

COMMONWEALTH OF KENTUCKY
MCLEAN COUNTY FISCAL COURT
ORDINANCE NO. 20-220-7
MCLEAN COUNTY OCCUPATIONAL LICENSE TAX ORDINANCE SUMMARY

RE: AN ORDINANCE REPEALING ORDINANCE NO. 00-220-7 AND ENACTING A NEW OCCUPATIONAL LICENSE TAX ORDINANCE.

The subject ordinance does repeal the previous Occupational License Fee Ordinance but reenacts most provisions of the Occupational License Fee Ordinance, however this new Ordinance raises the maximum license tax liability from FIVE HUNDRED DOLLARS (\$500.00) to SEVEN HUNDRED AND FIFTY DOLLARS (\$750.00). In addition, this new Ordinance requires each person or business entity engaged in any trade, occupation, profession or other activity for profit to apply annually and pay an annual occupational license of FIFTY DOLLARS (\$50.00). This \$50.00 fee is due by April 15 of every year with the first annual payment due April 15, 2022 and shall be credit towards each person's or business' Occupational License Tax Liability, if any, for the previous tax year. The third and final change expands the list of those that are exempt from the occupational license tax to include: 1) Compensation received by members of the Kentucky National Guard; 2) Compensation received by precinct workers for election training or work at election booths in state, county, and local primary, regular or special elections; 3) Insurance companies; 4) Investment fund earnings to the extent any profits, earnings or distributions would not be taxable to an individual investor.

The undersigned, Donna Dant, certifies that she has prepared the above summary of an Ordinance and said summary is a true and correct summary of Ordinance No. 20-220-7.

Donna Dant
McLean County Attorney

OCCUPATIONAL LICENSE TAX ORDINANCE NO. 20.220.7

AN ORDINANCE RELATING TO AN ADMINISTRATION OF AN OCCUPATIONAL LICENSE REQUIREMENT AND PAYMENT OF OCCUPATIONAL AND NET PROFITS LICENSE TAX BY PERSONS AND ENTITIES CONDUCTING BUSINESSES, OCCUPATIONS AND PROFESSIONS WITHIN THE COUNTY OF MCLEAN, KENTUCKY

WHEREAS, the revenue of McLean County, Kentucky has been significantly reduced and expenses have significantly increased, and in order to maintain the current level of service to the citizens of McLean County, additional revenue is needed, and;

WHEREAS, to generate additional necessary revenue, the McLean County Fiscal Court desires to **implement a licensing system which will generate revenue from occupational and net profits license tax as allowed by the Commonwealth of Kentucky;**

NOW, THEREFORE, be it ordained by the Fiscal Court of McLean County, Commonwealth of Kentucky, as follows:

1. Ordinance No. 00.220.7 "An Ordinance relating to License Fees upon all persons, or businesses engaged or employed in any trade occupation, or Profession within McLean County, Commonwealth of Kentucky" is hereby repealed in its entirety effective December 31, 2020.
2. Effective January 1, 2021, any business, occupation and profession conducting business in McLean County, Commonwealth of Kentucky shall be comply with the following provisions of this Ordinance.

§ 220.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUSINESS. Any enterprise, activity, trade, occupation, profession or undertaking of any nature conducted for gain or profit. **BUSINESS** shall not include a board of trade, chambers of commerce, trade associations, or unions, or other associations performing services usually performed by trade associations or unions as recognized by the Internal Revenue Service. **BUSINESS** shall not include funds, foundations, corporations, or associations organized and operated for the exclusive and sole purpose of religious, charitable, scientific, literary, educational, civic or fraternal purposes, where no part of the earnings, incomes or receipts of such unit, group, or association, inures to the benefit of any private shareholder or other person.

BUSINESS ENTITY. Each separate corporation, limited liability company,

business development corporation, partnership, limited partnership, registered limited liability partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted.

COMPENSATION. Wages, salaries, commissions, or any other form of remuneration paid or payable by an employer for services performed by an employee, which are required to be reported for federal income tax purposes and adjusted as follows:

- (1) 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 § 401(a), 401 (k), 402(e), 403(a), 403(b), 408, 414(h), or 457 of the Internal Revenue Code; and
- (2) 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 taxable compensation under the Internal Revenue Code, including but not limited to §§ 125 and 132 of the Internal Revenue Code.

CONCLUSION OF THE FEDERAL AUDIT. The date that the adjustments made by the Internal Revenue Service to net income as reported on the business entity's federal income tax return become final and unappealable.

COUNTY. The County of McLean, Kentucky.

EMPLOYEE. Any person who renders services to another person or any 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 of instrumentality of any 1 or more of the above. A person classified as an independent contractor under the Internal Revenue Code shall not be considered an employee.

EMPLOYER. The person for whom an individual performs or performed any service, of whatever nature, as the employee of such person, except that:

- (1) If the person for whom the individual performs or performed the services does not have control of the payment of the wages for such services, **EMPLOYER** means the person having control of the payment of such wages, and
- (2) In the case of a person paying wages on behalf of a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States, **EMPLOYER** means such person.

FINAL DETERMINATION OF THE FEDERAL AUDIT The revenue agent's report or other documents reflecting the final and unappealable adjustments made by the Internal Revenue Service. **FISCAL YEAR.** Fiscal year as defined in § 7701(a)(24) of the Internal Revenue Code.

INTERNAL REVENUE CODE. The Internal Revenue Code as defined in KRS 67.750(7).

NET PROFIT. Gross income as defined in § 61 of the Internal Revenue Code minus all the deductions from gross income allowed by Chapter 1 of the Internal Revenue Code, and adjusted as follows:

- (1) Include any amount claimed as a deduction for state tax or local tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, local taxing authority in a state, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country or political subdivision thereof;
- (2) Include any amount claimed as a deduction that directly or indirectly is allocable to income which is either exempt from taxation or otherwise not taxed;
- (3) Include any amount claimed as a net operating loss carryback or carryforward allowed under §172 of the Internal Revenue Code;
- (4) Include any amount of income and expenses passed through separately as required by the Internal Revenue Code to an owner of a business entity that is a pass-through entity for federal tax purposes; and
- (5) Exclude any amount of income that is exempt from state taxation by the Kentucky Constitution, or the Constitution and statutory laws of the United States.

PERSON. Every natural person, whether a resident or non-resident of the county. Whenever the word **PERSON** is used in a clause prescribing and imposing a penalty in the nature of a fine or imprisonment, the word, as applied to a partnership or other form of unincorporated enterprise, shall mean the partners or members thereof, and as applied to corporations, shall mean the officers and directors thereof.

OCCUPATIONAL TAX ADMINISTRATOR. Shall mean the official appointed by the McLean County Fiscal Court and charged with the general administration of the License Fee and Occupational and Net Profits License Tax imposed by this Ordinance.

RETURN or REPORT. Any properly completed and, if required, signed form, statement, certification, declaration, or any other document permitted or required to be submitted or filed with the county.

SALES REVENUE. Receipts from the sale, lease, or rental of goods, services, or property.

TAXABLE NET PROFIT. In case of a business entity having payroll or sales revenue only within the county, means net profit as defined in this section.

TAXABLE NET PROFIT. In case of a business entity having payroll or sales revenue both within and without the county, means net profit as defined in this section, and as apportioned under § 220.04.

section, and as apportioned under § 220.04.

TAXABLE YEAR. The calendar year or fiscal year ending during the calendar year, upon the basis of which net income is computed.

TAX DISTRICT. Any county or city with the authority to levy net profits or occupational license taxes.

TRADE, OCCUPATION AND PROFESSION. Shall all mean the doing of and remuneration for any type of work, activity or the rendering of any and all types of personal services, the holding of any kind of position or job within the County by a clerk, laborer, tradesman, manager, elected or appointed government official or other civil-service employee, and addition shall include and mean any non-resident of the County who is employed by and employer where the relationship between the individual performing the services and the person for whom such services are rendered is as to those legal services, the legal relationship of employer and employee, including also a partner of a firm or an officer of a firm or its corporation if such partner or officer receives a salary for his personal services rendered in the course of business of such firm or corporation where those services of such official or employee are rendered in whole or in part within the County.

§ 220.02 OCCUPATIONAL LICENSE APPLICATION REQUIRED.

Every person or business entity engaged in any trade, occupation, or profession, or other activity for profit or anyone required to file a return under this chapter in McLean County shall be required to complete and execute the questionnaire prescribed by the Occupational Tax Administrator's Office every year on or before April 15, 2021 and every year thereafter. Each person shall be required to complete a separate questionnaire for each separate business before the commencement of business or in the event of a status change, other than change of address. Licensees are required to notify the Occupational Tax Administrator's Office of changes of address, or the cessation of business activity, and of other changes which render inaccurate the information supplied in the completed questionnaire. A fee of \$50.00 shall be paid when the application is filed with the Administrator's Office and said fee shall be credited towards the trade, occupation, profession or other activity occupational license tax liability, if any, for the previous tax year.

} 220.03 OCCUPATIONAL LICENSE TAX PAYMENT REQUIRED.

(A) Except as provided in divisions (B), (E) and (F) of this section, every person or business entity engage in any business for profit and any person or business entity that is required to make a filing with the Internal Revenue or the Kentucky Revenue Cabinet shall be required to pay to the County an occupational license tax for the privilege of engaging in such activities within the County.

The occupational license tax shall be measured by 1% of:

(1) All wages and compensation paid or payable in the county for work done or services performed or rendered in the county by every resident and nonresident who is an employee;

nonresident business entity.

(B) All partnerships, S corporations, and all other entities where income is "passed through" to the owners are subject to this chapter. The occupational license tax imposed in this chapter is assessed against income before it is "passed through" these entities to the owners.

(C) If any business entity dissolves, ceases to operate, or withdraws from the county during any taxable year, or if any business entity in any manner surrenders or loses its charter during any taxable year, the dissolution, cessation of business, withdrawal, or loss or surrender of charter shall not defeat the filing of returns and the assessment and collection of any occupational license tax for the period of that taxable year during which the business entity had business activity in the county.

(D) If a business entity makes, or is required to make, a federal income tax return, the occupational license tax shall be computed for the purposes of this chapter on the basis of the same calendar or fiscal year required by the federal government, and shall employ the same methods of accounting required for federal income tax purposes.

(E) The occupational license tax imposed in this section shall not apply to the following persons or business entities:

- (1) Any compensation received by members of the Kentucky National Guard for active duty training, unit training assemblies and annual field training.
- (2) Any compensation received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections.
- (3) Domestic housekeepers employed in a private residence.
- (4) Any person or business that pays a franchise tax.
- (5) Insurance companies incorporated under the laws of and doing business in the Commonwealth of Kentucky except as provided in KRS 91A.080.
- (6) Any profits, earnings, distributions of an investment fund which would qualify under KRS 154.20-250 to 154.20-284 to the extent any profits, earnings, or distributions would not be taxable to an individual investor.
- (7) Death benefits paid to the beneficiary of an employee or to his estate.
- (8) Accident and dismemberment insurance benefits.
- (9) Disability or workers compensation act benefits paid for disabilities sustained during the course of employment, together with any amount of damages received by suit or agreement because of such disability.
- (10) Sickness or otherwise medical insurance benefits.

(11) Unemployment compensation paid by the state or any other agent.

(12) Boards of trade, chambers of commerce, trade associations or unions, or other associations performing the services usually performed by trade associations or unions, community chest funds or foundations, corporations or associations or clubs organized and operated exclusively for religious, charitable, scientific, literary, education, civic, fraternal, or humanitarian purposes where no part of the earnings or income or receipts for such units, groups, or associations inures to the benefit of any private shareholder.

(13) "Gross Receipts" and "Compensation" when generally taken to mean gratuity such as tips paid by someone other than their employer shall be exempt, but only with respect to an employee-employer relationship and such shall be paid by employee.

(F) In no event shall any employee engaged in any trade, occupation or profession within the County, or any business, shareholder of any partnership or corporation or person engage in business for oneself be liable for an Occupational License Tax in excess of SEVEN HUNDRED AND FIFTY DOLLARS (\$750.00).

§ 220.04 APPORTIONMENT.

(A) Except as provided division (D) of this section, net profit shall be apportioned as follows:

(1) For business entities with both payroll and sales revenue in more than one tax district, by multiplying the net profit by a fraction, the numerator of which is the payroll factor, described in division (B) of this section, plus the sales factor, described in division (C) of this section, and the denominator of which is 2; and

(2) For business entities with sales revenue in more than one tax district, by multiplying the net profit by the sales factor as set forth in division (C) of this section.

(3) For the purposes of divisions (A) through (D) of this section, the business entity shall file an apportionment form provided by the Occupational Tax Office.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid or payable in the county during the tax period by the business entity for compensation, and the denominator of which is the total compensation paid or payable by the business entity everywhere during the tax period.

Compensation is paid or payable in the county based on the time the individual's service is performed within the county.

(C) The sales factor is a fraction, the numerator of which is the total sales revenue of the business entity in the county during the tax period, and the denominator of which is the total sales revenue of the business entity everywhere during the tax period.

(1) The sales, lease, or rental of tangible personal property is in the county if:

(a) The property is delivered or shipped to a purchaser, other than the United States

government, or to the designee of the purchaser within the county regardless of the f.o.b. point or other conditions of the sale; or

(b) The property is shipped from an office, store, warehouse, factory, or other place of storage in the county and the purchaser is the United States government.

(2) Sales revenues, other than revenue from the sale, lease or rental of tangible personal property or the lease or rental of real property, are apportioned to the county based upon a fraction, the numerator of which is the time spent in performing such income-producing activity within the county and the denominator of which is the total time spent performing that income-producing activity.

(3) Sales revenue from the sale, lease, or rental of real property is allocated to the tax district where the property is located.

(D) If the apportionment provisions of this section do not fairly represent the extent of the business entity's

activity in the county, the business entity may petition the county or the county may require, in respect to all or any part of the business entity's business activity, if reasonable:

(1) Separate accounting;

(2) The exclusion of any one or more of the factors;

(3) The inclusion of one or more additional factors which will fairly represent the business entity's business activity in the county; or

(4) The employment of any other method to effectuate an equitable allocation and apportionment of net profit.

(E) When compensation is paid or payable for work done or services performed or rendered by an employee, both within and without the county, the license tax shall be measured by that part of the compensation paid or payable as a result of work done or service performed or rendered within the county. The license tax shall be computed by obtaining the percentage which the compensation for work performed or services rendered within the county bears to the total wages and compensation paid or payable. In order for the county to verify the accuracy of a taxpayer's reported percentages under this subsection, the taxpayer shall maintain adequate records.

§ 220.05 EMPLOYERS TO WITHHOLD.

(1) Every employer making payment of compensation to an employee shall deduct and withhold upon the payment of the compensation any tax imposed against the compensation by the county. Amounts withheld shall be paid to the county in accordance with § 220.03.

(2) Every employer required to deduct and withhold tax under this section shall, for the quarter ending after January 1 and for each quarter ending thereafter, on or before the end of the month following the close of each quarter, make a return and report to the county, and pay to the county, the tax required to be withheld under this section, unless the employer is permitted or required to report within a reasonable time after some other period as

determined by the county.

(3) Every employer who fails to withhold or pay to the county any sums required by this chapter to be withheld and paid shall be personally and individually liable to the county for any sum or sums

withheld or required to be withheld in accordance with the provisions of this section.

(4) The county or city shall have a lien upon all the property of any employer who fails to withhold or

pay over to the county sums required to be withheld under this section. If the employer withholds, but fails to pay the amounts withheld to the county, the lien shall commence as of the date

the amounts withheld were required to be paid to the county. If the employer fails to withhold, the lien shall

commence at the time the liability of the employer is assessed by the county.

(5) Every employer required to deduct and withhold tax under this section shall annually on or before February 28 of each year complete and file on a form furnished or approved by the county a reconciliation of the occupational license tax withheld where compensation is paid or payable to employees. Either copies of federal forms W-2 and W-3, transmittal of wage and tax statements, or a detailed employee listing with the required equivalent information, as determined by the county, shall be submitted.

(6) Every employer shall furnish each employee a statement on or before January 31 of each year showing the amount of compensation and occupational license tax deducted by the

employer from the compensation paid to the employee for payment to the county during the preceding calendar year.

(7) An employer shall be liable for the payment of the tax required to be deducted and withheld under this section.

(8) The president, vice president, secretary, treasurer or any other person holding an equivalent corporate office of any business entity subject to this chapter shall be personally and individually liable, both jointly and severally, for any tax required to be withheld from

compensation paid to one or more employees of any business entity, and neither the corporate dissolution or withdrawal of the business entity from the county, nor the cessation of holding any corporate office, shall discharge that liability of any person; provided that the personal and individual liability shall apply to each or every person holding the corporate office at the time the tax becomes or became obligated. No person shall be personally and individually liable under this division who had no authority to collect, truthfully account for, or pay over any tax imposed by this ordinance at the time that the taxes imposed by this chapter become or became due.

(9) Every employee receiving compensation in the county subject to the tax imposed under § 220.03 shall be personally liable for the tax notwithstanding the provisions of divisions (G) and (H) of this section. In all cases where the employer does not withhold the tax levied under this chapter from the employee, such employee or employees shall be responsible for filing with the county each quarter in the same manner as if they were the employer. If an employer fails to or is not required to withhold, report, or pay the license fee it shall

become the duty of the employee to file with the county. The only employer that is not required to withhold, report, and pay the occupational license tax is the Federal Government including the United States Postal Service. The payment required to be made by an employee, can be made quarterly, for the periods ending March 31, June 30, September 30, and December 31 of each year, or at any time the employee wishes to make an estimated payment for the year in which wages are earned. All license fees must be received by February 28 for the preceding calendar year, together with a copy of the employee's W-2 form. Employers not required to withhold, report, or pay the license fee must annually during the month of January of each year, make a return to the Occupational Tax Administrator, in which is set forth the name and social security number of each employee of the employer during the preceding calendar year, giving the amount of salaries, wages, commissions or other compensation earned during such preceding year by each such employee. This list shall include all current full time employees, part time employees, temporary employees, and terminated employees whether it be voluntary or involuntary.

§ 220.06 RETURNS REQUIRED.

(A) All business entity returns for the preceding taxable year shall be made by April 15 of each year, except returns made on the basis of a fiscal year, which shall be made by the fifteenth day of the fourth month following the close of the fiscal year. Blank forms for returns shall be supplied by the county.

(B) Whenever, in the opinion of the Occupational Tax Administrator, it is necessary to examine the federal income tax return of any business entity in order to audit the return, the county may compel the business entity to produce for inspection a copy of its federal tax return and any statements and schedules in support thereof that have not been previously filed. The county may also require copies of reports of adjustments made by the federal government.

(C) Every business entity subject to a occupational license tax governed by the provisions of this chapter shall keep records, render under oath statements, make returns, and comply with rules as the county from time to time may prescribe. Whenever the county deems it necessary, the county may require a business entity, by notice served to the business entity, to make a return, render statements under oath, or keep records, as the county deems sufficient to determine the tax liability the business entity.

(D) The county may require, for the purpose of ascertaining the correctness of any return or for the purposes of making an estimate of the taxable income of any business entity, the attendance of a representative of the business entity or of any other person having knowledge in the premises.

(E) The full amount of the unpaid tax payable by any business entity, as appears from the face of the return, shall be paid to the county at the time prescribed for filing the occupational license tax return, determined without regard to any extension of time for filing the return.

(F) It shall be the responsibility of persons who make Federal Form 1099 "non-employee

compensation" payments to natural persons other than employees for services performed within the county, to maintain records of such payments and to report such payments to the county. The payments must be reported on by remitting Federal Form 1099 by February 28 of the year following the close of the calendar year in which the non employee compensation was paid. If a business entity or person is not required to remit Federal Form 1099 to the IRS, including but not limited to payments less than \$600, they are still liable to remit the equivalent information to the county. The information required to be reported by the licensee shall include:

- (1) Payer's name, address, social security and/or federal identification number.
- (2) Recipient's name and address.
- (3) Recipient's social security and/or federal identification number.
- (4) Amount of non employee compensation paid in the calendar year.
- (5) Amount of non employee compensation earned in the county for the calendar year.

§ 220.07 EXTENSIONS.

(A) The county may grant any business entity an extension of not more than 6 months, unless a longer extension has been granted by the Internal Revenue Service or is agreed to by the county and the business entity, for filing its return, if the business entity, on or before the date prescribed for payment of the occupational license tax, requests the extension and pays the amount properly estimated as its tax.

(B) If the time for filing a return is extended, the business entity shall pay, as part of the tax, an amount equal to 12% per annum simple interest on the tax shown due on the return, but not been previously paid, from the time the tax was due until the return is actually filed and the tax paid to the county. A fraction of a month is counted as an entire month.

§ 220.08 REFUNDS.

(A) Where there has been an overpayment of tax under § 220.05, a refund or credit shall be made to the employer only to the extent that the amount of the overpayment was not deducted and withheld under § 220.05 by the employer.

(B) Unless written application for refund or credit is received by the county from the employer within 2 years from the date the overpayment was made, no refund or credit shall be allowed.

(C) An employee who has compensation attributable to activities performed outside the county, based on time spent outside the county, whose employer has withheld and remitted to this county, the occupational license tax on the compensation attributable to activities performed outside the county, may file for a refund within 2 years of the date prescribed by law for the filing of a return. The employee shall provide a schedule and computation sufficient to verify the refund claim and the county may confirm with the employer the percentage of time spent outside the county and the amount of compensation attributable to activities performed outside the county prior to approval of the refund.

§ 220.09 FEDERAL AUDIT PROVISIONS.

(A) (1) As soon as practicable after each return is received, the county may examine and audit the return. If the amount of tax computed by the county is greater than the amount returned by the business entity, the additional tax shall be assessed and a notice of assessment mailed to the business entity by the county within 5 years from the date the return was filed, except as otherwise provided in this division.

(a) In the case of a failure to file a return or of a fraudulent return the additional tax may be assessed at any time.

(b) In the case of a return where a business entity understates net profit, or omits an amount properly includable in net profits, or both, which understatement or omission, or both, is in excess of 25% of the amount of net profit stated in the return, the additional tax may be assessed at any time within 6 years after the return was filed.

(c) In the case of an assessment of additional tax relating directly to adjustments resulting from a final

determination of a federal audit, the additional tax may be assessed before the expiration of the times provided in this subsection, or 6 months from the date the county receives the final determination of the federal audit from the business entity, whichever is later.

(2) The times provided in this subsection may be extended by agreement between the business entity and the county. For the purposes of this division, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day. Any extension granted for filing the return shall also be considered as extending the last day prescribed by law for filing the return.

(B) Every business entity shall submit a copy of the final determination of the federal audit within 30 days of the conclusion of the federal audit.

(C) The county may initiate a civil action for the collection of any additional tax within the times prescribed in division (A) of this section.

§ 220.10 ADMINISTRATIVE PROVISIONS.

(A) No suit shall be maintained in any court to restrain or delay the collection or payment of the tax levied by this chapter.

(B) (1) Any tax collected pursuant to the provisions of this chapter may be refunded or credited within 2 years of the date prescribed by law for the filing of a return or the date the money was paid to the county, whichever is the later, except that:

(a) In any case where the assessment period contained in § 220.09 has been extended by an agreement between the business entity and the county, the limitation contained in this division shall be extended accordingly.

(b) If the claim for refund or credit relates directly to adjustments resulting from a

federal audit, the business entity shall file a claim for refund or credit within the time provided for in this division or 6 months from the conclusion of the federal audit, whichever is later.

(2) For the purposes of this division (B) and division (C) of this section, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day.

(C) The authority to refund or credit overpayments of taxes collected pursuant to this chapter is vested exclusively in the county.

§ 220.11 INFORMATION TO REMAIN CONFIDENTIAL.

(A) No present or former employee of the county shall intentionally and without authorization inspect or divulge any information acquired by him or her of the affairs of any person, or information regarding the tax schedules, returns, or reports required to be filed with the county or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business. This prohibition does not extend to information required in prosecutions for making false reports or returns for taxation, or

any other infraction of the tax laws, or in any way made a matter of public record, nor does it preclude furnishing any taxpayer or the taxpayer's properly authorized agent with information respecting his or her own return. Further, this prohibition does not preclude any employee of the county from testifying in any court, or from introducing as evidence returns or reports filed with the county, in an action for violation of the county tax laws or in any action challenging the county laws.

(B) The county reserves the right to disclose to the Commissioner of Revenue of the Commonwealth of Kentucky or his or her duly authorized agent all such information and rights to inspect any of the books and records of the county if the Commissioner of Revenue of the Commonwealth of Kentucky grants to the county the reciprocal right to obtain information from the files and records of the Kentucky Department of Revenue and maintains the privileged character of the information so furnished. Provided, further, that the county may publish statistics based on such information in such a manner as not to reveal data respecting net profits or compensation of any person or business entity.

(C) In addition, the county is empowered to execute similar reciprocity agreements as described in division (B) of this section with any other taxing entity, should there be a need for exchange of information in order to effect diligent enforcement of this chapter.

† 220.12 USE OF OCCUPATIONAL LICENSE TAX

The Occupational License Taxes shall go into the McLean County Fiscal Court's General Fund.

† SEVERABILITY

Each section and each provision of each section of this Ordinance is severable, and if any provision, section paragraph, sentence, or part thereof, or the application thereof to

any person, licensee, class or group, be held unconstitutional or invalid for any reason, such holding shall not affect or impair the remainder of this Ordinance, it being the legislative intent to ordain and enact each provision, section, paragraph sentence and part thereof, separately and independently of each other.

† REPEALING CLAUSE

All Ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed, and the duration of this Ordinance shall be until repealed, modified, or amended according to law.

† EFFECTIVE DATE

(A) This Ordinance shall be effective immediately upon passage by the McLean County Fiscal Court following its Second Reading and publication as required by state law.

(B) The License Tax authorized herein shall be computed from January 1, 2021.

(C) The FY 2021 Budget and all subsequent Budgets of the McLean County Fiscal Court shall represent the projected funds herein ascribed to by the Ordinance as provided by the Governor's Office, Department of Community Development.

§ 220.99 PENALTY.

(A) (1) A business entity subject to tax on net profits may be subject to a penalty equal to 15% of the tax due for each calendar month or fraction thereof if the business entity:

(a) Fails to file any return or report on or before the due date prescribed for filing or as extended by the county; or

(b) Fails to pay the tax computed on the return or report on or before the due date prescribed for payment.

(2) The total penalty levied pursuant to this division shall not exceed 25% of the total tax due; however, the penalty shall not be less than \$25.

(B) Every employer who fails to file a return or pay the tax on or before the date prescribed under §110.05 may be subject to a penalty in an amount equal to 15% of the tax due for each calendar month or fraction thereof. The total penalty levied pursuant to this division shall not exceed 25% of the total tax due; however, the penalty shall not be less than \$25.

(C) In addition to the penalties prescribed in this section, any business entity or employer shall pay, as part of the tax, an amount equal to 12% per annum simple interest on the tax shown due, but not previously paid, from the time the tax was due until the tax is paid to the county. A fraction of a month is counted as an entire month.

(D) Every tax imposed by this chapter, and all increases, interest, and penalties thereon, shall become, from the time the tax is due and payable, a personal debt of the taxpayer to the county.

(E) Any person who willfully violates any provision of this Ordinance shall be guilty of a Class A Misdemeanor and upon conviction shall be fined not less than TWO HUNDRED AND FIFTY DOLLARS (\$250.00) nor more than FIVE HUNDRED DOLLARS (\$500.00), or imprisoned for not more than twelve months, or both. Such penalties shall be in addition to other penalties imposed by this Ordinance.

(F) Each failure of refusal to comply with any of the provisions of this Ordinance shall constitute a separate offense, and each day that such failure or refusal continues without compliance shall constitute a separate and additional offense.

INTRODUCED & APPROVED AT FIRST READING ON December 9, 2020

INTRODUCED AT SECOND READING & FINAL ADOPTION ON December 22, 2020


Curtis Dame, McLean County Judge Executive

ATTEST: Wendy M. Clark
Wendy Clark, Court Clerk