

AN ORDINANCE AMENDING EXISTING B.C.O. SECTION 193.03, RATE AND INCOME TAXABLE, IN ORDER TO PROVIDE FOR A ONE-HALF PERCENT INCREASE IN THE CURRENT LEVY ON INCOME, TO A RATE OF TWO PERCENT PER ANNUM, BEGINNING JANUARY 1, 2011, AND DECLARING AN EMERGENCY.

WHEREAS, the City currently imposes a municipal income tax at the rate of one and one-half percent (1.5%); and

WHEREAS, the Council of the City of Beachwood has determined that it is necessary and in the best interests of the City to provide for the levying of a one-half percent (.50%) increase in the City's income tax, as herein provided, to provide funds for the purposes of general municipal functions of the City; and

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Beachwood, County of Cuyahoga and State of Ohio, that:

Section 1. Council hereby adopts amendments to Section 193.03 as follows:

193.03 RATE AND INCOME TAXABLE.

Subject to the provisions of Section 193.35, an annual tax for the purposes specified in Section 193.01 hereof shall be imposed on and after ~~January 1, 1991~~ **January 1, 2011**, at the rate of ~~one and one-half two~~ percent per annum upon the following:

- (a) On all compensation and on net profits from the operation of a business earned during the effective period of this chapter by a resident.
- (b) On all qualifying wages earned or received by a nonresident for work done or services performed or rendered in the City, and on net profits earned or received by a nonresident from the operation or conduct of business in the City. Where a nonresident is employed at a place of business in the City, the qualifying wages of such nonresident for the performance of employee services will be treated as earned outside the City only for those services which of necessity, as distinguished from convenience, obligate such nonresident to duties outside the City in the service of the nonresident's employer.
- (c) On a resident owner's distributive share of the net profits of a pass-through entity earned during the effective period of this chapter from business conducted by the pass-through entity regardless of where such business is conducted, subject to the relief and reciprocity provisions of Section 193.35.
- (d) On a nonresident owner's distributive share of the net profits of a pass-through entity attributable to the City and earned during the effective period of this chapter from business conducted in the City, whether or not such pass-through entity has an office or place of business in the City.
- (e) On the portion attributable to the City of the net profits earned during the effective period of this chapter of a corporation derived from business conducted in the City, whether or not such corporation has an office or place of business in the City. The tax imposed by this Section 193.03(e) on the net profits of an electric company, combined company, or telephone company shall be subject to, and shall accord with, Ohio Revised Code Chapter 5745, including any amendments or successor provisions thereto.

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(f) On all income derived or received from prizes, awards, gaming, wagering, schemes of chance or lotteries, including the Ohio State Lottery, on and after February 1, 2004, by residents of the City. Income derived or received from gaming, wagering, schemes of chance or lotteries, including the Ohio State Lottery, shall not be taxed as business income unless the individual subject to the tax has a federal gambler's permit effective during the tax year in which the income from such activities is received.

(g) On all income derived or received from prizes, awards, gaming, wagering, schemes of chance or lotteries, including the Ohio State Lottery, on and after February 1, 2004, by nonresidents of the City for lottery tickets purchased, or participation in gaming, wagering, schemes of chance, or lotteries conducted, within the City. Income earned or derived from gaming, wagering, schemes of chance or lotteries, including the Ohio State Lottery, shall not be taxed as business income unless the individual subject to the tax has a federal gambler's permit effective during the tax year in which the income from such activities is received.

(h) Deductions of Employee Business Expenses. If a taxpayer's taxable income for a taxable year includes income against which the taxpayer has taken a deduction for Federal income tax purposes reported on Form 2106 and attached to the taxpayer's Federal income tax return filed for that taxable year, the taxpayer may be allowed to determine his or her taxable income to the City by deducting the same amount deducted for Federal income tax purposes. If the taxpayer claims such a deduction, the taxpayer shall attach to his or her City income tax return a copy of Form 2106 and Schedule A as filed with the taxpayer's Federal income tax return for that taxable year. The total of such expenses deducted pursuant to this Section 193.03(g) cannot exceed the employee's related W-2 wage income from the same employer.

(i) The City income tax imposed by Section 193.03(d) shall be collected and remitted pursuant to Section 193.17(1).

Section 2. Provided the electors of the City, at the November 2, 2010 election, approve this Ordinance, existing Section 193.03 and any ordinances or parts hereof in conflict with this Ordinance be, and are hereby repealed. If the electors of the City, at the November 2, 2010 election, do not approve this Ordinance, Section 193.03 shall remain as it presently exists.

Section 3: It is found and determined that all formal actions and deliberations of Council and its committees relating to the passage of this legislation that resulted in formal action were in meetings open to the public where required by Chapter 105 Codified Ordinances of the City.

Section 4: This Ordinance is declared to be an urgent measure which is immediately necessary for the public peace, health, safety, and welfare, and for the further reason that the immediate effectiveness of this Ordinance is necessary to provide funds for general municipal functions of the City and thereby protect the health, safety, and welfare of City residents.

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WHEREFORE, this Ordinance shall be in full force and effect from and after the earliest date permitted by law.

Attest: I hereby certify this legislation was duly adopted on the ____ day of _____, 2010, and presented to the Mayor for approval or rejection in accordance with Article III, Section 8 of the Charter on the ____ day of _____, 2010.

Assistant Clerk

I, Patricia A. Vanek, Assistant Clerk of Council of the City of Beachwood, do hereby certify that the foregoing is a true and correct copy of Ordinance #2010-101, adopted by the Council in the City of Beachwood, Ohio on July 26, 2010.

Date

Patricia A. Vanek
Assistant Clerk of Council
City of Beachwood

Approval: I have approved this legislation this ____ day of _____, 2010 and filed it with the Clerk.

Mayor