

BEFORE THE BOARD OF COUNTY COMMISSIONERS FOR

MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 121

An ordinance imposing a business income tax for revenue; providing for administration and collection and all related matters; imposing penalties; and prescribing an operative date.

Multnomah County ordains as follows:

Section 1: Title.

This ordinance shall hereafter be known and cited as the Multnomah County Business Income Tax.

Section 2: Adoption of State Laws.

The following enumerated revenue laws and rules of Oregon relating to taxes on or measured by net income as they exist on the effective date of this ordinance, unless amended by this ordinance, are hereby adopted by reference and made a part of this ordinance:

ORS 305.090 to 305.155	inclusive
ORS 305.190 to 305.260	inclusive
ORS 305.620 to 305.640	inclusive
ORS 305.655	
ORS 305.810 to 305.820	inclusive
ORS 305.990	
ORS 314.011 to 314.230	inclusive
ORS 314.275 to 314.465	inclusive
ORS 314.605 to 314.675	inclusive
ORS 314.805 to 314.991	inclusive
ORS 316.002 to 316.022	inclusive
ORS 316.032	
ORS 316.215 to 316.279	inclusive
ORS 316.342 to 316.347	inclusive
ORS 316.372 to 316.392	inclusive
ORS 316.407(1)	

ORS 316.407(5) to 316.467 inclusive  
ORS 316.802  
ORS 317.005 to 317.035 inclusive  
ORS 317.056  
ORS 317.070(1)  
ORS 317.078 to 317.080 inclusive  
ORS 317.096 to 317.510 inclusive  
ORS 317.910 to 317.950 inclusive  
ORS 318.010 to 318.020 inclusive  
ORS 318.030 except references to ORS 317.072,  
ORS 317.360, and ORS 317.515  
ORS 318.040 to 318.060 inclusive

The Oregon Administrative Rules relating to the above statutes.

Section 3: Policy.

- A. Purpose. The board has determined that it is necessary to raise additional revenues to provide those county services required for the health, safety and welfare of the people of Multnomah County; that the purpose of the taxes imposed by this ordinance is to raise funds to provide those services within Multnomah County; and, in accordance with this determination and purpose, all proceeds collected pursuant to this ordinance shall be general fund revenue. This ordinance has the further purpose of making available a unified system for collection and allocation of taxes based upon business net income by the County and by cities within the County.
  
- B. Tax for Revenue. The tax prescribed herein is for revenue purposes and is not imposed for regulatory purposes. The payment of a tax required hereunder and the acceptance of such tax by the county shall not entitle a taxpayer to carry on any business not in compliance with all other legal requirements.

- C. Conformity to Other Taxes. This ordinance shall be construed in conformity with the laws and rules of the state of Oregon imposing taxes on or measured by net income as adopted in Section 2 of this ordinance. Should a question arise hereunder which has been determined under such state laws or rules, such determination shall apply hereunder even though this ordinance omits all express coverage of the subject matter in question.

Section 4: State.

Wherever the term "State" or "Oregon" is used in the Oregon Revised Statutes adopted by reference by this ordinance, it shall read "County" unless a different meaning is clearly required.

Section 5: Department to Administer Law.

The County is hereby authorized to enter into an agreement with the Department of Revenue of the State of Oregon in accordance with ORS 305.620 to administer, collect and enforce this ordinance.

Section 6: Definitions.

- A. "County" means Multnomah County, Oregon.
- B. "Department" means the Department of Revenue of the state of Oregon.
- C. "Director" means the director of the Department of Revenue.
- D. "Board" means the Board of County Commissioners of Multnomah County.

- E. "Taxpayer" is a person doing business in the County and subject to the tax under this ordinance.
- F. "Person" is a natural person, partnership, joint venture, association, club, trust, estate, corporation, or any other entity capable of doing business; but governmental bodies shall not be considered "persons" for purposes of this ordinance.
- G. "Do business"; "business":
1. To do business means to engage in any activity or activities in pursuit of gain, including but not limited to any transaction involving the sale or rental of property, the manufacture or sale of goods, or the sale or rendering of services, other than as an employee. To do business includes such activities carried on by a person through officers, agents or employees as well as such activities carried on by a person on his own behalf.
  2. Business means all activities, whether related or unrelated, of a person in doing business.
  3. Services performed by an individual for remuneration, but does not include wages earned as an employee.
- H. "Income" as used herein means the net income of the taxpayer arising from any business as required to be reported to the state of Oregon for personal income or corporation excise or income tax purposes, except as provided under sub paragraphs 1, 2, and 3 below, and before any allocation or apportionment for operation out of the state. If one or more taxpayers are required to

report their net income to the state of Oregon for personal income or corporation excise or income tax purposes in a single combined report, "income" means the net income of the affiliated group of taxpayers who are carrying on a single unitary business before any allocation or apportionment for operation out of the state, except as provided under subparagraphs 1, 2, and 3 below.

1. In determining income hereunder for sole proprietorships, partnerships, professional corporations, and Subchapter S corporations, no deductions shall be allowed for any compensation for services rendered by or interest paid to owners; provided, however, that seventy-five percent (75%) of income determined without deduction of owner compensation or interest, but not to exceed the actual compensation and interest paid or \$50,000 for each owner, shall be allowed as a deduction in addition to any other allowable deductions.
2. In determining income hereunder for corporations, other than professional corporations or Subchapter S corporations, no deductions shall be allowed for any compensation for services rendered by or interest paid to controlling shareholders; provided, however, that seventy-five percent (75%) of the corporation's income determined without deduction of such compensation or interest, but not to exceed the actual compensation and interest paid or \$50,000 for each controlling shareholder, shall be allowed as a deduction in addition to any other allowable deductions. The term "controlling shareholder" as used in this paragraph means any person, who, together with his spouse, parents and children, is directly or indirectly the beneficial owner of more than five percent of any class of outstanding stock or

securities of the taxpayer, the incidents of which ownership includes the power to vote on the affairs or for the directors or other managers of the taxpayer.

3. Taxpayers shall not include income hereunder arising from transactions which the County is prohibited from taxing under the Constitution or laws of the United States, the Constitution or laws of the State of Oregon, or the Charter of the County.

Section 7: Imposition and Returns.

- A. Rate of Tax. Except as otherwise provided in this ordinance, a tax is hereby imposed upon each person doing business within Multnomah County equal to six-tenths of 1 percent (.006) of the net income from such business within the County.

- B. Apportionment.

1. Except when otherwise required by the provisions of Article III, Section 1, of the Multistate Tax Compact or as provided in subsection B. of this section, any taxpayer having income from doing business both within and without the County shall in computing the tax hereunder determine the income apportioned to the County by multiplying the total net income from the taxpayer's business by a fraction, the numerator of which is the total sales of the taxpayer in the County during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period. Sales of tangible personal property are in

the County if the property is delivered or shipped to a purchaser within the County regardless of the f.o.b. point or other conditions of the sale. Sales other than sales of tangible personal property are in the County if the income producing activity is performed in the County or, the income producing activity is performed both in and outside the County and a greater portion of the income producing activity is performed in the County than is performed outside the County based on costs of performance.

2. If a taxpayer elects to report under Article III, Section 1 of the Multistate Tax Compact, the sales factor shall be as provided in subparagraph 1. above instead of the sales factor as provided under Article IV, Section 15-17 of the Multistate Tax Compact and ORS 314.665.

C. Partnerships, Estates and Trusts. In the case of partnerships, estates, and trusts, the tax provided in this section shall be payable by the partnership, estate or trust and not by the partners or beneficiaries.

#### Section 8: Exemptions

The following are exempt from the requirements of this ordinance:

- A. Activities consisting of:
  1. Casual sales of real property not held primarily for sale to customers in the ordinary course of trade or business;
  2. The sale of personal property acquired for household or other personal use by the seller; and



3. Interest and dividends from investments which are not part of a trade or business.
- B. Persons whose gross receipts from all business both within and without the County is less than ten thousand dollars (\$10,000.00) for the tax year.
- C. Corporations exempt from the Oregon Corporation Excise Tax under ORS 317.080, provided that any such corporation subject to the tax on unrelated business income under ORS 317.910 to 317.950 shall be subject to the tax hereunder based solely on such income.
- D. Activities consisting of raising, harvesting and selling crops or by the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. This exemption does not include the preparation and storage of the products raised on such land for man's use and animal use, disposal by marketing or otherwise, and the processing of milk or milk products for retail or wholesale distribution.

Section 9: Credits.

First Returns; Adjustment. The first return and first tax from each taxpayer hereunder shall be due within three months and 15 days after the conclusion of the taxpayer's calendar or fiscal year which first ends after this ordinance takes effect, and such return and tax shall be for the entire concluded tax year of such



taxpayer, including any portions occurring before the effective date of this ordinance; provided, however, that any taxpayer who paid a license fee under Multnomah County Business License Ordinance No. 84, as amended, attributable to the first tax year for which a tax is due under this ordinance shall be entitled to a credit against said tax equal to the lesser of the license fee or the tax due under this ordinance.

Section 10: Severability.

If any section, subsection, paragraph, sentence, clause or phrase of this ordinance or any part thereof is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this ordinance or any part thereof. The Board hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, clauses or phrases be declared unconstitutional or otherwise invalid.

Section 11: Participation of Cities.

To facilitate a unified system of collection and allocation of all County and municipal taxes upon business net income within Multnomah County, any city the territory of which is in whole or in part within Multnomah County may, if authorized by its governing body, participate under and share in the revenue derived from this ordinance, upon such terms and conditions as the County and such city may agree by written contract.

Section 12: Effect on Ordinance No. 84.

From the effective date of this ordinance and while this ordinance remains in effect, Ordinance No. 84, as amended, shall be suspended and shall be given no effect until such time as this ordinance is repealed or otherwise ceases to be effective; provided, however, that all obligations and responsibilities which are required of any persons under Ordinance No. 84, as amended, at the time this ordinance takes effect, shall remain binding upon such persons; and provided further that all remedies and penalties provided by Ordinance No. 84, as amended, shall remain applicable to any violations or failures to comply with the requirements of said ordinance which occur on or prior to or continue after the effective date of this ordinance.

Section 13: Operative Date.

This ordinance shall apply to tax years ending on or after July 1, 1976.

Adopted this 15th day of April, 1976,  
being the day of its second reading before the Board of County  
Commissioners of Multnomah County, Oregon.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

By Donna R. Clark

APPROVED AS TO FORM:

GEORGE M. JOSEPH  
County Counsel for  
Multnomah County, Oregon

By Martin B. Vidgoff

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Deputy