

RESOLUTIONS

OF

**THE SCOTT COUNTY BOARD OF EDUCATION
SCOTT COUNTY PUBLIC SCHOOL DISTRICT**

DATED: AUGUST 27, 2020

WHEREAS, the Board of Education of Scott County Kentucky (hereinafter the “Board”) is a member of the Georgetown - Scott County Revenue Commission which administers the occupational tax laws of the City of Georgetown, the Scott County Fiscal Court and the Scott County Public School District; and

WHEREAS, in 2004, the Board by Resolution approved an ordinance substantially revising the Scott County Public School District’s tax structure and provisions related to the City of Georgetown and Scott County occupational and net profits license taxes effective for all tax years beginning on or after January 1, 2004 (hereinafter referred to as the “2004 Occupational License Tax Resolution and Ordinance”) to generally conform to and be consistent with the license tax structure of the City of Georgetown and Scott County in order to efficiently administer the School District’s occupational and net profit taxes; and

WHEREAS, on March 9, 2020, the City of Georgetown passed Ordinance 2020-09 amending Chapter 17, Article II, of the Georgetown Code of Ordinances at Section 17-16 to provide for rolling conformity with the Internal Revenue Code; and

WHEREAS, on August 1, 2020, the City of Georgetown passed Ordinance 2020- [REDACTED] creating a new Section 17- [REDACTED] of Chapter 17, Article II, of the Georgetown Code of Ordinances which provides for a right to appeal decisions of the Georgetown-Scott County Revenue Commission, the repeal of inconsistent ordinances, and severability of provisions; and

WHEREAS, the Board intending for the Scott County Public School District’s tax provisions and structure to remain generally consistent with the occupational and net profits license tax structure of Scott County and the City of Georgetown;

NOW, THEREFORE, THE BOARD HEREBY RESOLVES THAT SECTION 1 OF THE 2004 OCCUPATIONAL LICENSE TAX RESOLUTION AND ORDINANCE IS HEREBY AMENDED AND REPLACED IN ITS ENTIRETY WITH THE FOLLOWING FOR CONSISTENCY WITH ORDINANCE 2020-09 AMENDING SECTION 17-16 OF CHAPTER 17, ARTICLE II, OF THE GEORGETOWN CODE OF ORDINANCES:

SECTION 1.

The following expressions, when used in this ordinance, shall have the meaning ascribed to them in this section, except where the context clearly indicates or requires a different construction:

- (1) **“Business”** means any enterprise, activity, trade, occupation, profession or undertaking of any nature conducted for gain or profit. Business shall not include the usual activities of boards 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, incomes, or receipts of such unit, group or association, inures to the benefit of any private shareholder or other person.

(2) **“Business entity”** means 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.

(3) **“Compensation”** means 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:

(a) 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

(b) 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.

(4) **“County”** means Scott County, Kentucky.

(5) **“Domestic servant”** means an individual employed to drive his employer in the capacity of a chauffeur or employed on the grounds or in the home of his employer in activities to care for or wait upon the employer, the employer's family or guests, or to care for the home, grounds, and/or vehicle of the employer or the employer's family or guests, not including such individuals who are employed by a cleaning service, personal nursing service, chauffeuring service or other entity which offers the services of its employees to the public.

(6) **“Employee”** means any person who renders services to another person or 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 or 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.

(7) **“Employer”** means the person for whom an individual performs or performed any service, of whatever nature, as the employee of such person, except that:

(a) 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

(b) 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.

(8) **“Fiscal year”** means an accounting period of twelve (12) months ending on the last day of any month other than December.

(9) **“Internal Revenue Code”** means the Internal Revenue Code in effect on ~~December 31, 2003, exclusive of any amendments made subsequent to that date, other than amendments that extend the provisions in effect on December 31, 2003, that would terminate on December 31 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 of the year in which the tax is due that would otherwise terminate.~~

(10) **“Net profit”** means 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:

(a) 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;

(b) 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;

(c) Include any amount claimed as a net operating loss carryback or carryforward allowed under Section 172 of the Internal Revenue Code;

(d) 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

(e) Exclude any amount of income that is exempt from state taxation by the Kentucky Constitution, or the Constitution and statutory laws of the United States.

(11) **“Person”** means every natural person, whether a resident or nonresident 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 a corporations, shall mean the officers and directors thereof.

(12) **“Return”** means 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.

(13) **“Revenue Commission”** means the Georgetown-Scott County Revenue Commission.

(14) **“Sales revenue”** means receipts from the sale, lease, or rental of goods, services, or property.

(15) **“School District”** means the Scott County Public School District.

(16) **“Taxable net profit”** in the case of a business entity having payroll or sales revenue only in the County, means net profit as defined in subsection (10) of this Section.

(17) **“Taxable net profit”** in the case of a business entity having payroll or sales revenue both within and without the County, means net profit as defined in subsection (10) of this Section, and as apportioned under Section 2.

(18) **“Taxable year”** means the calendar year or fiscal year ending during the calendar year, upon the basis of which net income is computed.

BE IT FURTHER RESOLVED BY THE BOARD THAT CONSISTENT WITH ORDINANCE 2020- [REDACTED] OF THE GEORGETOWN CODE OF ORDINANCES, THE 2004 OCCUPATIONAL LICENSE TAX RESOLUTION AND ORDINANCE IS HEREBY FURTHER AMENDED TO CREATE THE FOLLOWING NEW SECTION 23:

SECTION 23.

(1) A licensee shall have the right to appeal eligible decisions of the Revenue Commission made as agent of the School District under Section 13 of this ordinance within thirty (30) days by:

(a) Sending a written notice, including sufficient documentation to support the appeal, to the Director of the Revenue Commission; or

(b) Submitting a written request for a meeting with the Director of the Revenue Commission to explain his or her appeal and present evidence.

(c) After reviewing documentation and/or hearing the licensee, the Director of the Revenue Commission shall in writing affirm, modify, or withdraw the decision.

(2) A licensee shall have the right to appeal a decision of the Director of the Revenue Commission made under subsection 1 of this Section 23 within thirty (30) days by submitting a written request for a meeting with the Revenue Commission Board of Commissioners to explain his or her appeal and present evidence. After reviewing documentation and/or hearing the licensee, the Revenue Commission Board of Commissioners shall, in writing affirm, modify, or reverse the assessment, but only upon a showing that the Director’s decision was not supported by substantial evidence on the record.

(3) Eligible decisions subject to appeal under this Section shall be limited to:

(a) Audit findings or an additional assessment under Section 11 of this ordinance.

(b) The apportionment factor in Section 2 of this ordinance used for calculating the licensee’s tax liability to the School District.

(c) Questions as to nexus in the jurisdiction as related to the licensee’s tax liability to the School District.

(d) Other factors related to the assessment/calculation of the licensee’s tax liability to the School District.

(4) An appeal shall serve to stay the collections process, during which time the Revenue Commission shall not take any adverse actions against the licensee or commence civil litigation. After the appeals process is final, this stay shall immediately expire.

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IN WITNESS WHEREOF, the undersigned acting in their official capacities on behalf of the Board of Education of Scott County, Kentucky, have executed the foregoing Resolutions as of the date first above written.

SCOTT COUNTY BOARD OF EDUCATION

By: _____
KEVIN KIDWELL, CHAIR

and

By: _____
DR. KEVIN HUB, SECRETARY and
SUPERINTENDENT, SCOTT COUNTY PUBLIC
SCHOOL DISTRICT