this chapter.

L. No person shall be required to withhold the tax on the wages or other compensation paid domestic employees employed exclusively in or about such person's residence, but such employee shall be subject to all of the requirements of the chapter, including making quarterly estimated payments.

880.07 DECLARATIONS - ESTIMATED TAX PAYMENTS.

A. Every taxpayer who anticipates any income which is not subject to Section 880.06 shall file a declaration of the estimated tax for the taxable year of 1992. Such declaration shall be filed by the taxpayer on or before April 15, 1992, and thereafter a similar declaration shall be filed by all such taxpayers for each calendar year on or before April 15 of each ensuing year for the duration of the tax imposed by this chapter.

B. Such declaration shall be filed upon a form prescribed by the Income Tax Clerk, or on generic forms deemed acceptable by the Income Tax Clerk.

C. Such declaration to be filed on April 15 of each year shall be accompanied by payment of at least one-fourth of the estimated annual tax and, in the case of individuals, at least a similar amount shall be paid on or before the last day of the 7th month (July), the 10th month (October) and the 13th month (January), after the beginning of the tax year. Estimated tax to be paid to the Village of North Kingsville by corporations and associations 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 June 15, September 15, and December 15th. In the case of a fiscal year taxpayer the second, third, and fourth quarterly estimated payments shall be due on the fifteenth day of the sixth, ninth, and twelfth months of the taxable year, respectively. If amended declarations have been filed, whether by individuals, corporations, or associations, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates. On or before April 15 of the year following that for which the declaration was filed, a final return shall be filed and any balance which may be due the Village of North Kingsville shall be paid therewith.

D. No penalties or interest shall be assessed, for not filing a declaration, on any resident taxpayer who was not domiciled in the Village of North Kingsville on the first day of January in the year in which they became subject to estimated payments, nor shall penalties or interest be assessed on estimated payments if the taxpayer has remitted an amount equal to one hundred percent of the previous year's tax liability, provided that the previous year reflected a twelve-month period.

880.08 CREDIT FOR TAX PAID TO ANOTHER VILLAGE OF NORTH KINGSVILLE.

A. Every individual taxpayer who resides in the Village of North Kingsville but who receives net profits, income, salaries, qualifying wages, commissions or other personal service compensation for work done or services performed or rendered outside of the Village of North Kingsville, if it is made to appear that he or she has paid a municipal income tax on such net profits, income, salaries, qualifying wages, commissions or other compensation to another municipality, shall be allowed a credit against the tax imposed by this chapter on the amount so paid by him or her or in his or her behalf to such other municipality. The credit shall not exceed the tax assessed by this chapter on such net profits, income, salaries, qualifying wages, commissions or compensation earned in such other municipality where such tax is paid.

B. No credit will be given to taxpayers for school district taxes.

880.09 POWERS AND DUTIES OF THE CLERK-TREASURER AND INCOME TAX CLERK; DEPARTMENT OF TAXATION.

A. The Income Tax Clerk shall receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers, keep an accurate record thereof and report all moneys so received to the Clerk-Treasurer.

B. The Income Tax Clerk shall enforce the payment of all taxes owed to the Village of North Kingsville and keep accurate records for a minimum of six years showing the amount due from each taxpayer required to file a declaration and/or make any return, including taxes withheld, and showing the dates and amounts of payments thereof.

C. The Income Tax Clerk is hereby charged with the enforcement of this chapter, and shall enforce the rules and regulations approved by the Board of Review relating to any matter or thing pertaining to the collection of Municipal income taxes and the administration and enforcement of this chapter, including provisions for the examination and correction of returns and payments. Taxpayers are hereby required to comply with said rules and regulations.

D. In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Income Tax Clerk may determine the amount of tax appearing to be due to the Village of North Kingsville from the taxpayer and shall send to such taxpayer by certified mail or by delivering to the taxpayer's last known address, a written statement showing the amount of tax so determined, together with the interest and penalties thereon, if any. If the taxpayer fails to respond to the assessment within thirty (30) days from receipt of the certified mail, the tax, penalties, and interest assessed shall become due and payable and collectible as are other unpaid taxes.

E. Subject to the consent of the Board of Review, or pursuant to regulations approved by Council, the Income Tax Clerk shall have the power to compromise any interest or penalty, or both, imposed by this chapter.

F. A Department of Taxation is hereby established within the office of the Clerk-Treasurer. Such Department shall have such deputies, clerks and other employees as may be, from time to time, determined by Council, and shall receive such compensation as may be determined by Council. The Clerk-Treasurer shall make all appointments of personnel and shall purchase all equipment, supplies and material for the Department. The Department shall be charged with the administration and operation of this chapter. The Clerk-Treasurer shall make an annual written report to Council of all moneys collected under this chapter during the preceding year.

G. The Income Tax Department, as defined in 880.09.F, has the authority to correct or adjust any return submitted, when a correction or adjustment is necessary to accomplish the intent of the chapter.

H. The Income Tax Department, as defined in 880.09.F, 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 Income Tax Department that, due to certain hardship conditions, the taxpayer is unable to pay the full amount of the tax due. Installment payments for all amounts owed by the taxpayer under this chapter shall not exceed a period in excess of six (6) months except with the approval of the Income Tax Clerk, and only after written application by the taxpayer.

I. In any case where a taxpayer or employer fails to file a return or filed a return which does not show the proper amount of tax due, The Income Tax Department may assess the amount of tax appearing to be due, together with interest and penalties thereon, if any are due:

1. If the Income Tax Department determines that any taxpayer subject to the provision of the chapter has a tax liability for which the taxpayer has failed to pay the full amount of tax due, the Tax Department shall issue a proposed assessment showing the amount of tax due, together with any penalty and interest that may have accrued thereon.

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

b. The proposed assessment shall be served on the taxpayer in person or by mailing to the taxpayer last known address. Proof of mailing furnished by the U.S. Post Office shall be proof of receipt thereof by the addressee.

c. The taxpayer may, within fifteen (15) days after the date the proposed assessment was served or mailed, file a written protest with the Income Tax Department. A final assessment shall then be issued by the Income Tax Clerk. The taxpayer shall then have the right to appeal the final assessment to the Board of Review in accordance with the provisions of Section 880.12. If the taxpayer does not object to the assessment within thirty (30) days the assessment stands as charged.

880.10 INVESTIGATIONS; CONFIDENTIALITY OF INFORMATION.

A. The Income Tax Clerk is hereby authorized to examine the books, papers and records and Federal and State income tax returns of any employer or of any taxpayer or person subject to the tax imposed under this chapter, for the purpose of verifying the accuracy of any return made or, if no return was made, to ascertain the tax due. 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 Income Tax Clerk the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

B. The Income Tax Clerk is hereby authorized to subpoena any person, employer, or employee to appear before the Income Tax Clerk and/or duly authorized agent or employee thereof, and to examine any person, employer or employee, under oath concerning any income which was or should have been returned for taxation and, for this purpose, may compel the production of books, papers and records and Federal and State income tax returns and the

attendance of all persons before him or her, whether as parties or witnesses, whoever the Income Tax Clerk believes such persons have knowledge of such income.

C. The refusal to submit to such examination by any employer, employee or person subject or presumed to be subject to the tax shall be deemed a violation of this chapter.

D. Tax returns and all audit papers and information connected therewith are confidential and shall be carefully preserved so that they are not available for inspection by anyone other than the proper agents of the Village of North Kingsville for official tax purposes.

E. Any information gained as the result of the filing of a tax return, or an investigation, hearing or verification required or authorized by this chapter, shall be confidential, except for official tax purposes which includes the exchange of information with other tax authorities or except in accordance with proper judicial order. No person shall divulge such information.

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

880.11 ALLOCATION OF FUNDS. (REPEALED)

(EDITOR'S NOTE: Section 880.11 was repealed by Ordinance O-91-029, passed July 1, 1991.)

880.12 BOARD OF REVIEW; APPEALS.

A. A Board of Review, consisting of three electors of the Village of North Kingsville, one to be appointed by the Mayor, one to be appointed by the Clerk-Treasurer and one to be selected by the two so appointed, is hereby established. No member shall be appointed to the board who holds another public office or appointment. The members of the Board shall serve without pay.

B. 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.

C. All hearings of the Board shall be conducted privately and the provisions of Section 880.10 with reference to the confidentiality of information shall apply to such matters as may be heard before the Board of Appeal.

D. Any person dissatisfied with any ruling or decision of the Income Tax Clerk which is made under the authority conferred by this chapter or the Rules & Regulations, and who has filed the required returns or other documents pertaining to the municipal income tax obligation at issue, may appeal therefrom to the Board within thirty (30) days from the announcement of such ruling or decision by the Income Tax Clerk. The Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or a part thereof. The Board shall schedule a hearing within forty-five (45) days after receiving the request, unless the taxpayer waives a hearing. The Board must issue a decision within sixty (60) days after the final hearing and send a notice of its decision to the taxpayer within fifteen (15) days after issuing the decision.

E. Any person dissatisfied with a ruling or decision of the Board may appeal therefrom to the Court of Common Pleas of Ashtabula County, Ohio, by filing a Notice of Appeal with the Clerk-Treasurer, the Income Tax Clerk, and the Clerk of Courts 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.

F. The Board, as created, shall serve during the life of this chapter.

880.13 APPLICABILITY OF CHAPTER.

This chapter shall not apply to any person or property as to whom or which it is beyond the power of Council to impose the tax herein provided for.

880.14 EXEMPTIONS.

The tax provided for herein shall not be levied on the following:

A. The 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.

B. The income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities and only to the extent that the said income is exempt from federal income tax.

C. Social security benefits, unemployment insurance benefits except for supplemental unemployment benefits, payments from IRS qualified retirement plans or similar retirement plans, disability benefits received from local, state or federal governments or charitable, religious or educational organizations. The disability benefits excludable must be of a permanent nature as determined by a physician or government entity.

D. Proceeds of insurance paid by reason of death of the insured, payments from pensions, including industrial pensions, disability benefits paid for total and permanent disability, annuities or gratuities not in the nature of compensation for services rendered from whatever source derived.

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

F. Alimony received.

G. Compensation for personal injuries or for damages to property by way of insurance or otherwise but this exclusion does not apply to compensation paid for lost salaries or wages.

H. Interest, dividends and other revenue from intangible property as set forth in O.R.C. 718.01.

I. Amounts included in an employee W-2 Form for moving expenses reimbursement when the taxpayer is moving into North Kingsville.

J. Payments made to Election Workers up to \$1,000.00 per year.

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

L. Income, salaries, wages, commissions and other compensations and net profits, the taxation of which is prohibited by the Constitution of the State of Ohio or any act of the Ohio General Assembly limiting the power of a municipality to impose net income taxes.

M. The amount of unreimbursed employee business expenses (2106 Expenses) which the employee deducted as an itemized deduction after reduction by 2% of the employee's AGI on his or her federal tax return. Taxpayer must furnish a copy of the form 2106 and Schedule "A" of Form 1040 as filed with IRS.

N. Earnings and income of all persons under eighteen years of age, whether residents or nonresidents.

O. In the case of domestics and other employees whose duties require them to live at their place of employment or assignment, board and lodging shall not be considered as taxable compensation.

P. Housing allowances for clergy to the extent that the allowance is used to provide for a home are exempt from the tax imposed by the ordinance. The clergy must be duly ordained, commissioned, or licensed by a religious body constituting a church or church denomination, and must have authority to perform all sacraments of the church.

Q. Occasional entrant.

1. Compensation paid to a nonresident individual for personal services performed within the Village if the personal services are performed during twelve (12) or fewer days during the calendar year. A day is a full day or any fractional part of a day.

2. Compensation paid to a nonresident employee by a nonresident employer for work or services performed in the Village if the services or work is performed during twelve (12) or fewer days during the calendar year and further provided that the individual's employer is located outside of the Village and the individual pays tax on the compensation to the municipal corporation in which the employer's principal place of business is located and no portion of the tax paid is refunded to the individual.

3. Section 880.14 Q1 and 2 do not apply to professional entertainers, professional athletes, promoters of professional entertainment or sporting events and their employees.

880.15 REFUNDS.

See Section 880.18.

880.16 EFFECTIVE PERIOD.

This chapter shall continue to be effective indefinitely, insofar as the levy of taxes is concerned, provided, however, that annual returns for the year ending December 31, 1977, shall be filed on or before April 15, 1978. This chapter, insofar as the collection of taxes levied in the aforesaid period and any action or proceeding for collecting any tax so levied or enforcing this chapter are concerned, shall continue effective until all of the taxes levied in the aforesaid period are fully paid and until any and all suits and prosecutions for the punishment of violations of this chapter are fully terminated.

880.17 INTEREST AND CIVIL PENALTIES.

A. All taxes imposed by this chapter, including taxes withheld from wages by an employer and remaining unpaid after they have become due, shall bear interest on the amount of the unpaid tax at the rate of one percent (1%) per month or fraction of a month thereof and the taxpayers upon whom such taxes are imposed, and the employers required by this chapter to deduct, withhold and pay taxes imposed by this chapter, shall be liable, in addition thereto, to a penalty of ten percent (10%) of the amount of the unpaid tax for each month or fraction of a month thereof for the first six months of nonpayment, or fifty dollars (\$50.00), whichever is greater. Upon recommendation of the Village of North Kingsville, the Board of Review may abate interest or penalties, or both, and upon appeal from the refusal of the Municipality to so recommend, the Board may nevertheless abate interest or penalties, or both.

B. A penalty of Fifty Dollars (\$50.00) shall be assessed on any taxpayer who fails to file the annual tax due as required at Section 880.05 regardless of whether or not a tax liability remains due.

C. No penalty shall be assessed on additional taxes found on an audit to be due when a return was timely filed in good faith and the tax paid thereon within fifteen (15) days from the date the taxpayer was notified of such finding.

D. In the absence of fraud neither penalty nor interest shall be assessed on any additional taxes resulting from a federal audit for federal income tax purposes provided an amended return is filed and the additional tax paid within three (3) months after final determination of the federal tax liability.

880.18 COLLECTION OF UNPAID TAXES-REFUNDS OF OVERPAYMENTS. CIVIL LITIGATION; STATUTE OF LIMITATIONS.

A. All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable. Such suit shall be brought within three (3) 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 refund is made within three years from the date 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 Village of North Kingsville, but should have been deposited with another municipality, is allowable by the Village of North Kingsville as a refund but is subject to the three-year limitation on refunds. Income tax that should have been deposited with the Village of North Kingsville, but was deposited with another municipality, shall be subject to recovery by the Village of North Kingsville. The Village of North Kingsville will allow a non-refundable credit for any amount owed the Village of North Kingsville 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 Village of North Kingsville tax rate. If the Village of North Kingsville tax rate is higher, the tax representing the net difference of the rates is also subject to collection by the Village of North Kingsville.

D. Payments received shall first be applied to delinquent penalties and interest, and then to taxes, beginning with the oldest year outstanding.

880.19 VIOLATIONS.

A. No person shall:

1. Fail, neglect or refuse to make any return or declaration required by this chapter;
2. Make any incomplete, false or fraudulent return;
3. Fail, neglect or refuse to pay the tax, penalty or interest imposed by this chapter;
4. Fail, neglect or refuse to withhold the tax from employees or to remit such withholding to the Income Tax Clerk;
5. Refuse to permit the Income Tax Clerk or any duly authorized agent or employee to examine the books, records, papers, and federal and State income tax returns relating to the income or net profits of a taxpayer;
6. Fail to appear before the Income Tax Clerk and to produce the books, records, papers, and federal and State income tax returns relating to the income or net profits of a taxpayer under order of subpoena of the Income Tax Clerk;
7. Refuse to disclose to the Income Tax Clerk any information with respect to the income or net profits of a taxpayer;
8. Fail to comply with any of the provisions of this chapter or any order or subpoena of the Income Tax Clerk authorized hereby; or
9. Give an employer false information as to his or her true name, correct social security number and residence address, or fail to notify an employer promptly of any change in residence address and date thereof; or
10. Attempt to do anything to avoid the payment of the whole or any part of the tax, penalty or interest imposed by this chapter shall be in violation of this chapter and punished as provided in Section 880.99.

B. Any taxpayer in violation of this Chapter shall be subject to punishment as set forth in Section 880.99.

C. All prosecutions under this section must be commenced within the periods stipulated in Ohio R.C. 718.12.

880.20 FAILURE TO OBTAIN FORMS.

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

880.21 SEPARABILITY.

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

880.99 CRIMINAL PENALTIES; LIMITATION OF ACTIONS.

A. Whoever violates or fails to comply with any of the provisions of this chapter shall be subject to criminal prosecution for a 3rd degree misdemeanor, which is a fine of up to five hundred dollars (\$500) and/or up to sixty (60) days in jail. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

B. In addition to the penalty provided in subsection A. hereof, whoever violates Section 880.10(e) shall be immediately dismissed from the service of the Village of North Kingsville.

C. Prosecutions for an offense made punishable under this Chapter shall be commenced within three (3) years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five (25%) or more of the compensation or net profits required to be reported, prosecutions may be commenced within six (6) years after the commission of the offense in accordance with O.R.C. 718.12.