

CITY OF HIGHLAND HEIGHTS, KENTUCKY

ORDINANCE NO. 14-2005

AN ORDINANCE AMENDING ORDINANCE NO. 11-2004 THE CITY OF HIGHLAND HEIGHTS OCCUPATIONAL LICENSE TAX (GROSS RECEIPTS ORDINANCE) ADOPTING THE IRS DEFINITION OF TAX EXEMPT ENTITIES, REQUIRING AN APPORTIONMENT FORM FOR BUSINESSES APPORTIONING LESS THAN ONE HUNDRED PERCENT (100%) OF THEIR BUSINESS ACTIVITY TO THE CITY, REQUIRING AN EMPLOYEE TO FILE AND PAY THIS TAX WHEN AN EMPLOYER DOES NOT WITHHOLD PAYROLL TAX AND CLARIFYING REQUIREMENTS FOR REFUND OF THE TAX TO EMPLOYEES AND SETTING LIMITATIONS FOR SMALL DOLLAR AMOUNT OF REFUNDS.

BE IT ORDAINED BY THE CITY OF HIGHLAND HEIGHTS, KENTUCKY AS FOLLOWS:

SECTION I

110.01 Definitions

BUSINESS: Any enterprise, activity, trade, occupation, profession or undertaking of any nature conducted for gain or profit. BUSINESS shall not include the usual activities of 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, literacy, 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.

INTERNAL REVENUE CODE: The Internal Revenue Code in effect on December 31, 2004 of the year in which the tax is due, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2004 of the year in which the tax is due, that would otherwise terminate.

SECTION II

110.04 Apportionment

- A.) Except as provided in division (D) of this section, gross receipts shall be apportioned as follows:
- (1) For business entities with both payroll and sales revenue in more than one (1)

tax district, by multiplying the gross receipts 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 two (2); and

- (2) For business entities with sales revenue in more than one (1) tax district, by multiplying the gross receipts by the sales factor as set forth in division (C) of this section.
- (3) For the purpose of divisions (A) through (E) of this section, the business entity shall file an apportionment form provided by the City.

### SECTION III

#### 110.05 Employers to Withhold.

- (I) Notwithstanding divisions (G) and (H) of this section, every employee receiving compensation in the city subject to the tax imposed under § 110.03 shall be personally liable for any amount due. 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 city each quarter in the same manner as if they were the employer or as otherwise required by the City. If an employer fails to or is not required to withhold, report, or pay the license tax it shall become the duty of the employee to file with the City. 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<sup>st</sup>, June 30<sup>th</sup>, September 30<sup>th</sup>, and December 31<sup>st</sup> 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<sup>th</sup> 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 tax must annually, during the month of January of each year, make a return to the City, 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.

### Section IV

#### 110.08 Refunds

- (A) Where there has been an overpayment of tax under §110.05, 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 § 110.05 by the employer. Unless only if a written application for refund or credit is received by the city from the employer within two (2) years from the date the overpayment was made no refund or credit shall be allowed. Where there has been an overpayment of the maximum tax due under § 110.05, a refund or credit shall be made to the employee to the extent of overpayment only if a written application for refund is received by the City from the employer or the employee within two years from the date the overpayment was made. All written applications for refunds shall be submitted to the City on a form furnished or approved by the City. Refunds may be withheld from an employee until the employer has filed all required forms and provided all required information to the city. Overpayments of less than five dollars shall not be refunded.

Section V

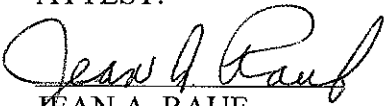
That this Ordinance shall be signed by the Mayor, attested by the City Clerk/Treasurer, recorded and published. Same shall be in effect at the earliest time provided by law.

First reading this 15 day of November, 2005.

Second reading this 6th day of December, 2005

  
MAYOR CHARLES ROETTGER, III

ATTEST:

  
JEAN A. RAUF  
CITY CLERK/TREASURER  
Ord05.14

PUBLISH CCR: 12-15-2005