

ORDINANCE NO.1863

AN ORDINANCE AMENDING CHAPTER 16 (TAXATION) ARTICLE II (OCCUPATIONAL LICENSES) OF THE CODE OF ORDINANCES FOR THE CITY OF DANVILLE, KENTUCKY TO INCREASE OCCUPATIONAL LICENSE TAX RATES; TO MODIFY THE PENALTY ASSESSED FOR FAILURE TO PAY THE OCCUPATIONAL LICENSE REGISTRATION FEE; AND TO CLARIFY THE SECTIONS ON AUDIT PROVISIONS AND ADMINISTRATIVE PROVISIONS.

WHEREAS, the Board of Commissioners deems it necessary and appropriate to amend its existing ordinance pertaining to occupational license taxation by increasing the payroll tax by 0.25% and the net profit tax by 0.25% to increase revenue so that existing and new services may be funded; and

WHEREAS, the Board of Commissioners deems it necessary and appropriate to further amend the section regarding the penalty assessed for failure to pay the occupational license registration fee and to further clarify the audit provisions and administrative provisions addressed thereafter;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF DANVILLE, KENTUCKY, as follows:

SECTION ONE:

Section 16-17(d) of the City of Danville Code of Ordinances, titled "Occupational license application required", is hereby amended to read as follows, with subsections (a), (b) and (c) to remain the same:

(d) It shall be unlawful for any person to engage in any occupation, trade, profession or other activity for profit in the city without first having applied for and paid the occupational license registration fee herein required. If the occupational license registration fee is not paid prior to engaging in any business or activity, a penalty of

twenty-five dollars (\$25.00) shall may be imposed, in addition to any other penalties provided by this article for the period during which any unlawful business or activity occurred.

SECTION TWO:

Section 16-18(b) of the City of Danville Code of Ordinances, titled "Occupational license tax payment required", is hereby amended to read as follows, with subsections (a), (c), (d), (e) and (f) to remain the same:

(b) The occupational license tax shall be measured by:

(1) One and ~~twenty-five~~  fifty hundredths percent (~~4.25~~ 1.50%) of all wages and compensation paid or payable in the city, for work done or services performed or rendered in the city, by every resident and nonresident who is an employee; and

(2) One and twenty five hundredths percent (1.25%) of the net profit from business conducted in the city by a resident or nonresident business entity.

SECTION THREE:

The title of Section 16-24 of the City of Danville Code of Ordinances, titled "Federal audit provisions", is hereby amended along with subsection (a)(1)(c) amended to read as follows, with subsection (b) and (c) to remain the same:

**Sec. 16-24. Federal/State audit provisions.**

(a) As soon as practicable after each return is received, the city may examine and audit the return.

(1) 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 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.

(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 that could properly be 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.

(c) In the case of an assessment of additional tax relating directly to adjustments resulting from a final determination of a federal or state 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.

(2) 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.

SECTION FOUR:

Section 16-25(b)(1) of the City of Danville Code of Ordinances, titled “Administrative provisions”, is hereby amended to read as follows, with subsections (a), (b)(2) and (c) to remain the same:

(b) (1) Any tax collected pursuant to the provisions in this article may be refunded or credited within two (2) years of the date prescribed by law for the filing of a return, ~~or 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 section 16-24 of this article 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 or state 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 or state audit.

SECTION FIVE: This ordinance is effective upon its publication, with the rates set forth in Section Two to be collected as of October 1, 2015.

SECTION SIX: If any section, subsection, paragraph, sentence, clause, phrase, or portion of this Ordinance is declared illegal or unconstitutional or otherwise invalid, such declaration shall not affect the remaining portions hereof.

GIVEN FIRST READING AND PASSED 6/10/2015

GIVEN SECOND READING AND PASSED 6/18/2015

PUBLISHED IN THE *ADVOCATE-MESSENGER* 6/23/15.

APPROVED:

  
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MIKE PERROS, MAYOR

ATTEST:

  
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DONNA PEEK, CITY CLERK

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