

1                   **BEFORE THE BOARD OF COUNTY COMMISSIONERS**

2                   **FOR MULTNOMAH COUNTY, OREGON**

3                   **ORDINANCE NO. 901**

4    An ordinance amending Multnomah County Business Income Tax MCC 5.60 to incorporate  
5    changes in the owners compensation deduction and gross receipts exemption.

6           (Stricken language in brackets [ ] is to be deleted; underlined language is new.)

7    Section I. Findings

8           A)    The current owners compensation deduction of \$50,000 was established in  
9    1976.

10          B)    Since the adoption of the Business Income Tax, various individuals, business  
11    associations and other businesses have requested that the owners compensation deduction be  
12    indexed for inflation.

13          C)    In June 1993, the Board of County Commissioners adopted a new Business  
14    Income Tax Law under MCC 5.60 to achieve code conformity with the City of Portland  
15    Business License Law. At that time the gross exemption level was increased from \$10,000 to  
16    15,000.

17          D)    These changes will have a positive impact on reducing the tax burden for small  
18    businesses.

19          E)    The Finance Division along with the City of Portland's Bureau of Licenses and  
20    City Attorney's Office staff have reviewed these changes to ensure code conformity with the  
21    City of Portland Business License Law. The City of Portland Council has indicated that they  
22    support these code changes and are expected to adopt them.

1 Section II. Amendments to Chapter 5.60.

2 MCC 5.60 is amended as follows:

3 **5.60.400 Exemptions.**

4 (C) Persons whose gross receipts from all business, both within and without the  
5 County, amount to less than [\$15,000} \$25,000 in an tax year. The Administrator may  
6 demand a statement that the person's gross receipts for any tax year were less than [\$15,000}  
7 \$25,000.

8 **5.60.600 Income Determinations.**

9 (A) Owners Compensation Deduction. Owners Compensation Deduction is defined  
10 as the additional deduction allowed in section B, C, and D below. For tax years beginning  
11 prior to January 1, 1999, the owners compensation deduction cannot exceed \$50,000 per  
12 owner, as defined in Section B,C and D below. For tax years beginning on or after January 1,  
13 1999, the owners compensation deduction will be indexed by the Consumer Price Index - All  
14 Urban Consumers (CPI-U) U.S. City Average as published by the U.S. Department of Labor,  
15 Bureau of Labor Statistics, using the September to September index, not seasonally adjusted  
16 (unadjusted index). The initial index will be the September 1998 to September 1999 index.  
17 The Administrator will determine the exact deduction amount and publish the amount in  
18 written policy and included on forms. Any increase or decrease under this paragraph which is  
19 not a multiple of \$500 shall be rounded to the next lowest multiple of \$500.

20 ([A] B) *Sole Proprietorships.* In determining income, no deduction shall be allowed  
21 for any compensation for services rendered by, or interest paid to, owners. However, 75  
22 percent of income determined without such deduction shall be allowed as an additional

1 deduction, not to exceed [\$50,000] the amount determined in Section A above per owner.

2 ([B] C) *Partnerships*. In determining income, no deduction shall be allowed for any  
3 compensation for services rendered by, or interest paid to, owners of partnerships, limited  
4 partnerships, limited liability companies, limited liability partnerships or family limited  
5 partnerships. Guaranteed payments to partners or members shall be deemed compensation  
6 paid to owners for services rendered. However:

7 (1) For general partners or members, 75 percent of income determined without such  
8 deductions shall be allowed as an additional deduction, not to exceed [\$50,000]  
9 the amount determined in Section A above per general partner or members.

10 (2) For limited partners or members of LLCs who are deemed limited partners by  
11 administrative rule or policy, 75 percent of income determined without such  
12 deductions shall be allowed as an additional deduction, not to exceed the lesser  
13 of actual compensation and interest paid or [\$50,000] the amount determined in  
14 Section A above per compensated limited partner.

15 ([C] D) *Corporations*. In determining income, no deduction shall be allowed for any  
16 compensation for services rendered by, or interest paid to, controlling shareholders of any  
17 corporation, including, but not limited to C and S corporations and any other entity electing  
18 treatment as a corporation, either C or S . However, 75 percent of the corporation's income,  
19 determined without deduction of compensation or interest, shall be allowed as a deduction in  
20 addition to any other allowable deductions, not to exceed the lesser of the actual compensation  
21 and interest paid or [\$50,000] the amount determined in Section A above for each controlling  
22 shareholder.

1           (1) For purposes of this subsection, to calculate the compensation for services  
2           rendered by or interest paid to controlling shareholders that must be added back  
3           to income, wages, salaries, fees, or interest paid to all persons meeting the  
4           definition of a controlling shareholder, must be included.

5           (2) For purposes of this subsection, in determining the number of controlling  
6           shareholders, a controlling shareholder and that person's spouse, parents and  
7           children count as one owner, unless such spouse, parent or child individually  
8           own more than 5 percent ownership of outstanding stock or securities in their  
9           own name. In that case, each spouse, parent or child who owns more than 5  
10          percent of stock shall be deemed to be an additional controlling shareholder.

11          (3) For purposes of this subsection, joint ownership of outstanding stock or  
12          securities shall not be considered separate ownership.

13          ~~(D)~~ E *Estates and Trusts.* In determining income for estates and trusts, income shall  
14          be measured before distribution of profits to beneficiaries. No additional deduction shall be  
15          allowed.

16          ~~(E)~~ F *Nonbusiness Income.* In determining income under this Section, an allocation  
17          shall be allowed for nonbusiness income as reported to the State of Oregon. However, income  
18          treated as nonbusiness income for State of Oregon tax purposes may not necessarily be defined  
19          as nonbusiness income under the Business Income Tax Law. Interest and dividend income,  
20          rental income or losses from real and personal business property, and gains or losses on sales  
21          of property or investments owned by a trade or business shall be treated as business income for  
22          purposes of the Business Income Tax Law. Income derived from non-unitary business

1 functions reported at the State of Oregon level may be considered nonbusiness income. Non-  
2 unitary income will not be recognized at an intrastate level. The taxfiler shall have the burden  
3 of showing that income is nonbusiness income.

4 ([F] G) *Taxes Based on or Measured by Net Income.* In determining income, no  
5 deduction shall be allowed for taxes based on or measured by net income. No deduction shall  
6 be allowed for the federal built-in gains tax.

7 ([G] H) *Ordinary Gain or Loss.* In determining income, gain or loss from the sale,  
8 exchange or involuntary conversion of real property or tangible and intangible personal  
9 property not exempt under Section 5.60.400(F) shall be included as ordinary gain or loss.

10 ([H] I) *Net Operating Loss.* In determining income, a deduction shall be allowed  
11 equal to the aggregate of the net operating losses incurred in prior years, not to exceed 75  
12 percent of the income determined for the current tax year before this deduction but after all  
13 other deductions from income allowed by this Section and apportioned for business activity  
14 both within and without Multnomah County.

15 (1) When the operations of the taxfiler from doing business both within and without  
16 the County result in a net operating loss, such loss shall be apportioned in the  
17 same manner as the net income under Section 5.60.610. However, in no case  
18 shall a net operating loss be carried forward from any tax year during which the  
19 taxfiler conducted no business within the County or the taxfiler was otherwise  
20 exempt from tax filing requirements.

21 (2) In computing the net operating loss for any tax year, the net operating loss of a  
22 prior tax year shall not be allowed as a deduction.

1 (3) In computing the net operating loss for any tax year, no compensation  
2 allowance deduction shall be allowed to increase the net operating loss.

3 "Compensation allowance deduction" is defined as the additional deduction  
4 allowed by Section 5.60.600 A [, B, and C].

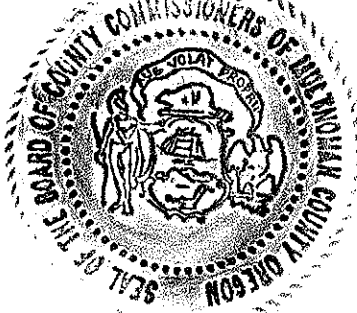
5 (4) The net operating loss of the earliest tax year available shall be exhausted before  
6 a net operating loss from a later tax year may be deducted.

7 (5) The net operating loss in any tax year shall be allowed as a deduction in any of  
8 the 5 succeeding tax years until used or expired. Any partial tax year shall be  
9 treated the same as a full tax year in determining the appropriate carry-forward  
10 period.

11 Section III. Effective Date

12 All amendments in this ordinance are effective for tax years beginning on or after  
13 January 1, 1999.

14 Adopted this 19th day of February, 1998, being the date of its second reading before  
15 the Board of County Commissioners of Multnomah County, Oregon.

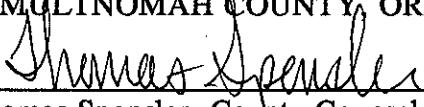


BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
Beverly Stein, Chair

21 REVIEWED:

22  
23 THOMAS SPONSLER, COUNTY COUNSEL  
24 FOR MULTNOMAH COUNTY, OREGON

25  
26 By   
27 Thomas Sponsler, County Counsel