

BEFORE THE BOARD OF COUNTY COMMISSIONERS FOR
MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 131

An Ordinance Relating to Business Income Taxation, and
Amending Ordinance No. 121.

Multnomah County ordains as follows:

Section 1. Section 2 of Ordinance No. 121 is amended to read:

"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 314.670 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 316.347
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 317.295 inclusive
ORS 317.298 to 317.305 inclusive
ORS 317.325 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 317.320, ORS 317.360, and ORS 317.515
ORS 318.040 to 318.044 inclusive
ORS 318.048 to 318.060 inclusive

The Oregon Administrative Rules relating to the above statutes."

Section 2. Paragraph H of Section 6 of Ordinance No. 121 is amended to read:

"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 before any allocation or apportionment for operation out of the state, or deduction for a net operating loss carryover or carryback, except as provided under subparagraphs 1, 2, 3, 4, and 5 and Section 8.A. If one or more taxpayers are required to report their 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, or deduction for a net operating loss carryover or carryback, except as provided under subparagraphs 1, 2, 3, 4, and 5 and Section 8.A.

"1. In determining income hereunder for sole proprietorships and partnerships, 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 an amount equal to \$50,000 multiplied by the number of owners, shall be allowed as a deduction in addition to any other allowable deductions.

"2. In determining income hereunder for corporations, no deductions shall be allowed for any compensation for services rendered by or interest paid to controlling shareholders; provided, however, that seventy-five (75%) of the corporation's income determined without deduction of such compensation or interest, but not to exceed the lesser of (1) the actual compensation and interest paid, or (2) \$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 include 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."

"4. In computing income there shall be allowed as a deduction an amount equal to the aggregate of the net operating losses incurred in prior years during which this ordinance was in effect (and the taxpayer was subject to tax thereunder) and to the extent provided in this subparagraph.

(a) 'Net operating loss' means the total of the deductions allowed by this ordinance in arriving at net income reduced by the gross income, if any, with a limitation provided in subparagraph (b) below.

(b) In computing the net operating loss for any taxable year, the net operating loss for a prior year shall not be allowed as a deduction.

(c) (1) The net operating loss in any taxable year shall be allowed as a deduction in any of the five succeeding taxable years.

(2) The amount of the net operating loss deductible in any taxable year shall be the net operating loss of a prior year reduced

by the net income (computed without the net operating loss deduction) of any intervening taxable year or years between the year of loss and the succeeding taxable year in which the net operating loss deduction is claimed.

(3) The net operating loss of the earliest taxable year shall be exhausted before a net loss from a later year may be deducted.

(d) If applicable, when the operations of the taxpayer from doing business both within and without the County result in a net operating loss, that net operating loss shall be apportioned in the same manner as the net income under Section 7.B so as to fairly and accurately reflect the net operating loss of the business done within the County. The net operating loss applicable to the County shall then become the apportioned net operating loss deduction which may be deducted from apportioned net income in a subsequent year.

"5. In determining income hereunder gain or loss from the sale, exchange or involuntary conversion of real property or tangible and intangible personal property not exempt under Section 8.A shall be included, for purposes of this ordinance, as ordinary gain or loss."

Section 3. Paragraph B of Section 7 of Ordinance No. 121 is amended to read:

"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 income (as defined in Section 6.H.) 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."

Section 4. Paragraph C of Section 7 of Ordinance No. 121 is amended to read:

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

Section 5. Paragraph A of Section 8 of Ordinance No. 121 is amended to read:

"A. Activities consisting of:

- "1. Sales, exchanges or involuntary conversions of real property not held for sale in the ordinary course of trade or business;
- "2. The sale of personal property acquired for household or other personal use by the seller;
- "3. Interest and dividends earned from investments which are not part of a trade or business, and gains or losses incurred from the sale of investments which are not a part of a trade or business; and
- "4. The raising, harvesting and selling of the taxpayer's own crops; or the feeding, breeding, management and sale of the taxpayer's own livestock, poultry, fur-bearing animals or honeybees, or sale of the produce thereof; or any other agricultural, horticultural, or animal husbandry activity carried on by the taxpayer on his own behalf and not for others; or dairying and the sale of dairy products to processors. This exemption does not apply if, in addition to the farm activities described above,

the taxpayer does any processing of his own farm products which change their character or form; or the taxpayer's business includes the handling, preparation, storage, processing or marketing of farm products raised or produced by others; or the processing of milk or milk products (whether produced by the taxpayer or by others) for retail or wholesale distribution."

Section 6. Paragraph D of Section 8 of Ordinance No. 121 is amended to read:

"D. Trusts exempt from federal income tax under Internal Revenue Code Section 501, provided that any such trust subject to tax on unrelated business income and certain other activities under Internal Revenue Code Section 501(b) shall be subject to the tax hereunder based solely on such income."

ADOPTED this 23rd day of September, 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 Wm. R. Clark

Chairman

APPROVED AS TO FORM:

GEORGE M. JOSEPH
County Counsel for
Multnomah County, Oregon

By Martin B. Vidgoff

Martin B. Vidgoff
Deputy County Counsel

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