

CITY OF OLIVE HILL
ORDINANCE NO. 2017-06

**AN ORDINANCE AMENDING THE OCCUPATIONAL (PAYROLL DEDUCTION) EMPLOYEE LICENSE FEE TAX
FOR THE CITY OF OLIVE HILL, KENTUCKY**

WHEREAS, the City of Olive Hill, Kentucky enacted an ordinance, being ordinance No. 2013-07, adopting an occupational payroll deduction employee license tax;

WHEREAS, it is desired by the City of Olive Hill, Kentucky to adopt a payroll deduction employee license tax;

WHEREAS, it is deemed desirable by the City of Olive Hill to amend the employee payroll deduction license tax;

NOW THEREFORE, there is hereby levied and imposed an annual license fee upon all employees, whether or not residents of the City of Olive Hill for the privilege of engaging in occupations, trades, professions, businesses or other undertakings for compensation within the city, which license fee shall be measured by and equal to 1.5% (percent) of the taxable gross salaries, wages, commissions, and other compensations earned by employees for work done or services performed within the city.

SECTION I: DEFINITIONS

The following words shall have the meanings ascribed to them in this section, except where the context clearly indicates or requires a different meaning:

- (a) City shall mean the City of Olive Hill, Kentucky
- (b) Business Entity shall mean each separate corporation, limited liability company, business development corporation, partnership, limited partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted;
- (c) Employee shall mean any person who renders service to another person or business entity for compensation including an officer of a corporation and any officer, employee, or elected official of the United States, a state, or any political subdivision of a state, or any agency or instrumentality of any one or more of the above. A person classified as an independent contractor under the Internal Revenue Code shall not be considered an employee.
- (d) Employer shall mean "Employer as defined in Section 3401(d) of the Internal Revenue Code.
- (e) License Fee shall mean a tax imposed for the privilege of exercising the right to engage in trade, occupation or profession as an employee;
- (f) Licensee shall mean and include any person required to file a return or to pay a license fee under this ordinance;
- (g) Compensation shall mean wages, salaries, commissions, or any other form of remuneration paid or payable by an employer for services performed by an employee, adjusted as follows:
 - a. Include any amounts contributed by an employee to any retirement, profit sharing, or deferred compensation plan which are deferred for federal income tax purposes under a salary reduction agreement or similar arrangement, including but not limited to salary reduction arrangements under Sections 401(a)(k), 402(e), 403(b), or 457 of the Internal Revenue Code; and
 - b. Include any amounts contributed by an employee to any welfare benefit, fringe benefit, or other benefit plan made by salary reduction or other payment method which permits employees to elect to reduce federal tax for compensation under the Internal Revenue Code, including but not limited to Sections 125 and 132 of the Internal Revenue Code.

SECTION II – EMPLOYERS TO WITHHOLD LICENSE FEES AND FILE RETURNS

- (a) Each employer shall deduct from the pay due any employee as defined in Subsection I (g) above, the amount of the license fee measured by the compensation due each employee multiplied by 1.5%. The amounts so deducted shall be paid by the employer to the City of Olive Hill (on a quarterly basis), for the periods ending on March 31, June 30, September 30, and December 31 on or before the end of the month following the end of the quarter. The amount paid to the City Clerk shall be computed only on the compensation due the employee for work performed within the city. Should the employee's compensation paid by the employer to the employee for the particular taxable period be a mix between in the city and out of the city, then the amount paid to the City Clerk shall be attributable only to that portion paid for services performed within the City of Olive Hill.
- (b) The failure or omission of the employer to comply with Subsection (a) will result in the removal of the employer's business license (permit) to operate within the City of Olive Hill.
- (c) However, failure or omission by an employer to deduct such license fee shall not relieve any employee from the payment of such license fee, and compliance with the requirements for making returns as provided in the ordinance or with any regulations promulgated under this ordinance.
- (d) Each employer shall file with the City of Olive Hill a return by January 21 of each year, on a form provided by the City of Olive Hill, showing the adjusted taxable gross amount of compensation of each employee and the amount of the license fees deducted and paid by the employer, during all or any part of the preceding calendar year, and the last known address of each employee.
- (e) The employer shall, on or before January 31 of each year, furnish to each employee a statement showing the total amount deducted and paid to the city by the employer during the previous year.
- (f) Federal agencies, having employees within the City of Olive Hill, shall provide notification to their respected employees of the deadlines of the occupational licenses fee due to the City of Olive Hill. Notices shall be delivered to the employee or posted conspicuously within the work area.

SECTION III

- (a) Travel outside the city for attending seminars, training sessions, business meetings, conferences and for similar purposes, when done as an incident to full-time employment within the city, shall not be includable as services performed without the city for purposes of apportionment.

SECTION IV – FEDERAL, STATE, OR MUNICIPAL EMPLOYEES

- (a) Compensation received from federal, state, county, and municipal governmental agencies is subject to the provisions of the ordinance.

SECTION V – EXEMPTIONS

- (a) Provisions identifying exemptions have not been established except those that may be identified by statute.

SECTION VI – RECORDS OF COLLECTION

- (a) It shall be the duty of the City Clerk to collect and receive all license fees imposed by this ordinance and to keep records showing the amounts from each employer.

SECTION VII – ENFORCEMENT; REGULATIONS

- (a) The City Clerk, under the direction of the mayor, is hereby charged with the enforcement of the provisions of this ordinance and, subject to the approval of the mayor, is hereby empowered to prescribe, adopt, promulgate and endorse regulations pertaining to the administration and enforcement of the provisions of this ordinance, including but not limited to provisions for the re-examination and correction of returns on which an overpayment or underpayment is claimed or found to have been made, and the regulations so promulgated shall be binding upon all licensees and employers.
- (b) Employers are required to keep such records as will enable the filing of true and accurate returns.
- (c) Only the City Clerk or such other agent or employee as may be deemed necessary and designated by the mayor with approval of the city council, are hereby authorized to examine the books, papers and records of any employer or supposed employer, or of any license or supposed license, in order to determine the accuracy of any return made, or if no return was made, to ascertain the amount of license fee due under the terms of this ordinance by such examination. Each such employer or supposed employer, or license or supposed license, shall give to the City of Olive Hill or to a duly authorized agent or employee the means, facilities and opportunity for the making of such examination and investigations.

SECTION VIII – CONFIDENTIAL NATURE OF INFORMATION

- (a) Any information acquired by any official, agent or employee of the city as a result of any returns, investigations, hearings or verifications required or authorized by this ordinance, shall be confidential, except for official purposes and except in accordance with proper judicial order, or as otherwise provided by law, and any person or agent divulging such information shall, upon establishment of said fact, be subject to all appropriate actions against said person(s) as provided by law and liable to the aggrieved party for such remedies as are then provided by law.
- (b) However, the city may disclose to the commissioner of revenue of the Commonwealth of Kentucky, or his duly authorized agent, all such information and right to inspect any of the books and records of the City Clerk of Olive Hill, provided said commissioner of revenue of the Commonwealth of Kentucky grants to the department of finance of City of Olive Hill the reciprocal right to obtain information from the files and records of the department of revenue of the Commonwealth of Kentucky, and maintains the privileged character of the information so furnished to him.
- (c) The city may publish statistics based on such information in such a manner as not to reveal data with respect to the individual returns of any person or employer.


SECTION IX – INTEREST AND PENALTIES


- (a) All license fees imposed by this ordinance which remain unpaid after they become due shall bear interest at the rate of twelve percent (12%) per annum, and any person who has failed to pay such license fees when the same became due shall also be charged a penalty of five percent (5%) per month up to a maximum of twenty-five percent (25%) of the amount of such unpaid license fees. Any person or employer who fails or refuses to withhold any license fee payable under this ordinance or who fails to pay such fee, after withholding the same, to the City Clerk of Olive Hill at the time is due as provided under the terms of Section II hereof, shall be liable to the city for such fee, as well as for the interest thereon at the rate of twelve percent (12%) per annum and for the aforesaid penalty.
- (b) Any person or employer who shall fail, neglect or refuse to file any return or sworn statement required by this ordinance or any licensee who shall fail, neglect or refuse to pay a license fee, or any employer who shall fail to withhold said license fees or to pay over to the city such license fees, penalties or interest imposed by this ordinance, or any person or employer who shall refuse to permit the City Clerk of Olive Hill or such other agent or employee as hereinabove designated to examine his books, records, and papers, or shall knowingly make any incomplete, false or fraudulent return, or who shall attempt to do anything whatever to avoid full disclosure of any information required herein or to avoid the payment in whole or in part of any license fee shall, upon establishment of said fact, guilty of a Class A Misdemeanor and punished in accordance therewith by the District Court of Carter County.

SECTION X – PURPOSE FOR WHICH TAX LEVIED

The purpose for which the tax herein is to provide revenues for the general expenses of the city, and said revenues shall be paid into the general fund.

ENACTED this the 23 day of June 2017

ATTEST: 
Angela Owens, City Clerk


Jerry Callihan, Mayor

FIRST READING: 06/20/17

SECOND READING: 6/29/17

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