

ORDINANCE NO. 12-10

CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER Brooks Compton
ON THE 19th DAY OF July, 2010

**AN ORDINANCE AMENDING CHAPTER 880 BUSINESS
REGULATION AND TAXATION CODE OF THE
CENTERVILLE MUNICIPAL CODE.**

WHEREAS, the City of Centerville periodically reviews the laws relating to municipal income taxes; and

WHEREAS, the City of Centerville Income Tax Division has recommended certain changes to the City's Municipal Code relating to municipal income taxes; and

WHEREAS, it is recommended to amend Chapter 880 of the Centerville Municipal Code to incorporate these changes.

NOW THEREFORE THE MUNICIPALITY OF CENTERVILLE HEREBY ORDAINS:

SECTION 1. That the amendments to Centerville Municipal Code Chapter 880, are hereby enacted as follows with new language to be added in *italics* and text to be deleted in ~~strikeout~~ as provided in Section 5.02 of the Centerville Charter.

**880.05 ~~OPERATING LOSS TREATMENT.~~ NET OPERATING
LOSS (NOL) AND BUSINESS EXPENSES**

(a) The portion of a net operating loss sustained in any taxable year subsequent to December 31, 1975, allocable to the City, may not be applied against the portion of the profit of succeeding years allocable to the City. No portion of a net operating loss shall be carried back against net profits of any prior year.

(b) The portion of a net operating loss sustained shall be allocated to the City in the same manner as provided herein for allocating net profits to the City.

(c) *If an individual is engaged in two or more taxable business activities to be included on the same return, the net loss of one unincorporated business activity may be used to offset the profits of another (except any portion of a loss or profit separately reportable for municipal tax purposes to another taxing entity) for purposes of arriving at overall net operating profit or net operating loss.*

(d) *Losses from other sources, including net operating losses and passive activity losses reported for federal income tax purposes, may not be combined with qualifying wages.*

(e) *The only expenses that can be deducted against qualifying wages are those employee business expenses deductible for federal income tax purposes in determining adjusted gross income, unless otherwise allowed on a uniform and consistent basis by the Tax Administrator. The total of such expenses cannot exceed the employee's related W-2 wage income from the same employer. If a taxpayer's taxable income for a taxable year includes income against which the taxpayer has taken a deduction for federal income tax purposes and reported on Form 2106 as attached to the taxpayer's federal income tax return filed for the taxable year, the taxpayer shall determine taxable income to the City by deducting the same amount deducted for federal income tax purposes and reported on the taxpayer's Form 2106 for that taxable year. This deduction shall be allowed for City income tax purposes only if the taxpayer attaches to the taxpayer's city income tax return a copy of Form 2106 and Schedule A as filed with the taxpayer's federal income tax return for that taxable year.*

880.09 COLLECTION AT SOURCE

(g) *Any person required by the Internal Revenue Code to report, on an Internal Revenue Service Form 1099, payments made by such person to any individual not treated by such person as an employee for services performed by such individual shall also report such payment to the City where such services or any portion thereof were performed in the City, or where such payee is a resident of the City. Such report shall be made on a form prescribed by the Tax Administrator, which form shall include the name, address, federal taxpayer identification number, the amount of the payments made to each payee, and the percentage of such payments attributable to the City. Federal forms 1099 may be submitted in lieu of such report. Such return or forms shall be filed annually on or before February 28 of each year.*

(h) *Any person who is required herein to withhold City Income Tax from compensation shall pay all such City Income tax to the City in accordance with the provisions of this Chapter. In the event the City Income Tax required to be withheld from the compensation of employees are not so withheld or are not paid to the City in accordance with the provisions of this section, any person, including but not limited to all shareholders, officers, owners, managers, employees, and trustees, having control or supervision of or charged with the responsibility of filing the withholding return and making payment of City Income tax withheld are jointly and severally personally liable for the City Income Tax withheld, not returned, or not paid to the City as well as any related interest and penalties, and are also criminally liable under the provisions of Section 880.99. The liquidation, dissolution, termination, death, or bankruptcy of any person does not discharge such person's liability for a failure of such person to file*

withholding returns or withhold or pay City Income Taxes required to be withheld.

880.10 DECLARATIONS.

(e) On or before the ~~last day~~ *15th day* of the fourth month of the calendar or fiscal year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the City shall be paid therewith in accordance with the provisions of Section 880.08. If the tax return is filed and paid within forty-five days after the end of the tax year, the fourth quarter estimated tax payment may be eliminated.

880.11. DUTIES AND POWERS OF THE SUPERINTENDENT.

(f) When an application for deferred payment of tax due is filed by a taxpayer, the Superintendent may authorize partial payments of unpaid taxes when, in his or her judgment, the taxpayer is unable, due to hardship conditions, to pay the full amount of the tax when due, and when, in his or her judgment, such deferred payments are the best means of accomplishing the intent of this chapter. However the Superintendent shall not authorize the extension of time for the payment of such taxes due for more that ~~six~~ *twelve (12)* months beyond the date of the filing of the application.

(g) *The Superintendent shall have the authority to charge a fee for any payment made by check under this Chapter 880, which has been returned "UNPAID" due to insufficient funds. Said fee shall be reasonably calculated in an amount necessary to cover the City's expenses for processing and handling fees assessed to the City and for the check returned "UNPAID" for insufficient funds. The Superintendent shall not charge this fee unless and until the amount of said fee is posted in writing and available to the public.*

880.13. INTEREST AND PENALTIES.

(e) In no case shall penalty and interest charges be levied when the total of such penalty and interest amounts to less than ~~one dollar (\$1.00)~~ *ten dollars (\$10.00)*.

(g) ~~Interest but no penalty will be assessed where an extension has been granted by the Superintendent and the final tax paid within the period as extended. A penalty shall be assessed for the failure to file tax returns, informational reports or any other filing as required by this Section. If the required filing is not more than 120 days late, the penalty assessed shall be twenty-five dollars (\$25.00). If the required filing is more than 120 days late, the penalty assessed shall be fifty dollars (\$50.00). Filings shall be deemed timely if postmarked by the due date.~~

880.14. COLLECTION OF UNPAID TAXES; REFUNDS OF OVERPAYMENTS.

(c) Additional amounts of less than ~~one dollar (\$1.00)~~ *five dollars (\$5.00)* shall not be refunded or assessed unless such assessment results from income which the taxpayer has failed to report.

880.15. VIOLATIONS.

(e) All prosecutions under this section must be commenced within the time specified in ~~Ohio R.C. 718.06~~ *by applicable law.*

880.19 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER; AUTHORIZATION FOR COLLECTION AGENCY AND RECOVERY OF COLLECTION EXPENSES.

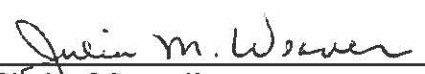
(c) The City Manager is hereby authorized and empowered to execute a contract with a competent municipal collection agency for the administration and collection of taxes provided for in this chapter. *All taxes imposed by this chapter shall be collectible by a collection agency as other debts of like amount are recoverable, together with any interest and penalties, as well as any collection agency fees and expenses incurred by the City.*

Section 2: This ordinance shall take effect at the earliest date allowed by law.

PASSED THIS 19th day of July, 2010.


Deputy Mayor of the City of Centerville, Ohio

ATTEST:


Clerk of Council
City of Centerville, Ohio

Ass. stant

CERTIFICATE

The undersigned, Clerk of Council of the City of Centerville, Ohio, hereby certifies the foregoing to be a true and correct copy of Ordinance No. 12-10, passed by the Council of the City of Centerville, Ohio on the 14th day of July, 2010.

Julia M. Weaver
Ass. ~~stant~~ Clerk of the Council

Approved as to form, consistency with the
Charter and Constitutional Provisions.

Department of Law

Scott A. Liberman

Municipal Attorney