Print

Berea, KY Code of Ordinances

CHAPTER 60. BUSINESS LICENSES

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ARTICLE I. OCCUPATIONAL AND BUSINESS LICENSES

Division 1. General Provisions

§ 60.001 DEFINITIONS

As used in this article, the following terms and their derivatives shall have the following meanings unless the context clearly indicates that a different meaning is intended.

"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. *"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, income 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.

"CITY." The City of Berea, Kentucky.

"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 Section 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 Sections 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.

"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 one (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, the term *"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, the term *"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." An accounting period of twelve (12) months ending on the last day of any month other than December.

"INTERNAL REVENUE CODE." The Internal Revenue Code in effect on December 31, 2003, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2004, that would otherwise terminate.

"NET PROFIT." Gross income as defined in Section 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 Section 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 and statutory laws of the United States.

"PERSON." Every natural person, whether a resident or non-resident of the city. 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.

"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 city.

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

"TAX DISTRICT." Any city of the first to fifth class with authority to levy net profits, or occupational license taxes.

"TAXABLE NET PROFIT."

(1) In case of a business entity having payroll or sales revenue only within the city means net profit as defined in this section.

(2) In case of a business entity having payroll or sales revenue both within and without the city means net profit as defined in this section, and as apportioned under § 60.101.

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

(Ord. No. 21.90, 10-16-90; Amd. Ord. No. 15-08, 7-1-08)

§ 60.002 FINANCE OFFICER TO ENFORCE

(A) *Power to prescribe regulations.* The finance officer is hereby charged with the enforcement of provisions of this article, and is hereby empowered to prescribe, adopt and promulgate, and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of the provisions of the article, including, but not limited to, provisions for the reexamination and correction of returns to which an underpayment or overpayment is claimed or found to have been made. The rules and regulations as promulgated by him shall be binding upon the licensee and employers. Provided, however, all such rules, regulations and decisions shall be subject to the consent and approval of the mayor.

(B) *Authority to examine finance records.* The finance officer, or any agent or employee designated by the finance officer in writing, may examine the books, papers, and records of any employer, or supposed employer or of any licensee, or supposed licensee in order to determine the accuracy of any return made, or if no return was made, to ascertain the amount of license fee imposed by the terms of this article as the finance officer may deem reasonably necessary. The finance officer may enforce this right by application to the appropriate court having jurisdiction over these matters.

(C) *Other duties.* In order to appropriately effect the provisions of this chapter, the finance

officer shall:

(1) Provide formal presentation not less than quarterly to the mayor and city council with information on budget performance, revenues, projections, and any other information as requested by the mayor or city council;

(2) Prepare and distribute at the second monthly council meeting of each month, a performance spread sheet as specified by the mayor and city council; and

(3) On an annual basis, provide to the finance committee of the city council, an action plan to secure appropriate revenue collections from license fee payers set out in § 60.102.

(D) *Annual audits.* The finance officer shall, on an annual basis, perform an audit of not less than ten (10%) percent of all license fee payers, to include hotels, motels, and restaurants paying the transient room and restaurant tax imposed by §§ 61.101 through 61.106.

(Ord. No. 21.90, 10-16-90; Amd. Ord. No. 3.93, 3-2-93; Amd. Ord. No. 15-08, 7-1-08)

Division 2. General Business License

§ 60.100 LICENSE; FEES

(A) *Initial business license fee.* Each person, corporation or business engaged in any occupation, trade or profession or other business activity in the city, except those businesses engaged in those activities shown in § 60.101, shall apply for and obtain an occupational license from the city by paying an initial business license fee before the commencement of the business. This fee shall be ten ($10.00) dollars. Licensees are required to notify the city of any changes in address, the cessation of business, or any other changes which render the information supplied to the city in the license application inaccurate.

(B) *Annual renewal.* All existing general business licenses shall be renewable annually upon the license holder filing the net profits or occupational license return required by § 60.204(G). In the event such return is not filed, the license may be revoked as provided by § 60.213.

(C) *Non-transferable.* A license to operate a business, once granted, shall not be transferable by the applicant.

(D) *Business license fee credit.* The minimum license fees required under this chapter shall be a credit on the net profit license fee imposed by § 60.200 only for the tax year which the minimum fee covers and shall not be a credit for any subsequent or previous years.

(Ord. No. 21.90, 10-16-90; Amd. Ord. No. 14-03, § 2, 8-19-03; Amd. Ord. No. 15-08, 7-1-08)

§ 60.101 OCCUPATIONS REQUIRING SPECIAL REGULATIONS; LICENSE FEES

(A) *Minimum license fees.* The city council hereby finds the occupations set forth in § 60.102 are of such a nature as to require special regulation and supervision, and therefore minimum

license fees are imposed on every person, corporation, association, occupation, trade, profession, or other activity engaged in business, occupations, calling or profession or using, holding or exhibiting articles named in § 60.102. These businesses shall pay the license fee set forth to the city for each calendar year (or fraction thereof in the case of a new business). Payment of the license fee shall be a credit on the other license fees as provided in this chapter. However, the license fee shall be considered as the minimum fee due for the period set forth in the table and shall be paid in advance of engaging in the activity.

(B) *Single license fee.* In the event that a licensee engages in more than one (1) type of activity in one (1) business entity, the highest minimum license fee shall apply.

(C) *Payment for license fee.* In the case of enterprises not operating continuously, payment must be made prior to the beginning of operations.

(D) *Collection by lessor.* In the event a non-resident person engages in any activity or occupation included in § 60.102 and leases, rents, engages, or otherwise uses premises owned or controlled by another person (the "lessor") for the purpose of carrying on the activity of occupation, then the lessor shall be responsible for obtaining the license applications and collecting the license fees, and shall be entitled to retain twenty-five percent (25%) of all license fees collected in consideration of the collection and bookkeeping expenses incurred. All lessors shall maintain records of each rental to a person subject to the provisions of § 60.102.

(E) *License fee renewal.* In any tax year, it shall be unlawful for any person to continue to engage in any occupation, trade, profession or other activity in the city without first having renewed and paid for the minimum license fee herein required. If the minimum license fee is not renewed between January 1 and February 28 of each year, a penalty of one hundred ($100.00) dollars per month or fraction thereof shall be imposed commencing on March 1.

(F) *License fee credit.* The minimum license fees required under this chapter shall be a credit on the net profit license fee imposed by § 60.200 only for the tax year for which the fee applies and shall not be a credit for any subsequent or previous years.

(Ord. 21.90, 10-16-90; Amd. Ord. No. 15-08, 7-1-08)

§ 60.102 SCHEDULE OF SPECIAL LICENSE FEES

(A) *Billiard, pool rooms*

(1) A billiard or pool hall shall be a commercial establishment containing two (2) or more billiard or pool tables which are utilized by a customer for a fee.

(2) License fee. $200 per year

Table fee. $ 25 per table per year

(3) An application for a billiard room license shall be in the following form and submitted to the city clerk.

"I, _____, hereby make an application for licenses to conduct a pool room business in the City of Berea, Kentucky, for and during the year beginning January 1, ____ and ending December 31, ____, or annually thereafter.

"I propose to use (number of tables) in the operation of business, located at (street and number) in Berea, Kentucky.

"In consideration of the City of Berea granting this license, I hereby agree that I will not permit any person under the influence of intoxicating liquor or beverage, or any controlled substance not prescribed by a physician, to loaf or loiter in my place of business or premises; I will not permit the sale or drinking of any intoxicating liquor or beverages, or the consumption of any controlled substance not prescribed by a physician, in my place of business or on my premises.

"I further agree that my place of business or premises may be inspected at any time by any police officer of the City of Berea without a search warrant.

"This application shall be a part of the license contract, and any violation of any of the provisions herein shall be sufficient cause for revocation of my license."

(4) Upon receiving an application for a license to conduct a billiard or pool room, the city shall consider the application. The city may take testimony from persons, including the applicant, who wish to offer evidence concerning the operation of such a business. The city may consider the character of the applicant, the past record of the applicant in operating the same or related businesses, the condition of the premises and the expected effect upon the safety, health and morals of the community at large. The city shall recommend whether the license shall be granted or denied based upon its findings and shall act upon the recommendation.

(5) Once granted, a license to operate a billiard or pool room shall not be transferable by the applicant.

(6) A license for the operation of a billiard or pool room shall be effective for one year beginning on January 1 and expiring on December 31. The city may, during the effective period of a license granted hereunder, revoke the license for good cause. Upon a proper showing, the city may delegate authority to hold a hearing on whether the license should be revoked. At the hearing, the city shall take testimony from interested persons, including the licensee, and may revoke the license upon a finding of any or all of the following:

(a) That the licensee is not complying with any applicable federal, state or local statute or regulation;

(b) That the licensee has, in the operation of the business, violated the criminal law in any manner;

(c) That the operation of the business constitutes a nuisance under the common law or under the statutes of the Commonwealth of Kentucky or the ordinances of the city; or

(d) That the operation of the business is detrimental to the safety, health or morals of the community at large.

(B) *Carnival and circus*

(1) License fee $300 per week

(2) The license fee shall be assessed against any carnival or circus within the city limits.

(3) Before any license is issued, the applicant shall furnish an affidavit stating that all rides or mechanical devices upon which passengers are carried have been inspected within ninety (90) days of the date of application and found to be safe.

(4) Before any license is issued, the applicant shall furnish proof of insurance covering personal injury to any patron of the carnival in an amount not less than one million ($1,000,000) dollars per occurrence.

(C) *Collection agency*

License Fee $ 40.00 per year

(D) *Fortune teller, hypnotist, magnetic or divine healer, phrenologist, faith cure, palmistry or similar occupation accepting payment*

License Fee $200.00 per day

(E) *Golf course*

License Fee $100.00 per year

(F) *Insurance company engaging in the sale of life insurance policies*

License Fee $100.00 per year

(G) *Itinerant contractor, non-residential transient or temporary contract painters, plumbers, plasterers, heating and air conditioning contractors, brick layers, etc.*

License Fee $ 25.00 per year

(H) *Itinerant merchant*

License Fee $ 25.00 per year

$ 10.00 per day

(I) *Laundry*

License Fee $100.00 per year

(J) *Loan companies involved in note buying, lending money on assignment of salaries, wages due or to become due on chattels, or other notes*

(1) License Fee $350.00 per year

(2) The license fee established in this subdivision shall not apply to any financial institution which is exempt from city taxation under KRS 92.300(2).

(K) *Pawnbrokers*

(1) Any person within the city who loans money on deposits of personal property or deals in the purchase or possession of personal property on condition of selling the same back to the pledgor or depositor, or who loans or advances money on personal property by taking chattel mortgage security thereon and takes or receives the personal property into his possession, is hereby declared to be a pawnbroker.

(2) License Fee $250.00 per year

(L) *Peddlers*

(1) License Fee $ 25.00 per year

$ 10.00 per day

(2) The license fee provided herein for peddlers may be waived by the mayor, on a written request to the mayor, that an event of charitable, civic, or education significance is occurring and that as a part of the event there will be event-related items and services sold by merchants which are necessary and connected to the event, and upon the mayor's certification of same and that the public interest shall be served by a waiver.

(M) *Non-resident sales and delivery including parcels, mail, money, etc*

(1) License Fee $ 50.00 per year

(2) Excluded from payment of the license fee under this subsection is the federal post office and its employees.

(3) Any trucks or vehicles exempted by Kentucky Revised Statutes or operated by any farmer for transportation of the products of his farm or land, and/or any licensed business calling or making deliveries to the customers of the licensed business shall be exempt.

(N) *Shooting gallery*

License Fee $150.00 per year

(O) *Skating rink*

License Fee $150.00 per year

(P) *Solicitors*

(1) The term solicitor shall be deemed to mean and include any person who goes from house to house or from place to place selling or taking orders for or offering to sell or take orders for books, magazines, cleaning supplies, and the like.

(2) License Fee $100.00 per year

$ 10.00 per day

(Q) *Vending machines*

(1) The term vending machines shall apply to any lawful coin or token-operated machine or device which contains no element of chance and which as a result of depositing a coin, token or other object automatically by or through some mechanical operation affords music or amusement of some character with or without vending any merchandise, but in addition to any such merchandise. Such coin-operated amusement and vending machine shall not include any bona fide merchandise vending machine in which there is incorporated no amusement features.

(2) License Fee $ 10.00 per machine per year

(3) Vending machines operated by a bona fide non-profit organization shall be exempt from this fee.

(Ord. No. 21.90, 10-16-90; Am. Ord. No. 18-97, 9-16-97; Amd. Ord. No. 15-08, 7-1-08)

Division 3. Occupational Licenses

§ 60.200 OCCUPATIONAL LICENSE TAX PAYMENT REQUIRED

(A) Except as provided in subsection (B) of this section, every person or business entity engaged in any business for profit and any person or business entity that is required to make a filing with the Internal Revenue Service of the Kentucky Revenue Cabinet shall be required to file and pay to the city an occupational license tax for the privilege of engaging in such activities within the city. The occupational license tax shall be measured by two percent (2%) of:

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

(2) The net profit from business conducted in the city by a resident or nonresident business entity.

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

(1) Any bank, trust company, combined bank and trust company, or trust, banking and title insurance company organized and doing business in this state, any savings and loan association whether state or federally chartered;

(2) Any compensation received by members of the Kentucky National Guard for active duty training, unit training assemblies and annual field training;

(3) Any compensation received by precinct workers for election training or work at election booths in state , county, and local primary, regular, or special elections;

(4) Public service corporations that pay an ad valorem tax on property valued and assessed by the Kentucky Department of Revenue pursuant to the provisions of KRS 136.120.

License whose business are predominantly non-public service who are also engaged in public service activity are required to pay a license fee on their net profit derived from the non-public service activities apportioned to the city;

(5) Persons or business entities that have issued a license under KRS Chapter 243 to engage in manufacturing or trafficking in alcoholic beverages are required to file a return, but may exclude the portion of their net profits derived from the manufacturing or trafficking in alcoholic beverages;

(6) Life insurance companies incorporated under laws of and doing business in the Commonwealth of Kentucky.

(7) Pension, interest, and dividend income. Income from pensions, interest and dividends is not subject to this occupational license fee, within the meaning of this chapter;

(8) Domestic servants. No license fee under this chapter shall be required of domestic servants employed in private homes;

(9) Fiduciary. A fiduciary who holds in trust property, monies or properties to which another has a beneficial interest, or who receives or controls income from another person is not subject to the license fee imposed by this chapter, except where the fiduciary operates a business which is subject to a license fee for doing business within the city. The remainder of the trust is hereby exempt from any payment or annual occupational fees;

(10) Limited rental income. Income derived from rental of one (1) apartment or one (1) house only shall be exempt from the license fee;

(11) Old age or retirement payment. Periodic payments, commonly recognized as old age or retirement pensions, made to persons retired from service after reaching a specified age or a stated period of employment are not subject to the license fee;

(12) Disability and unemployment. Disability, sickness and accident benefits and unemployment compensation, and other insurance payments received for personal injuries or property losses are not subject to the license fee. Payments by an employer to employees under disability, sickness and accident benefit plan are not subject to the license fee. Unemployment compensation payments by the Commonwealth of Kentucky, or any other agent, are not subject to the license fee. Payments received for personal injuries and property losses are not subject to the license fee;

(13) Death benefits. Death benefits payable to the beneficiary of an employee or to his estate, whether payable in a single sum or otherwise, are not subject to the license fee;

(14) Worker's compensation benefits. Benefits arising under the Worker's Compensation Act as compensation for disabilities sustained during the course of employment, together with any amount of damages received by suit or agreement, on account of such liability are not subject to the license fee;

(15) Employee contributions to qualified retirement plans. Employee contributions to retirement plans which are properly qualified and approved by the United States Internal Revenue

Service.

(Ord. No. 21.90, 10-16-90; Amd. Ord. 14.91, § 1, 6-4-91; Amd. Ord. No. 15-08, 7-1-08)

§ 60.201 APPORTIONMENT

(A) Except as provided in subsection (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 (1) tax district, by multiplying the net profit by a fraction, the numerator of which is the payroll factor, described in subsection (B) of this section, plus the sales factor, described in subsection (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 net profit by the sales factor as set forth in subsection (C) of this section.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid or payable in the city 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 city based on the time the individual's service is performed within the city.

(C) The sales factor is a fraction, the numerator of which is the total sales revenue of the business entity in the city 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 city 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 city regardless of the f.o.b point or other condition of the sale; or

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

(2) Sales revenues, other than revenues from the sale, lease or rental of tangible personal property or the lease or rental of real property, are apportioned to the city based upon a fraction, the numerator of which is the time spent in performing such income-producing activity within the city 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 city, the business entity may petition the city or the city 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 (1) or more of the factors;

(3) The inclusion of one (1) or more additional factors which will fairly represent the business entity's business activity in the city; or

(4) The employment of any other method to effectuate 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 city, 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 city. The license tax shall be computed by obtaining the percentage which the compensation for work performed or services rendered within the city bears to the total wages and compensation paid or payable. In order for the city to verify the accuracy of a taxpayer's reported percentages under this subsection, the taxpayer shall maintain adequate records.

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

(G) If any business entity dissolves, ceases to operate, or withdraws from the city 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 the taxable year during which the business entity had business activity in the city.

(H) If an 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 article 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.

(Ord. No. 15-08, 7-1-08)

§ 60.202 EMPLOYERS TO WITHHOLD

(A) Every employer making payment of compensation to an employee shall deduct and withhold from the compensation an occupational license tax calculated under § 60.200 of this chapter.

(B) Each employer who employs one (1) or more persons but less than fifty (50) persons within the city shall deduct at least monthly or when the employee is paid, if more often than monthly, the license fee due from each employee measured by the amount of salaries, wages, commissions or compensations due by the employer to the employee. The amount deducted shall be paid by the employer to the city on a quarterly basis the periods ending on the last day of March, June, September, and December of each year. Payment shall be due before the last day of the month next following the quarter of the deduction. Each employer who employs fifty (50) or more persons within the city shall deduct at least monthly or when the employee is paid, if more often than monthly, the license fee due from each employee measured by the amount of salaries,

wages, commission or compensations due by the employer to the employee. The amount deducted shall be paid to the city by the employer on a monthly basis. Payment required shall be due on or before the fifteenth day of the month next succeeding the deduction.

(C) Every employer who fails to withhold or pay to the city any sums required by this article be withheld and paid shall be personally and individually liable to the city for any sum or sums withheld or required to be withheld in accordance with the provisions of this section.

(D) The city shall have a lien upon all the property of any employer who fails to withhold or pay over to the city sums required to be withheld under this section. If the employer withholds, but fails to pay the amounts withheld to the city, the lien shall commence as of the date the amounts withheld were required to be paid to the city. If the employer fails to withhold, the lien shall commence at the time the liability of the employer is assessed by the city.

(E) 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 from furnished or approved by the city 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 city, shall be submitted.

(F) Every employer shall furnished 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 city during the preceding calendar year.

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

(H) The president, vice president, secretary, treasure or any other person holding an equivalent corporate office of any business entity subject to this section shall be personally and individually liable, both jointly and severally, for any tax required to be withheld from compensation paid or payable to one (1) or more employees of the business entity , and neither the corporate dissolution or withdrawal of the business entity from the city, nor the cessation of holding any corporate office, shall discharge that liability; provided that the personal and individual liability shall apply to each and 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 subsection unless such person had authority to collect, truthfully account for, or pay over the tax imposed by this article at the time that the taxes imposed by this article become or became due.

(I) Not withstanding subsections (G) and (H) of this section, every employee receiving compensation in the city subject to the tax imposed under § 60.100 shall be personally liable for any amount due. In all cases where the employer does not withhold the tax levied under this article 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.

(J) Any employer who employs contract labor and does not withhold license fees must furnish a copy of Form Schedule 1099-Misc (Miscellaneous Income) to the finance officer by February 28 of each year.

(Ord. No. 21.90, 10-16-90; Amd. Ord. No. 15-08, 7-1-08)

§ 60.203 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 (15th) day of the fourth (4th) month following the close of the fiscal year. Blank forms for returns shall be supplied by the city.

(B) Every business entity shall submit a copy of its federal income tax return and all supporting statements and schedules at the time of filing its occupational license tax return with the city. Whenever, in the opinion of the city, it is necessary to examine the federal income tax return of any business entity in order to audit the return, the city may compel the business entity to produce for inspection a copy of any statements and schedules in support thereof that have not ben previously filed. The city may also require copies of reports of adjustments made by the federal government.

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

(D) The city may require, for the purpose of ascertaining the correctness of any return of 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 city at the time prescribed for filing the occupational license tax return, determined without regard to any extension of time for filing the return.

(Ord. No. 21.90, 10-16-90; Amd. Ord. No. 15-08, 7-1-08)

§ 60.204 EXTENSIONS

(A) The city may grant any business entity an extension of not more than six (6) months, unless a longer extension has been granted by the Internal Revenue Service or is agreed to by the city 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 shall pay, as part of the tax, an amount equal to twelve percent (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 city. A fraction of a month is counted as an entire month.

(Ord. No. 21.90, 10-16-90; Amd. Ord. No. 15-08, 7-1-08)

§ 60.205 REFUNDS

(A) Where there has been an overpayment of tax under this article, a refund or credit shall be made to the employer to the extent of overpayment 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.

(B) An employee who has compensation attributable to activities performed outside the city, based on time spent outside the city, whose employer has withheld and remitted to this city, the occupational license tax on the compensation attributable to activities performed outside the city, may file for a refund within two (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 city may confirm with the employer the percentage of time spent outside the city and the amount of compensation attributable to activities performed outside the city prior to approval of the refund.

(Ord. No. 21.90, 10-16-90; Amd. Ord. 3.93, 3-2-93; Amd. Ord. No. 15-08, 7-1-08)

§ 60.206 AUDIT PROVISIONS

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

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

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

(3) (a) 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 six (6) months from the date the city receives the final determination of the federal audit from the business entity, whichever is later.

(b) The times provided in this subsection may be extended by agreement between the business entity and the city. For the purposes of this subsection, 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 thirty (30) days of the conclusion of the federal audit.

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

(Ord. No. 21.90, 10-16-90; Amd. Ord. No. 15-08, 7-1-08)

§ 60.207 ADMINISTRATIVE PROVISIONS

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

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

(a) In any case where the assessment period contained in § 60.203 has been extended by an agreement between the business entity and the city, the limitation contained in this subsection 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 subsection or six (6) months from the conclusion of the federal audit, whichever is later.

(2) For the purposes of this subsection (B) 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 article is vested exclusively in the city.

(D) The corporate dissolution or withdrawal of the corporation from the state shall discharge the foregoing liability of any such person; provided that the personal individual liability shall apply to each or every person holding the corporate office at the time the license fee becomes or became obligated.

(E) In the event the person, firm, corporation, partnership or other entity fails or refuses for any reason to pay when due any tax or fee imposed or required by this chapter, the city may upon application to a court of competent jurisdiction, seek injunctive or other extraordinary relief to require said person, firm, corporation, partnership or other entity to cease and desist from operating or conducting in any respect the business enterprise within the corporate limits of the city for which the tax or fee is due, until the time as the tax or fee, plus appropriate penalties and interest, has been paid in full. Should the city be required to pursue the extraordinary relict the person, firm, corporation, partnership or other entity liable for payment of the tax or fee shall be liable for all court costs incurred by the city and, under appropriate circumstances, reasonable attorney's fees.

(Ord. No. 21.90, 10-16-90; Amd. Ord. No. 15-08, 7-1-08)

§ 60.208 INFORMATION TO REMAIN CONFIDENTIAL

(A) No present or former employee of any tax district 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 acquired to be filed with the tax district 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 tax district from testifying in any court, or from introducing as evidence returns or reports filed with the tax district, in an action for violation of a tax district tax law or in any action challenging a tax district tax laws.

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

(C) In addition, the city is empowered to execute similar reciprocity agreements as described in subsection (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 article.

(Ord. No. 21.90, 10-16-90; Amd. Ord. No. 15-08, 7-1-08)

§ 60.209 REVOCATION OF BUSINESS LICENSE

(A) A general business license issued by the city pursuant to this chapter to any person, partnership, corporation, or other business entity, may be revoked for the violation of or failure to comply with any provisions of this chapter.

(B) Upon receipt of information of a violation of or non-compliance with the provisions of this chapter by a license holder, the city administrator will notify the license holder in writing of the violation or non-compliance, and the license holder will have twenty (20) days thereafter to demonstrate that there is no violation or non-compliance, or to remedy the violation or non-compliance. Upon the license holder's failure to do so within twenty (20) days, the city administrator shall issue an order revoking the license holder's general business license.

(Ord. No. 21.90, 10-16-90; Amd. Ord. No. 15-08, 7-1-08)

§ 60.210 USE OF OCCUPATIONAL LICENSE TAX

All money derived from the license taxes under the provisions of this article shall be paid to the city and placed to the credit of the city's general revenue fund.

(Ord. No. 21.90, 10-16-90; Amd. Ord. No. 15-08, 7-1-08)

§ 60.299 PENALTIES

(A) (1) A business entity subject to tax on net profits may be subject to a penalty equal to five percent (5%) 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 city; 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 subsection shall not exceed twenty- five percent (25%) of the total tax due; however, the penalty shall not be less than twenty-five dollars ($25.00).

(B) Every employer who fails to file a return or pay the tax on or before the time prescribed under § 60.203 may be subject to a penalty in amount equal to five percent (5%) of the tax due for each calendar month or fraction thereof. The total penalty levied pursuant to this subsection shall not exceed twenty-five percent (25%) of the total tax due; however, the penalty shall not be less than twenty-five dollars ($25.00).

(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 twelve percent (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 city. A fraction of a month is counted as an entire month.

(D) Every tax imposed by this article, 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 city.

(E) The city may enforce the collection of the occupational tax due under § 60.200 and any fees, penalties, and interest as provided in subsections (A), (B), (C), and (D) of this section by civil action in a court of appropriate jurisdiction. To the extent authorized by law, the city shall be entitled to recover all court costs and reasonable attorney fees incurred by it in enforcing any provision of this article.

(F) In addition to the penalties prescribed in this section, any business entity or employer who willfully fails to make a false return, or who willfully fails to pay taxes owing or collected, with the intent to evade a payment of the tax or amount collected, or any part thereof, shall be guilty of a Class A misdemeanor.

(G) Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with, any matter arising under this article of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or