

## SOUTH CLACKAMAS TRANSPORTATION TAX CODE

Section 1. Tax Ordinance Codified. This Ordinance codifies ordinances which impose an excise tax imposed on employers and on self-employed persons within the District. Amendments to the tax shall be by ordinance amending this tax code. No amendment shall result in a tax that exceeds the tax rate authorized by voters of the District.

Section 2. Presumption. A person is presumed to be doing business in the District and subject to the payment of the tax imposed hereunder, if engaged in any of the following activities:

- (1) advertising or otherwise professing to do business within the District; or
- (2) delivering goods or providing services to customers within the District; or
- (3) owning, leasing or renting real or personal property within the District used in a trade or business.

Section 3. Definitions.

- (1) “District” shall mean the South Clackamas Transportation District.
- (2) “Employer” means:
  - (a) A person who is in such relation to another person that the person may control the work of that other person and direct the manner in which it is to be done; or
  - (b) An officer or employer of a corporation, or a member or employee of a partnership, who as such officer, employee or member is under a duty to perform the acts required of employers by ORS 316.162 to 316.212. However, employer does not include an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code, as amended and in effect on December 31, 1986, except the “employer” does include hospitals.
- (3) “Individual” means any natural person.
- (4) “Net earnings from self employment” has the same meaning as in section 1402 of the Internal Revenue Code of 1954, as the section was in effect and operative on December 31, 1980. For purposes of computing net earnings from self-employment, the district may by ordinance from time to time adopt definitions of the terms used in such section 1402.
- (5) “Net earnings from self-employment” does not include income:

- (a) From activities performed wholly outside the District.
  - (b) Which is wages.
- (6) “Person” includes, but is not limited to, a natural person, sole proprietorship, partnership, joint venture, association, cooperative, trust, estate, corporation, limited liability company, personal holding company, or any other form of organization for doing business.
- (7) “Wages” means remuneration for services performed by an employee for the employer, including the cash value of all remuneration paid in any medium other than cash. However, wages do not include remuneration paid:
- (a) For services performed in the employ of the United States of America and institutions (excluding hospitals) exempt from taxation under section 501(c)(3) of the Internal Revenue Code, as amended and in effect on December 31, 1988;
  - (b) For domestic service in a private home if the total amount paid to such employee is less than \$1,000 a year;
  - (c) For casual labor not in the course of the employer’s trade or business;
  - (d) For services performed wholly outside of the district;
  - (e) To an employee whose services to the employer consist solely of seasonal labor in connection with planting, cultivating or harvesting of agricultural crops;
  - (f) To seamen who are exempt from garnishment, attachment or execution under Title 46, United States Code;
  - (g) To individuals temporarily employed as emergency fire fighters;
  - (h) If the remuneration is not subject to withholding under ORS chapter 316; or
  - (i) To employees’ trusts exempt from taxation under section 401 of the Internal Revenue Code, as defined by ORS 316.012.

Section 4. Examination of Books, Records or Persons. The District may, either through its employees or other agents, examine any books, papers, records kept in any form, or media including state and federal income or excise tax returns to ascertain the correctness of any tax application or to make an estimate of any tax owned or owing.

Section 5. Levy of Tax.

- (1) There is hereby imposed upon every employer a tax based upon wages paid with respect to the employment of individuals.
- (2) There is hereby imposed upon every individual a tax based upon net earnings from self-employment within the district in excess of \$400.

Section 6. Tax Rate.

- (1) The tax rate shall be five tenths of one percent (.5%) of the wages paid or five tenths of one percent (.5%) of the net earnings from self-employment in excess of \$400. The district board shall review the tax rate annually and may lower the rate at its discretion.
- (2) If an employer or individual fails to file an application, or to make a payment when due a rebuttable presumption shall exist that the tax payable amounts to \$150.00 for the quarter for which no payments has been paid and received by the District, exclusive of any penalties, interest or other charges that are or may be imposed by this Ordinance or other Ordinances enacted by the Board.
- (3) If a self-employed taxpayer who is required to file an annual return fails to do so or fails to make an annual payment when due, a rebuttable presumption shall exist that the tax payable amounts to \$150.00 for the year for which no payment has been paid and received by the District, exclusive or any penalties, interest or other charges that are or may be imposed by this Ordinance or other Ordinances enacted by the Board.

Section 7. No Payroll Deduction. No employer shall make a deduction from the wages of an employee to pay all or any portion of the tax imposed under this ordinance.

Section 8. Calculation of Tax. Individuals having net earnings from self-employment from activity both within and without the District taxable by the State of Oregon are required to allocate and apportion the net earnings to the District in the manner required for allocation and apportionment of income under ORS 314.280 and 314.605 to 314.675. An individual providing proof of earnings from self-employment activities outside the District has the option of apportioning the net earnings based on the single factor of .75, meaning that 75% of an individual's net earnings shall be subject to tax.

Section 9. Payment of Tax.

- (1) For employers, the tax levied under this ordinance shall be due and payable in quarterly installments, on or before the last day of January, April, July and October for the preceding calendar quarter.
- (2) For individuals, the tax shall be due and payable in annual installments, on or before the last day of April for the preceding year.
- (3) Whenever in its judgment good cause exists, the District may allow an extension to 30 days for filing a return. Written application for an extension must be made on or before the due date for paying the tax.

Section 10. Crediting of Payment. All payments received under this ordinance shall be credited, first to penalty, then interest accrued, and then to the tax due.

Section 11. Tax Return. Each taxpayer shall make out a return on the form prescribed by the District showing the amount of tax for which the taxpayer is liable as well as other information the District considers necessary. The taxpayer shall mail or deliver the return, together with the amount of the tax (as well as any interest and penalties that may be due) to the District. The return shall be signed and verified by the taxpayer or a duly authorized agent of the taxpayer. Any employer or individual incurring less than \$1.00 total tax liability in any calendar quarter or calendar year respectively, is excused from payment of the tax, but is still required to file a return.

Section 12. Records. Every employer shall keep a detailed record of wages paid with respect to the employment of individuals. Individuals with net earnings from self-employment shall keep a detailed record of earnings from self-employment and any deductions from those earnings used to calculate the net earnings subject to tax.

Section 13. Failure or Refusal to File. Interest and Penalties.

- (1) A taxpayer other than a self-employed one who fails to file a quarterly return when required by this Ordinance or fails to pay the tax for a quarter at the time the tax becomes due is delinquent for that quarter. A penalty of \$100 shall be imposed for the first quarter for which the taxpayer is delinquent. A penalty of \$250 shall be imposed for each subsequent quarter in which the taxpayer is delinquent. All penalties are in addition to the amount of tax payable. The penalty may be waived if the District determines that the taxpayer was unaware of the filing and payment requirement and the taxpayer files a return and makes payment promptly on learning of the filing and payment requirement.
- (2) A self-employed taxpayer who fails to file an annual tax return when required by this Ordinance or pay the tax for a year at the time the tax becomes due is delinquent for that year. A penalty of \$100 shall be

imposed for the first year for which the taxpayer is delinquent. A penalty of \$250 shall be imposed for each subsequent year in which the taxpayer is delinquent. All penalties are in addition to the amount of tax payable. The penalty may be waived if the District determines that the taxpayer was unaware of the filing and payment requirement and the taxpayer files a return and makes payment promptly on learning of the filing and payment requirement.

- (3) If all or any part of the delinquency or deficiency for which a determination is made that the delinquency or deficiency is due to fraud or an intent to evade payment of the amount of tax due or the rules adopted for collection of the tax, a penalty of 100% of such delinquency or deficiency shall be added plus interest at the rate established under ORS 305.220 for each month or any fraction of a month, computed on the full amount of the delinquency or deficiency plus penalty, from the time the return was due.
- (4) Every deficiency or delinquency in tax or penalty imposed by this ordinance shall bear interest at five-sixths of one percent per month (or any fraction thereof) from the time the return was due.
- (5) If any taxpayer neglects or refuses to make a return required by this ordinance, the District is authorized to determine the tax due, based on any information in its possession or that may come into its possession. The District shall give the taxpayer written notice by certified mail of the tax and delinquency charges and the tax and the delinquency charges shall be a lien from the date of mailing. If the tax and delinquency charges are not paid within 30 days from the date of the mailing of the notice, the District may take such steps to collect any tax, penalty and interest as the District Administrator deems appropriate.
- (6) The cost of collection, including but not limited to attorney fees, service fees and court costs, for any delinquent or deficient tax shall be added to any other penalties and interest that may be due.

Section 14. Enforcement and Collection. Nothing contained herein shall in any way limit the right of the District or any other entity, to bring a civil action for legal or equitable remedies or damages in connection with failure to pay or late payment of the tax imposed herein.

AUTHORITY: Ordinance No. 96-1  
Ordinance No. 97-1  
Ordinance No. 98-1  
Ordinance No. 99-1  
Ordinance No. 07-1

G:\muni\sctd\Tax Code (092006).doc