

CITY OF STRONGSVILLE, OHIO

ORDINANCE NO. 2014 – 155

By: Mayor Perciak and Mr. Dooner

**AN ORDINANCE AMENDING SECTIONS 880.02 AND 880.37 OF CHAPTER 880 INCOME TAX OF TITLE FOUR OF PART EIGHT OF THE CODIFIED ORDINANCES OF THE CITY OF STRONGSVILLE IN ORDER TO ADD A DEFINITION AND CLARIFY ADOPTION OF CERTAIN RULES AND REGULATIONS OF THE REGIONAL INCOME TAX AGENCY (R.I.T.A.), AND DECLARING AN EMERGENCY.**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF STRONGSVILLE, COUNTY OF CUYAHOGA AND STATE OF OHIO:

**Section 1.** That Section 880.02 of Chapter 880 of Title Four of Part Eight of the Codified Ordinances of the City of Strongsville be and is hereby amended to read in its entirety as follows:

**CHAPTER 880  
Income Tax**

880.01	Purpose of levy of income tax.
880.02	Definitions.
880.03	Rate and income taxable.
880.04	Effective period.
880.05	Method of determination of allocation of tax.
880.06	Sales made in the City.
880.07	Total allocation.
880.08	Rentals.
880.09	Operating loss-carry forward.
880.10	Sources of income not taxed.
880.11	When return required to be made.
880.12	Form and content of return.
880.13	Extension of time for filing returns.
880.14	Consolidated returns.
880.15	Amended returns.
880.16	Payment of tax on filing of return.
880.17	Collection at source.
880.18	Declarations of income not collected at source.
880.19	Filing of declaration.
880.20	Form of declaration.
880.21	Payment to accompany declaration.
880.22	Annual return.
880.23	Interest on unpaid tax.
880.24	Penalties on unpaid tax.
880.25	Exceptions.

- 880.26 Abatement of interest and penalty.
- 880.27 Violations.
- 880.28 Failure to procure forms not excuse.
- 880.29 Unpaid taxes recoverable as other debts.
- 880.30 Refunds of taxes erroneously paid.
- 880.31 Amounts of less than one dollar.
- 880.32 Tax credit.
- 880.33 Claim for credit.
- 880.34 Disbursement of funds collected.
- 880.35 Duty to receive tax imposed.
- 880.36 Duty to enforce collection.
- 880.37 Authority to make and enforce regulations; **adoption of R.I.T.A.'s rules and regulations.**
- 880.38 Authority to arrange installment payments.
- 880.39 Authority to determine amount of tax due.
- 880.40 Authority to make investigations.
- 880.41 Authority to compel productions of records.
- 880.42 Refusal to produce records.
- 880.43 Confidential nature of information obtained.
- 880.44 Taxpayer required to retain records.
- 880.45 Authority to contract for central collection facilities.
- 880.46 Board of Review established.
- 880.47 Duty of Board to approve regulations and hear appeals.
- 880.48 Right of appeal.
- 880.49 Declaration of legislative intent.
- 880.50 Collection of tax after termination of chapter.
- 880.51 Limitation on prosecutions.
- 880.52 Registration.
- 880.53 Authorization to provide notice.
- 880.99 Penalty.

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#### **880.02 DEFINITIONS.**

For the purpose of this chapter, the terms, phrases, words and their derivations shall have the meanings given in the next succeeding sections. The singular shall include the plural, and the masculine shall include the feminine and the neuter.

- (a) "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 as reflected in Ohio Revised Code Section 718.01. Pass-through entities must compute adjusted federal taxable income as if the pass-through entity were a C corporation. This definition does not apply to any taxpayer required to file a return under Ohio Revised Code Section 5745.03 or to the net profit from a sole proprietorship.

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- (b) "Administrator" means the individual designated by the Mayor and confirmed by Council to administer and enforce the provisions of the City income tax.
- (c) "Association" means any partnership, limited partnership, or other form of unincorporated enterprise, owned by two or more persons.
- (d) "Board of Review" means the Board created by and constituted as provided in Section 880.46.
- (e) "Business" means any 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, excluding, however, all nonprofit corporations which are exempt from the payment of Federal income tax.
- (f) "City" means the City of Strongsville, Ohio.
- (g) "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.
- (h) "Employee" means one who works for wages, salary, commission or other type compensation in the service of an employer, as "employee" is defined in the federal Internal Revenue Code.
- (i) "Employer" means an individual, partnership, association, corporation, government 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 basis of compensation.
- (j) "Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31.
- (k) "Form 2106" means Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
- (l) "Generic form" means an electronic or paper form designed for reporting estimated municipal income taxes and/or annual municipal income tax liability and/or requests for refunds, which contain all of the information required on the City's regular tax return, estimated payment forms, and request for refund forms, and are in a similar format that will allow processing of the generic forms without altering the City's procedures for processing forms.
- (m) "Gross receipts" means the total income from any source whatever.
- (n) "Income from a pass-through entity" means partnership income of partners, membership interests of members of a limited liability company, distributive shares of shareholders of an S corporation, or other distributive or proportionate ownership shares of income from other pass-through entities.
- (o) "Intangible income" means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, trade names, investments in real estate

investment trusts, investments in regulated investment companies, and appreciation on deferred income. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings or other similar games of chance, which are otherwise taxed as taxable income.

- (p) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.
- (q) "Military" means any person actively engaged in any branch of the Armed Forces, including individuals employed by any branch of the National Guard.
- (r) "Net profit" for a taxpayer other than an individual means adjusted federal taxable income and "net profit" for a taxpayer who is an individual means the individual's profit, other than amounts described in this chapter required to be reported on schedule C, schedule E, or schedule F.
- (s) "Nonresident" means an individual domiciled outside the City.
- (t) "Nonresident incorporated business entity" means an incorporated business entity not having an office or place of business within the City.
- (u) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the City.
- (v) "Other activity" means any undertaking, not otherwise specifically defined herein, which is normally entered into for profit, including, but not limited to, lottery, rental of real and personal property and a business conducted by a trust or guardianship estate.
- (w) "Other payer" means any person, other than an individual's employer or the employer's agent, that pays an individual any amount included in the federal gross income of the individual.
- (x) "Owner" means a partner of a partnership, a member of a limited liability company, a shareholder of an S corporation, or other person with an ownership interest in a pass-through entity.
- (y) "Owner's proportionate share", with respect to each owner of a pass-through entity, means the ratio of:
  - (1) The owner's income from the pass-through entity that is subject to taxation by the municipal corporation, to
  - (2) The total income from that entity of all owners whose income from the entity is subject to taxation by that municipal corporation.
- (z) "Pass-through entity" means a partnership, limited liability company, S corporation, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code.
- (aa) **"Pension" means any amount paid to an employee or former employee that is reported to the recipient on an IRS Form 1099-R, or successor form. Pension does not include deferred compensation, or amounts attributable to nonqualified deferred compensation plans, reported as FICA/Medicare wages on an IRS Form W-2, Wage and Tax Statement, or successor form.**
- (aabb) "Person" includes individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations,

governmental entities, and any other entity. 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 corporations, the officers thereof.

- (b~~b~~cc) "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 regular employees regularly in attendance.
- (e~~e~~dd) "Qualified plan" means a retirement plan satisfying the requirements under section 401 of the Internal Revenue Code.
- (d~~d~~ee) "Qualifying wages" means wages, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted in accordance with Section 718.03(A) of the Ohio Revised Code.
- (e~~e~~ff) "Resident" means an individual domiciled in the City.
- (f~~f~~gg) "Resident incorporated business entity" means an incorporated business entity having an office or place of business with the City.
- (g~~g~~hh) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the City.
- (h~~h~~ii) "Return preparer" means any person other than a taxpayer that is authorized by a taxpayer to complete or file an income tax return, report, or other document for or on behalf of the taxpayer.
- (i~~i~~jj) "Rules and regulations" means the rules and regulations as set forth in this chapter.
- (j~~j~~kk) "S Corporation" means a corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.
- (k~~k~~ll) "Schedule C" means Internal Revenue Service schedule C filed by a taxpayer pursuant to the Internal Revenue Code.
- (l~~l~~mm) "Schedule E" means Internal Revenue Service schedule E filed by a taxpayer pursuant to the Internal Revenue Code.
- (m~~m~~nn) "Schedule F" means Internal Revenue Service schedule F filed by a taxpayer pursuant to the Internal Revenue Code.
- (n~~n~~oo) "Tax Administrator" means the individual charged with direct responsibility for administration of the City's Income Tax Ordinance.
- (o~~o~~pp) "Taxable income" means any and all income earned or received by an individual or an entity, the taxation of which by the City is not prohibited by federal law, state law, or specifically exempted under Section 880.10 of this chapter. Qualifying wages, salaries, commissions and other compensation paid by an employer or employers before any deduction, including bonuses paid for signing or ratifying an employment contract and amounts paid by an employer to terminate an employment contract; lottery, gambling and sports winnings, games of chance, prizes and/or awards of six hundred dollars (\$600.00) or more; ; and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this chapter shall be considered taxable income.

(~~ppqq~~) "Taxable year" means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.

(~~qqrr~~) "Taxpayer" means a person subject to a tax on income levied by a municipal corporation. "Taxpayer" does not include any person that is a disregarded entity or a qualifying subchapter S subsidiary for federal income tax purposes, but "taxpayer" includes any other person who owns the disregarded entity or qualifying subchapter S subsidiary.

(~~Ord. 2011-051. Passed 4-4-11.~~)

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**Section 2.** That Section 880.37 of Chapter 880 of Title Four of Part Eight of the Codified Ordinances of the City of Strongsville be and is hereby amended to read in its entirety as follows:

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**880.37 AUTHORITY TO MAKE AND ENFORCE REGULATIONS; ADOPTION OF R.I.T.A.'S RULES AND REGULATIONS.**

(a) 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 and promulgate and to 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.

(~~Ord. 2005-101. Passed 5-16-05.~~)

(b) Effective January 1, 2014, there is also hereby adopted for the purpose of establishing rules and regulations for the collection of municipal income taxes and the administration and enforcement of this chapter, the Rules and Regulations of the Regional Income Tax Agency (R.I.T.A.), in the most current edition or update thereof, including all additions, deletions, and amendments made subsequent hereto, and the same are hereby incorporated herein as if fully set out at length save and except such portions as may be hereinafter added, modified, or deleted therein.

(c) R.I.T.A.'s Rules and Regulations shall be in addition to any rules and regulations adopted and promulgated by the Administrator pursuant to authority granted under Section 880.37(a) above. In any matter where a rule or regulation adopted and promulgated by the Administrator conflicts with any of R.I.T.A.'s Rules and Regulations, the rule or regulation adopted and promulgated by the Administrator shall prevail over and render null and void the R.I.T.A. rule or regulation with respect to the City of Strongsville.

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**Section 3.** That **except for sub-section 880.37(b)** or unless otherwise specified, the provisions of this Ordinance shall be operative from and after the effective date of this Ordinance, in accordance with law.

**Section 4.** That any ordinances or parts thereof inconsistent with this Ordinance be and are hereby repealed.

**Section 5.** That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council; and that all deliberations of this Council, and any of its committees, that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

**Section 6.** That this Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare of the City, and for the further reason that it is necessary to provide for the updating of the City's municipal income tax code consistent with current case law. Therefore, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise from and after the earliest period allowed by law.

Michael Daymut  
 President of Council

Approved: Thomas Z. Barier  
 Mayor

Date Passed: September 2, 2014

Date Approved: September 3, 2014

	<u>Yea</u>	<u>Nay</u>
Carbone	<u>✓</u>	<u>_____</u>
Daymut	<u>✓</u>	<u>_____</u>
DeMio	<u>✓</u>	<u>_____</u>
Dooner	<u>✓</u>	<u>_____</u>
Maloney	<u>✓</u>	<u>_____</u>
Schonhut	<u>✓</u>	<u>_____</u>
Southworth	<u>✓</u>	<u>_____</u>

Attest: Aimee Pientka  
 Clerk of Council

ORD. No. 2014-155 Amended: \_\_\_\_\_  
 1st Rdg. 09-02-14 Ref: \_\_\_\_\_  
 2nd Rdg. Suspended Ref: \_\_\_\_\_  
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Pub Hrg. \_\_\_\_\_ Ref: \_\_\_\_\_  
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