



## OCCUPATIONAL LICENSE TAX REGULATIONS

*LEGAL DISCLAIMER: The filing of an occupational license tax return and payment for the tax due are both personal, non-delegable duties of the taxpayer. Neither ignorance of the law, nor ignorance of the necessity of filing a return, nor failure to receive a tax return form by mail is sufficient to relieve the taxpayer of the responsibility to comply with all applicable ordinances and statutes related to operating a business in the jurisdictions. All the contents of the regulations set forth in this document are meant to present guidance on common issues. If there is a change in case law, applicable ordinance or statute that is inadvertently omitted, or which is decided after the original enactment of these regulations then the most recent precedent shall be the controlling in all decisions.*

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**MISSION STATEMENT OF GEORGETOWN-SCOTT COUNTY  
REVENUE COMMISSION**

The purpose of the Georgetown-Scott County Revenue Commission (hereafter GSCRC) is to provide courteous, accurate and efficient administration of the occupational tax laws of the City of Georgetown, Scott County Fiscal Court, and the Scott County Public School District. By using all available compliance tools and engaging with business owners, taxpayers, tax professionals and elected leadership, GSCRC seeks to maximize a critical revenue stream to help fund community growth.

## RIGHTS OF OCCUPATIONAL TAXPAYER

- **Privacy-** Taxpayers have the right to expect that any GSCRC inquiry, audit or enforcement action will comply with the law and be no more intrusive than necessary.
- **Confidentiality-** Taxpayers have the right to expect that any information they provide to GSCRC will not be disclosed unless authorized by the taxpayer or the law. Taxpayers have the right to expect appropriate action will be taken against employees, return preparers and others who wrongfully use or disclose taxpayer return information.
- **Assistance-** Taxpayers have the right to assistance from GSCRC in completing local occupational tax forms and in complying with the occupational tax ordinances of the City of Georgetown, the Scott County Fiscal Court, and the Scott County Public School District.
- **Explanation-** Taxpayers have the right to a clear and concise explanation of:
  - Basis of assessment of additional license taxes, interest and penalties, or the denial or reduction of any refund or credit claim.
  - The appeal procedure for findings and determinations by GSCRC.
  - Occupational tax law and relevant changes to assist with compliance with the law.
- **Appeal-** Taxpayers have the right to appeal a determination of GSCRC, such as an assessment of license tax or penalty, reduction or a denial of a refund, or a revocation of a license or permit. Taxpayers have the right to raise objections and provide additional documentation in response to notices or proposed actions by GSCRC.
- **Representation-** Taxpayers have the right to representation by an attorney, accountant or other person in any hearing or conference with GSCRC. If you intend for your representative to attend in your place, you must notify GSCRC prior to any hearing or conference.

- **Recordings-** Taxpayers have the right to make audio recordings of any meeting, conference or hearing with GSCRC, or to be notified in advance if GSCRC plans to record the proceedings and to receive a copy of any recording.
- **Consideration-** Taxpayers have the right to consideration of:
  - Waiver of penalties in limited circumstances under the Penalty and Interest Abatement Policy or First-Time Penalty Waiver Policy or Voluntary Disclosure Agreement.
  - Payment plan request for delinquent license taxes, penalties, and interest. See *Section 17.1 Request for Payment Plan Arrangement* for specific details on payment plan requests.

## **RESPONSIBILITIES OF OCCUPATIONAL TAXPAYER**

- **Diligence-** All taxpayers are responsible for understanding and complying with all legal and operational requirements for the operation of business in the JURISDICTION. Neither ignorance of the law nor ignorance of the necessity of filing a RETURN or paying the tax is sufficient in and of itself to relieve the taxpayer of liability.
- **Assistance-** Taxpayers have the right to assistance from GSCRC in complying with the occupational tax ordinances of the City of Georgetown, the Scott County Fiscal Court, and the Scott County Public School District. The filing of an occupational license tax return and payment for the tax due are both personal, non-delegable duties of the taxpayer. Neither ignorance of the law, nor ignorance of the necessity of filing a return, nor failure to receive a tax return form by mail is sufficient to relieve the taxpayer of the responsibility to comply with all applicable ordinances and statutes related to operating a business in the jurisdiction.

## INTRODUCTION

The subject of OCCUPATIONAL LICENSE taxation in Kentucky is complicated because of the number of JURISDICTIONS and various types of taxes and fees that exist for each type of BUSINESS ENTITY. Additionally, each fee is often collected by a separate government agency. This complexity can make achieving compliance with local requirements difficult for businesses or INDIVIDUALS. In 2004, realizing the need to increase efficiency and reduce barriers for taxpayers, the City of Georgetown, the Scott County Fiscal Court, and the Scott County Public School District combined the administration of OCCUPATIONAL LICENSE TAXES for the three agencies into one joint agency- the Georgetown-Scott County Revenue Commission (hereafter referred to as GSCRC.)

The *Kentucky Constitution, Section 181* provides that the Kentucky General Assembly may “by general laws, delegate the power to counties, towns, cities and other municipal corporations, to impose and collect license fees on stock used for breeding purposes, on franchises, trades, occupations and professions.” Through this delegation, *the City of Georgetown Ordinance 04-019, Scott County Fiscal Court Ordinance 04-05, and Scott County Board of Education Resolution 08-10-04*, were all adopted, and each imposes an annual license tax upon businesses, trades, occupations, professions, and other activities in the JURISDICTION. All revenue collected is a large portion of the general fund for the city, county, and school district. The taxes collected fund a variety of essential public services and community initiatives.

OCCUPATIONAL LICENSE TAXES on COMPENSATION (PAYROLL TAX) and NET PROFIT LICENSE TAXES are imposed on PERSONS who work and/or are engaged in any business, profession, trade, occupation, or other activity for profit in Georgetown/Scott County. OCCUPATIONAL LICENSE TAXES are imposed only on income associated with a business, profession, trade, or occupation. Thus, for example, the interest earned on an INDIVIDUAL’s personal bank savings account is not subject to the license tax. For business entities, however, most income is deemed to be occupational, and “passive” income of corporations, partnerships, businesses, and other associations is subject to the license tax.



GSCRC is responsible for the enforcement of the OCCUPATIONAL LICENSE TAX provisions of the local OCCUPATIONAL TAX ORDINANCE and is empowered to prescribe, adopt, promulgate, and enforce rules and regulations relating to the administration and enforcement of OCCUPATIONAL LICENSE TAX in the JURISDICTIONS. These regulations are intended to explain the policies and procedures of GSCRC for the administration of OCCUPATIONAL LICENSE TAXES. In addition, these regulations should provide taxpayers guidance to ensure that all businesses are following the governing laws related to OCCUPATIONAL LICENSE TAX at both the state and federal level. Compliance ensures issuance of a current BUSINESS LICENSE and access to all privileges offered by city and county departments including health department certification, electrical inspection, code enforcement permits, planning and zoning development services, etc.

The filing of a NET PROFIT LICENSE TAX RETURN and payment for the tax due are both personal, non-delegable duties of the taxpayer. Neither ignorance of the law, nor ignorance of the necessity of filing a RETURN, nor failure to receive a tax return by mail is sufficient to relieve the taxpayer of the responsibility to comply with all applicable ordinances and statutes related to operating a business in the JURISDICTION.

## **REGULATION 1-1      GENERAL PROVISIONS**

### **Section 1.1    Definitions**

- A. In addition to the words and terms defined in the ORDINANCE, as amended, and elsewhere herein, the following words and terms, when used in these OCCUPATIONAL LICENSE TAX regulations (hereinafter referred to as the “Regulations”) and where not otherwise distinctly expressed or manifestly incompatible with the intent, have the meanings given. Throughout these Regulations, unless the context shall clearly indicate otherwise, the singular shall include the plural, and the masculine shall include the feminine and the neutral.
- B. The definitions set forth in *KRS 67.750* are incorporated as though set forth fully herein. Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition and application shall govern the interpretation of these Regulations as those governing the interpretation of the Kentucky Revised Statutes and where applicable the *INTERNAL REVENUE CODE*.
- C. The definitions of the following words and terms are in addition to those in the ORDINANCE, as amended.
- D. **Please NOTE: All defined terms set forth in this section shall appear in all capital letters throughout these regulations.**
1. **AGENT OR AGENCY** shall mean a PERSON who acts for or in place of another by authority from him/her. The AGENCY relationship may exist between businesses, INDIVIDUALS, corporations, partnerships, EMPLOYERS, or any combination thereof.
  2. **AMUSEMENTS** shall mean any amusement, athletic contest, or entertainment not a part of a duly licensed business or not held in a regularly licensed theater or in a publicly owned or religious building, and not sponsored by a bona fide civic, patriotic, religious, or educational organization. For more information see *Regulation 14-1*. See *City of Georgetown, Code of Ordinances § 17-75 (1)*.

3. **BUSINESS ALLOCATION OR APPORTIONMENT PERCENTAGE** shall mean the portion of NET PROFIT subject to the JURISDICTION imposing the license tax as having been made in that JURISDICTION under the two-factor formula of SALES REVENUE and PAYROLL FACTOR provided for in *Regulation 4-1, Section 4.12*.

4. **BUSINESS or BUSINESS ACTIVITY** 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.

- a. If a BUSINESS ENTITY is found to exist, determining whether business is (or was) conducted is the second analysis that must occur to understand the tax filing obligation of the BUSINESS ENTITY.
- b. Determining whether business is or was conducted requires a fact specific analysis for each BUSINESS ENTITY. However, for purposes of OCCUPATIONAL LICENSE TAX any business, profession or occupation or undertaking of any nature conducted for gain or profit, whether conducted by a BUSINESS ENTITY, INDIVIDUAL or FIDUCIARY is considered “conducting business” and revenue generated is subject to taxation.
  1. For example, activities including (but not limited to) the lease of rental property, “flipping” or renovating houses, product sales (such as Avon, Advocare, etc.), in-home music lessons, lawncare services, etc. are all examples of BUSINESS ACTIVITY conducted for profit.

- c. The filing requirement for BUSINESS ACTIVITY exists if there is a profit, loss or if there is no activity but the business account remains open. Thus, no matter the amount of revenue generated, all BUSINESS ACTIVITY conducted in the taxing jurisdiction would be subject to OCCUPATIONAL LICENSE TAX.

5. **BUSINESS ENTITY** means each separate corporation, limited liability company, business development corporation, partnership, limited partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal ENTITY through which business is conducted.

6. **BUSINESS LICENSE** shall be issued as the receipt of payment of OCCUPATIONAL LICENSE TAXES. This license shall serve as a receipt of payment of annual NET PROFIT LICENSE TAX return and compliance with local ordinance and regulations. Each year the license must be renewed by filing the annual NET PROFIT LICENSE TAX RETURN for the BUSINESS ENTITY and/or INDIVIDUAL regardless of profit, loss, or activity. All accounts must submit an annual NET PROFIT LICENSE TAX RETURN so long as an account remains open. The annual renewal will occur based upon the filing frequency of the taxpayer which shall either be on a calendar basis or a FISCAL YEAR basis.

7. **CAPITAL ASSET(S)** means property held by the taxpayer, regardless of duration, irrespective of whether the property is used in the taxpayer's trade or business. Due to the breadth of the definition, the *Internal Revenue Code* (IRC) specifically excludes certain property from the capital asset classification. The following property is not considered a "capital asset" under *IRC §1221*. Stock in trade of the taxpayer or other property of a kind which would be included in the inventory of the taxpayer if on hand at the close of the taxable year, or property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business;

- a. Property, used in his trade or business, of a character which is subject to the allowance for depreciation provided in *Section 167 [ 26 USCS §167]*, or REAL PROPERTY used in his trade or business;

- b. A patent, invention, model, or design (whether or not patented), a secret formula or process, a copyright, a literary, musical, or artistic composition, a letter of memorandum, or similar property, held by a taxpayer;
- c. Accounts or notes receivable acquired in the ordinary course of trade or business for services rendered or from the sale of property described in paragraph (a);
- d. A publication of the United States Government (including the Congressional Record) which is received from the United States Government or any agency thereof, other than by the purchase at the price at which it is offered for sale to the public, and which is held by a taxpayer;
- e. Any commodities derived financial instrument held by a commodities derivatives dealer, unless the instrument has no connection to the activities of such a dealer;

8. **CAPITAL GAIN(S) OR LOSS(ES)** shall mean the gain or loss which is realized from the sale or exchange of a CAPITAL ASSET. For purposes of NET PROFIT LICENSE TAX calculation, CAPITAL GAIN includes the sale of property used to conduct the business in the JURISDICTION, even if real estate was not the primary business conducted. If the asset (real or intangible) was used in the business conducted in the JURISDICTION, then the CAPITAL GAIN OR LOSS realized from the disposition must be reported on the annual net profit license tax RETURN.

9. **CARNIVAL** shall mean any temporary outdoor AMUSEMENT lasting no longer than ten (10) days per calendar year that includes mechanical rides, with or without inflatables. May also include games, live music, games of chance, live entertainment (other than typically associated with a "CIRCUS,") booths, food service, merchandise sales, pony rides and/or a petting zoo intended for children. A carnival does not include a CIRCUS. For more information see *Regulation 14-1*. See *City of Georgetown, Code of Ordinances § 17-75 (2)*.

10. **CASUAL LABOR (CASUAL FARM LABOR)** is generally defined as temporary work that is not in the usual course of trade, business, occupation, or profession. Temporary or casual farm labor is exempt from OCCUPATIONAL LICENSE TAX, but routine scheduled farm laborers are not exempt from OCCUPATIONAL LICENSE TAX unless they fall within a

specific category of exemption included within these regulations. *See Huff v. Smith Trucking*, 6.2W.3d 819 (1999). For more information see *Regulation 3-1, Section 3.6*.

11. **CIRCUS** shall mean any temporary or special event lasting no longer than ten (10) days per calendar year that is intended or likely to attract substantial crowds to view entertainment and animal performances or displays (other than a petting zoo intended for children and/or outdoor pony rides), and which is not usually associated with the principal use of the property where the special event is to be located. Such events may or may not also include rides, games, booths, food service and merchandise sales. For more information see *Regulation 14-1*. See *City of Georgetown, Code of Ordinances § 17-75 (3)*.

12. **COMPENSATION** shall mean 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 not limited to salary reduction arrangements under *Section 401(a), 401(k), 402(e), 403(b), 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 reduce federal taxable COMPENSATION under the *INTERNAL REVENUE CODE*, including but not limited to *Sections 125 and 132 of the INTERNAL REVENUE CODE*.
- c. See *Regulation 3-1, Section 3.5 – 3.6*.

13. **DANCE HALLS** shall mean any establishment or a place for public dancing that is a place to which the public is admitted for dancing; a public hall primarily and predominantly, although not necessarily, exclusively devoted to dancing. May also be a commercial dancehall

for which there is an admission charge, whether such charge is denominated "donation" or other words of similar meaning. For more information see *Regulation 14-1. City of Georgetown, Code of Ordinances § 17-75 (4)*.

14. **DEALERS IN FIREARMS** shall mean every PERSON who engages in the business of buying, selling, or trading in firearms. Dealers in firearms shall include FLEA MARKETS and PAWNBROKERS which, as a significant part of their business, or, in the case of FLEA MARKETS, the business of their vendor or vendors. For more information see *Regulation 14-1. City of Georgetown, Code of Ordinances § 17-75 (5)*.

15. **DESIGNEE** shall mean any PERSON that is duly authorized to act on behalf of another or for a BUSINESS ENTITY.

16. **DOMESTIC SERVANT** means a PERSON employed to drive his or her EMPLOYER in the capacity of a chauffeur or employed on the grounds or in the home of his or her EMPLOYER in activities to care for or wait upon the EMPLOYER, the EMPLOYER'S family, or guests, not including such PERSONS 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.

17. **DULY ORDAINED MINISTER OF RELIGION** shall mean a natural PERSON who has been ordained in accordance with the ceremonial ritual or discipline of a recognized church, religious sect, or religious organization to teach and preach its doctrines or to administer its rites in public workshop and who regularly performs one or more of these duties. *See Regulation 3-1, Section 3.6.*

18. **EMPLOYEE(S)** shall mean any OFFICER, EMPLOYEE, or elected official or any BUSINESS ENTITY for COMPENSATION except for INDEPENDENT CONTRACTORS, including an officer, EMPLOYEE or elected official of the United States, a state, or any political subdivision therefore, or the District of Columbia, or any agency or instrumentality of any one (1) or more of the foregoing. The term "EMPLOYEE" also includes an OFFICER of a

corporation. If there is a dispute as to the status of a worker, GSCRC will require a copy of the federal SS-8 determination and follow the federal determination.

19. **EMPLOYER(S)** shall mean the PERSON or BUSINESS ENTITY 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 COMPENSATION for such services, the term “EMPLOYER” (except for subsection (a)) means the PERSON having control of the payment of such COMPENSATION<sup>1</sup>, and
- b. In the case of a PERSON paying COMPENSATION on behalf of a NON-RESIDENT alien INDIVIDUAL, foreign partnership, or foreign corporation, not engaged in trade or business within the United States, the term “EMPLOYER” (except for purposes of subsection (a)) means such PERSON.

20. **ENTITY** shall mean something that has its own independent existence. For purposes of these regulations, an ENTITY is any INDIVIDUAL, company, business, or organization having rights and responsibilities under the law.

21. **EXEMPT, EXEMPTED OR EXEMPTION** shall mean a PERSON or BUSINESS ENTITY that is EXEMPTED from paying OCCUPATIONAL LICENSE or NET PROFIT LICENSE TAXES as the law may indicate. For specific EXEMPTIONS see *Regulation 3-1, Section 3.6; Regulation 4-1, Section 4.4* and *KRS 91.200; KRS 68.180; KRS 136.300; KRS 160.483; KRS 160.605*.

22. **FEDERAL AUDIT** shall mean an audit of the FEDERAL INCOME TAX RETURNS conducted by the federal government.

23. **FEDERAL INCOME TAX RETURN** shall mean the U.S. income tax RETURN.

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<sup>1</sup> This provision shall not be construed to impose liability for any payroll tax due upon a third-party payroll provider and/or any other professional employer organization, utilized by the employer for administratively processing payroll.



24. **FESTIVAL** shall mean an often-periodic celebration or program of events or entertainment having a specified focus or purpose. This celebration is limited in duration and temporary. For more information see *Regulation 14-1. City of Georgetown, Code of Ordinances § 17-75 (3)*.

25. **FIDUCIARY OR FIDUCIARIES** shall mean a guardian, trustee, executor, administrator, receiver, conservator, or any PERSON acting in any fiduciary capacity for any PERSON.

26. **FINAL DETERMINATION OF THE FEDERAL AUDIT** shall occur when the revenue agents report or other documents reflecting the final and unappealable adjustments made by the Internal Revenue Service.

27. **FISCAL YEAR** means an accounting period of twelve (12) months ending on the last day of any month other than December.

28. **FLEA MARKETS** shall mean any location, other than a permanent retail store, at which space is rented or otherwise made available to others for the conduct of business offering for sale or selling goods, wares, merchandise, or commodities of any kind. For more information see *Regulation 14-1. City of Georgetown, Code of Ordinances § 17-75 (6)*.

29. **INDEPENDENT CONTRACTOR(S)** shall mean a PERSON who provides services who is not subject to the control and direction of an EMPLOYER except as to the result of his work, and not as to means, and who is therefore not an EMPLOYEE. There is no specific definition of independent contractor under KRS or IRC as the determination is rather a thorough analysis of specific factors present in the relationship. For in depth discussion of this classification, please see *Regulation 4-1, Section 4.13*.

30. **INDIVIDUAL** shall mean a natural person.

31. **INTERNAL REVENUE CODE** (hereafter IRC) means the version of the Internal Revenue Code in effect as of December 31 of the year in which the taxes are due. Hereafter referred to as IRC. See *KRS 67.750*.

32. **ITINERANT MERCHANT** shall mean every PERSON or BUSINESS ENTITY who shall engage in, do, or transact any temporary or transient business in the city, for the sale of any goods, wares or merchandise, and who, for the purpose of carrying on such business, shall hire, lease, use or occupy any building or structure, motor vehicle, tent, car, lot, boat, or public room or any part thereof, including rooms in hotels, lodging houses, or in any street, alley, or other public place, or elsewhere, for a period of less than one (1) year for the exhibition of, or sale of such goods, wares or merchandise. This definition shall include all food trucks of any kind if there is not a permanent location for an affiliated restaurant located inside of the JURISDICTION. See *KRS 365.650* definition of “transient merchant” for additional details. For more information see *Regulation 14-1. City of Georgetown, Code of Ordinances § 17-75 (7)*.

33. **JURISDICTION** shall mean the taxing authority of either the City of Georgetown, the Scott County Fiscal Court or the Scott County Public School District as the context shall indicate.

34. **KAR** shall mean the Kentucky Administrative Regulations.

35. **KRS** shall mean the Kentucky Revised Statutes.

36. **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. Include contributions to Keogh (HR-10) Retirement Plans and contributions to a Simplified Employee Pension Plan as defined in *Section 408(k)* of the INTERNAL REVENUE CODE and contributions to any other self-employment retirement plan and other deductions that benefit non-employee INDIVIDUALS.
  - a. Internal Revenue Code S. 408(k)(2)(A-C) defines “non-employee individual” as an individual over age of 21, who has performed service for the employer during at least three of the immediately preceding five years and received at least \$450 in compensation within the meaning of Section 414(q)(4) of the IRC.
- f. Exclude any amount of income that is EXEMPT from state taxation by the *Kentucky Constitution*, or *the U.S. Constitution* and statutory laws of the United States;

37. **NET PROFIT LICENSE TAX** shall mean a tax imposed as an apportioned percentage of the adjusted net profit on all persons and entities conducting business activity within the City of Georgetown (1%) and Scott County (1%). Additionally, all persons and entities conducting business activity within Scott County are subject to the Scott School tax (.50%).

38. **NEXUS**, as defined in applicable case law, shall mean a minimum connection between a PERSON/BUSINESS ENTITY and Georgetown/Scott County brought about when the PERSON or BUSINESS ENTITY purposefully avails itself of the privileges and protection of Georgetown/Scott County while conducting BUSINESS ACTIVITY. *See Regulation 4-1, Section 4.1.*

39. **NONRESIDENT** shall mean any PERSON (or BUSINESS ENTITY) that is not a RESIDENT of the JURISDICTION.

40. **OCCUPATIONAL LICENSE** shall mean the occupational BUSINESS LICENSE required of every PERSON or BUSINESS ENTITY engaged in any business in the City of Georgetown or Scott County, Kentucky. The license requires submission of the Form BQ 100 Questionnaire for Occupational License Tax. *See Regulation 2-1.*

41. **OCCUPATIONAL LICENSE TAX ORDINANCE** or **ORDINANCE** shall mean the collective of the *City of Georgetown Ordinance #04-019, Scott County Fiscal Court Ordinance #04-05 and Scott County Public School District Resolution 8-10-2004, Board meeting #12, Item 4* as the context shall indicate.

42. **PAWNBROKERS** shall mean any **PERSON** who loans money on deposit of personal property, or who deals in the purchase of personal property on condition of selling the property back again at a stipulated price, or who makes a public display at his place of business of the sign generally used by pawnbrokers to denote their business, or who publicly exhibits a sign advertising money to loan or personal property or deposit is a pawnbroker for the purposes of this article. For more information see *Regulation 14-1. City of Georgetown, Code of Ordinances § 17-75 (8)*.

43. **PAYROLL FACTOR** shall mean a fraction, the numerator of which is the total amount of payroll paid in the taxing **JURISDICTION**. The denominator for the payroll factor is the total payroll paid by the **BUSINESS ENTITY** everywhere during the tax period.

44. **PAYROLL TAX** shall mean a tax imposed as a percentage of gross earnings/**COMPENSATION** on all **PERSONS** working within the City of Georgetown (1%), Scott County (1%) and residents shall also pay Scott School tax (.50%). This tax is remitted to GSCRC by the **EMPLOYER** on behalf of the **EMPLOYEE** on either a quarterly or monthly basis.

45. **PEDDLER/SOLICITOR** shall mean a **PERSON** who engages in selling or soliciting for the sale of goods, wares, periodicals, merchandise, or personal property of any sort (hereafter “goods”) from a fixed location on public property or on the public right of way or open space or who engages in selling or soliciting for sale of such goods while moving from place to place, whether as a door-to-door salesperson or otherwise. For more information see *Regulation 14-1. City of Georgetown, Code of Ordinances § 17-75 (9)*.

46. **PERSON** shall mean a natural human being or **INDIVIDUAL** whether resident or non-resident of the **JURISDICTION**. Whenever the word “person” is used in a clause prescribing

and imposing a penalty, the word, as applied to a partnerships or other form of unincorporated enterprise shall mean the partners, officers or members thereof and as applied to corporations, shall mean the officers and directors thereof.

47. **PROFESSIONAL EMPLOYER ORGANIZATION OR PEO** shall mean an organization that enters into an agreement with another ENTITY to perform some or all the payroll functions related to workers performing services for the ENTITY. Professional EMPLOYER organizations are sometimes referred to as EMPLOYEE leasing companies.

48. **REAL PROPERTY** shall include commercial property, residential property, farm/agriculture property and all other types of real estate.

49. **REMOTE EMPLOYEE** shall mean an EMPLOYEE who performs services for the EMPLOYER from a location that is not the EMPLOYER'S business location. Remote EMPLOYEES are sometimes referred to as teleworkers. *See Regulation 3-1, Section 3.7.*

50. **RESIDENT** shall mean a PERSON or BUSINESS ENTITY that either lives or is domiciled in Scott County Kentucky. The basis for determining the domicile of all EMPLOYEES shall be the address listed on the Form W-2. If the address is located within Scott County the EMPLOYEE will be considered a RESIDENT for purposes of determining tax liability.

51. **RETURN** shall mean any properly completed and, if required, signed form, statement, certification, declaration, or any other document permitted or required to be submitted to GSCRC.

52. **SALES REVENUE FACTOR** shall mean receipts from the sale, lease or rental of goods, services, or property.

53. **SHORT TERM RENTAL** shall mean a dwelling or dwelling unit that is rented, leased, or otherwise assigned for tenancy of less than thirty (30) consecutive days' durations, where no meals are served. One structure may contain multiple units that are rented, leased or otherwise assigned for a tenancy of less than thirty (30) consecutive days' duration, where no meals are served; each separate unit shall be considered an individual short-term rental. This term does not

include hotel or motel rooms, extended stay lodging facilities, bed and breakfast inns or boarding and lodging house rooms. *See Regulation 14-1.*

54. **SHORT TERM RENTAL HOST** shall mean any person who is the owner of a record of real property, or any person who is a lessee of real property pursuant to a written agreement for the lease of such real property, who offers a dwelling unity, or portion thereof, for short term rental. *See Regulation 14-1.*

55. **SHORT TERM RENTAL HOSTING PLATFORM** means a person or entity that provides a means through which a Host may offer a dwelling unity, or portion thereof, for short-term rental use. Most platforms are internet based and allow a Host to advertise a dwelling unity as a short-term rental through a website or mobile app. *See Regulation 14-1.*

56. **TRANSIENT USER** shall mean a person who exercises occupancy or is entitled to occupancy by reason of concession, right of access, license, or other agreement for a period of less than thirty (30) consecutive days' duration. *See Regulation 14-1.*

## **Section 1.2 Amendments and supplements**

Amendments and supplements to these Regulations may be issued by the GSCRC.

## **Section 1.3 Effective date**

These Regulations are effective for RETURNS with due dates on or after October 1, 2022 except as otherwise expressly provided.

## **Section 1.4 Applicability**

Except as otherwise provided by law, these Regulations shall be generally applicable to all PERSONS required by law to pay any OCCUPATIONAL LICENSE TAX which the GSCRC is duly designated to collect, whether said LICENSE TAX is required to be paid on COMPENSATION or NET PROFITS. Except as provided in these regulations, every PERSON or BUSINESS ENTITY engaged in BUSINESS ACTIVITY for profit and any PERSON that is required to make a filing with the Internal Revenue Service, or the Kentucky Department of Revenue shall be required to file and pay to GSCRC OCCUPATIONAL LICENSE TAX for the privilege of engaging in BUSINESS ACTIVITY in this taxing JURISDICTION.

### **Section 1.5 Inspection and Copies of Regulations**

These Regulations, together with all amendments and supplements thereto and all changes therein, shall be on file with the GSCRC and shall be open to public inspection. Copies thereof, so far as possible, will be available upon request to all licensees and their representatives at reasonable cost. Written inquiries regarding the ORDINANCE, the Regulations, or license tax liability should be directed to the GSCRC, P O Box 800, Georgetown, KY 40324. Telephone inquiries may be directed to the GSCRC at (502) 603-5860. Email inquiries may be sent to [info@gscrcvenue.com](mailto:info@gscrcvenue.com).

Under *KRS 61.087(2)*, some information contained in a GSCRC business account is subject to the Kentucky Open Records Act. All requests must be submitted in writing or via email to the address listed above. In the request, please certify whether your intended use for the requested material is commercial or non-commercial. GSCRC has five (5) working days to respond to any request, and there may be a charge per page for the records. If the request is denied, a written refusal will state the justification and allow for applicant to submit a response.

### **Section 1.6 KRS and Internal Revenue Code Applicable**

Any interpretation of these Regulations which is inconsistent with the governing ORDINANCES is to be resolved in favor of the applicable ORDINANCE. Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition and application shall govern the interpretation of these regulations as those governing the interpretation of the *Kentucky Revised Statutes* (KRS) and where applicable the *IRC*.

## **REGULATION 2-1 BUSINESS LICENSURE**

### **Section 2-1 Occupational License Requirement**

- A. Per ORDINANCE every PERSON or BUSINESS ENTITY engaged in business sufficient to establish NEXUS in the City of Georgetown or in Scott County shall be required to apply for and obtain an OCCUPATIONAL LICENSE from the GSCRC prior to the commencement of business.
- B. To obtain an OCCUPATIONAL LICENSE all PERSONS and BUSINESS ENTITIES engaged in business sufficient to establish NEXUS in the JURISDICTION shall complete

a BQ 100 Questionnaire for Occupational License Tax form. All forms must be submitted with a copy of a government issued photo identification of the PERSON submitting the application. The form can be submitted via mail, fax, or email to the GSCRC.

- a. The following forms of identification are acceptable: current state issued driver's license, government issued identification card, Immigration and Naturalization Service (INS) Documents, military identification, Alien Registration Card with photograph, valid passport with a recent photograph, citizenship papers with photograph, social security Card (SSN), Social Insurance card (SIN), taxpayer identification card, Deferred Action Card (DAC), Social Security verification letter, current school issued identification and state/federal program issued identification. All BQ 100 forms submitted without a copy of a government issued identification will be rejected as incomplete.
- C. All PERSONS or BUSINESS ENTITIES that submit a BQ 100 Questionnaire for Occupational License Tax in anticipation of being awarded a bid for work but who subsequently does NOT engage in the work, shall submit a written statement that the bid was not received and request that the account be closed. That notification is sufficient to close the account without a filing requirement.
- D. OCCUPATIONAL LICENSES are issued based on the information provided on the BQ 100 Questionnaire for Occupational License Tax form.
- a. All TAXPAYERS must notify GSCRC of important changes in information including: business name, business address, BUSINESS ENTITY type, dissolution, etc. *All account updates must be submitted in writing to GSCRC.*
  - b. All accounts will remain open until GSCRC is notified in writing that the account should be closed. An account must be compliant and current before it can be closed.
  - c. All open accounts are required to submit all applicable filings regardless of whether there is revenue, a loss or no activity for a taxable period. If an account



remains open there must be an annual tax filing. Neither ignorance of the law, nor ignorance of the necessity of filing a return, nor failure to receive a tax return form by mail is sufficient to relieve the taxpayer of the responsibility to comply with all applicable ordinances and statutes related to operating a business in the jurisdiction.

- E. Each separate BUSINESS ENTITY conducting activity within the JURISDICTION requires a separate questionnaire and a separate OCCUPATIONAL LICENSE. This includes each separate and distinct BUSINESS ACTIVITY conducted as a separate sole proprietorship. When a corporation becomes a new legal ENTITY, as when it dissolves and incorporates again, a new questionnaire must be completed and executed.
- F. The burden of obtaining the BUSINESS LICENSE is on all PERSONS or BUSINESS ENTITIES engaged in BUSINESS ACTIVITY sufficient to establish NEXUS in the JURISDICTION. The filing of a NET PROFIT LICENSE TAX RETURN and payment for the tax due are both personal, non-delegable duties of the taxpayer. Neither ignorance of the law, nor ignorance of the necessity of filing a RETURN is sufficient to relieve the taxpayer of the responsibility to comply with all applicable ordinances.
- G. In most instances, the EMPLOYER must withhold and remit OCCUPATIONAL LICENSE TAXES on behalf of EMPLOYEES. However, there are certain exceptions where an INDIVIDUAL EMPLOYEE must register with the GSCRC and remit OCCUPATIONAL LICENSE TAXES on their own behalf. See *Regulation 3-1, Section 3.25 Special Cases*.

## **REGULATION 3-1 TYPE OF TAX; PAYROLL TAX**

### **Section 3.1 City of Georgetown- Applicable Taxes & Rates**

#### **1. PAYROLL TAX**

- a. The PAYROLL TAX is measured by 1.00% of all COMPENSATION paid or payable in the City for work done or services performed in the City by every EMPLOYEE.

- b. For all INDIVIDUALS over the age of sixty-five (65) the first ten thousand dollars (\$10,000.00) of COMPENSATION is excluded from taxation.

**2. NET PROFIT LICENSE TAX**

- a. The NET PROFIT LICENSE TAX is measured by 1.00% of the NET PROFIT from BUSINESS ACTIVITY conducted in the City by every BUSINESS ENTITY. This includes a PERSON performing activities as an INDEPENDENT CONTRACTOR.
  - b. For the NET PROFIT LICENSE TAX, the first ten thousand dollars (\$10,000.00) of NET PROFIT is EXEMPT for sole proprietors over the age of 65 only.
3. Please note, all COMPENSATION and or NET PROFIT determined to be subject to the City of Georgetown tax rates are also necessarily subject to the Scott County taxes as the city is geographically located within the county. In summary, the OCCUPATIONAL LICENSE TAX is measured as indicated in the table below.

<b>CITY OF GEORGETOWN</b>	
<b>CLASS OF TAXPAYER</b>	<b>LICENSE TAX IMPOSED</b>
EMPLOYEE (PAYROLL TAX)	1.00% of COMPENSATION
BUSINESS ENTITY (NET PROFITS)	1.00% of NET PROFITS
EXEMPTION	<ul style="list-style-type: none"> <li>- PAYROLL TAX: First \$10,000 of COMPENSATION for all EMPLOYEES over the age of 65.</li> <li>- NET PROFITS: First \$10,000 of NET PROFITS for SOLE PROPRIETORS ONLY.</li> </ul>

**Section 3.2 Scott County- Applicable Taxes & Rates**

**1. PAYROLL TAX**

- a. The PAYROLL TAX is measured by 1.00% of all COMPENSATION paid or payable in the County for work done or services performed or rendered in the County by every EMPLOYEE.
- b. For all INDIVIDUALS over the age of sixty-five (65) the first ten thousand dollars (\$10,000.00) of COMPENSATION is excluded from taxation.

**2. NET PROFIT LICENSE TAX**

- a. The NET PROFIT LICENSE TAX measured by 1.00% of the NET PROFITS for BUSINESS ACTIVITY conducted in the County by every BUSINESS ENTITY excluding the first ten thousand dollars (\$10,000) of such net profit. This includes a PERSON performing activities as an INDEPENDENT CONTRACTOR.
- 3. In summary, the OCCUPATIONAL LICENSE TAX is measured as indicated in the table below.

<b>SCOTT COUNTY TAX RATES</b>	
<b>CLASS OF TAXPAYER</b>	<b>LICENSE TAX IMPOSED</b>
EMPLOYEE (PAYROLL TAX)	1.00% of COMPENSATION
BUSINESS ENTITY (NET PROFITS)	1.00% of NET PROFITS
EXEMPTION	<ul style="list-style-type: none"> <li>- PAYROLL TAX: First \$10,000 of COMPENSATION for all EMPLOYEES over the age of 65.</li> <li>- NET PROFITS: First \$10,000 of NET PROFITS for all PERSONS and BUSINESSES.</li> </ul>

**Section 3.3 Scott School District- Applicable Taxes & Rates**

**1. PAYROLL TAX**

- a. The PAYROLL TAX is measured by 0.50% of all COMPENSATION paid or payable for work done or services performed or rendered in the County by every RESIDENT of the County who is also an EMPLOYEE.
- b. A RESIDENT of Scott County includes all those EMPLOYEES who have a W-2 address that is located in Georgetown, Sadieville and Stamping Ground.
  - i. To verify an EMPLOYEE’S residency, please visit the Scott County PVA website to ascertain if the EMPLOYEE has an address within Scott County. [www.scottkypva.com](http://www.scottkypva.com)

**2. NET PROFIT LICENSE TAX**

- a. The NET PROFIT LICENSE TAX is measured by 0.50% of the NET PROFIT from BUSINESS ACTIVITY conducted in the County by all BUSINESS

ENTITIES even if NON-RESIDENT domicile. This includes a PERSON performing activities as an INDEPENDENT CONTRACTOR.

3. In summary, the OCCUPATIONAL LICENSE TAX is measured as indicated in the table below.

CLASS OF TAXPAYER	LICENSE TAX IMPOSED
RESIDENT EMPLOYEES	0.50% of COMPENSATION
BUSINESS ENTITY (ALL)	0.50% of NET PROFITS

**Section 3.4 Payroll Tax and Net Profit License Tax**

Although this tax is authorized as a single fee, there are important distinctions between the PAYROLL TAX on COMPENSATION and the NET PROFITS LICENSE TAX. A clear understanding of these distinctions is important to every taxpayer and tax preparer who may have dealings in the taxing JURISDICTION.

- A. The PAYROLL TAX on COMPENSATION is imposed on EMPLOYEES only.
- B. All PERSONS (including those that operate as INDEPENDENT CONTRACTORS) and BUSINESS ENTITIES that engage in BUSINESS ACTIVITY sufficient to establish NEXUS with the JURISDICTION must pay the NET PROFIT LICENSE TAX and remit PAYROLL TAX for all EMPLOYEES.
- C. There is no PAYROLL TAX on COMPENSATION or NET PROFITS which are not attributable to activities within the JURISDICTION. The APPORTIONMENT FORMULA set forth in *Regulation 3-1, Section 3.9* provides detail on how to apportion COMPENSATION or NET PROFITS appropriately.
- D. EMPLOYERS are required to remit PAYROLL TAX to the GSCRC on behalf of their EMPLOYEES. This legal obligation includes filing PAYROLL TAX on behalf of all REMOTE EMPLOYEES who work from their home if the employee home is located in the JURISDICTION.
  - a. The EMPLOYEE is not required to file a RETURN with the GSCRC unless:

- i. The EMPLOYER is the federal government and local PAYROLL TAX is not withheld; or
- ii. The EMPLOYEE has income other than COMPENSATION earned from their EMPLOYER that is not subject to PAYROLL TAX.
  1. EXAMPLE: If an EMPLOYEE is paid by W-2 for COMPENSATION earned and the same EMPLOYEE is also paid non-employee COMPENSATION on a Form 1099-MISC issued by the EMPLOYER for consulting work performed within the JURISDICTION. The non-employee COMPENSATION should be reported on an annual NET PROFIT LICENSE TAX RETURN by the INDIVIDUAL EMPLOYEE.
- iii. The EMPLOYEE meets one of the categories detailed in *Regulation 3-1, Section 3.22 Special Cases* and is required to file PAYROLL TAXES on their own behalf.

### **Section 3.5 Compensation Subject to the Payroll Tax**

PAYROLL TAX is required to be withheld on an EMPLOYEE'S COMPENSATION by the EMPLOYER and remitted to GSCRC. *KRS 67.750* defines COMPENSATION to include remuneration which is, "required to be reported for FEDERAL INCOME TAX purposes" which is governed by the *IRC (26 U.S.C.S §3401)*. In reliance on these provisions, the following items are to be included within COMPENSATION:

- (A) **Salaries** shall include salaries, bonuses or incentive payments earned by a PERSON whether directly or through an AGENT/FIDUCIARY. This is true whether the pay is hourly, daily, weekly, semi-monthly, annual audit of production or piece-meal rate.
  - a. An OFFICER or EMPLOYEE, or both, of a corporation;
  - b. As an OFFICER or EMPLOYEE (as distinguished from a partner or member) of a partnership or other association;
  - c. As an EMPLOYEE (as distinguished from the proprietor) of a BUSINESS conducted by an INDIVIDUAL owner;

- d. As an OFFICER or EMPLOYEE (whether elected or appointed, enlisted, or commissioned) of a governmental agency; or
  - e. As an OFFICER or EMPLOYEE of any BUSINESS or other ENTITY.
- (B) **Commissions** received by an EMPLOYEE, from his EMPLOYER whether directly or through an AGENT, for services rendered regardless of how computed, including any amounts received as a drawing account exceed the commissions earned.
- (C) **Fees** received by an EMPLOYEE, whether directly or through an AGENT, for services rendered regardless of how computed.
- (D) **Vacation, Sick Leave, Holiday Payments-** Vacation, sick leave and holiday payments made to an EMPLOYEE pursuant to an EMPLOYER’S wage or salary continuation plan during periods of absence by an EMPLOYEE from work.
- (E) **Employee Contributions to Qualified Federal Tax Deferral Plans-**  
COMPENSATION on which an EMPLOYEE has elected to defer payment of FEDERAL INCOME TAX under *Sections 401(k), 403(b), or 457* of the IRC. With regards to a *401(k)* plan, the amount deferred into the plan pursuant to a cash or deferral election as well as the amount deferred by reason of salary reduction election are both included as COMPENSATION.
- (F) **Employer Contributions to a Qualified Plan Arising from Employee Elections-**  
Amounts contributed by an EMPLOYER to a qualified plan or a *Section 403(b)* plan which would be received as a COMPENSATION taxable in the year earned by the EMPLOYEE except for the EMPLOYEE’S election to have the EMPLOYER contribute the amount to said plan.
- (G) **“Picked Up” Employee Contributions-** EMPLOYEE contributions to *Section 401(a)* or *Section 403(a)* plans which are “picked up” by an EMPLOYER pursuant to *Section 414(h)* of the IRC.
- (H) **Contributions to Non-Qualified Plans-** EMPLOYER contributions and/or assignments to any plan other than a plan described by *Section 401(a), Section 401(k), Section 403(b),*

*Section 414(h), or Section 457 of the IRC, subject to the application for refund described in Section 6.2(D).*

- (I) **Contributions to “flexible benefit plans” or “cafeteria plans”** – Payments made by salary reduction or any other payment method to arrangements, sometimes referred to as cafeteria plans, flexible benefit plans or mini-flex plans, or any other benefit plans, which provide for EMPLOYEES to elect to reduce their federal taxable COMPENSATION to pay for benefits such as hospitalization, group term life, group disability insurance, etc., not otherwise paid for by the EMPLOYER.
- (J) **Non-Cash Fringe Benefits**- Fringe benefits received by an EMPLOYEE to the extent that such benefits are taxable for FEDERAL INCOME TAX purposes.
- (K) **Separation Payments**- Including:
- a. Payments made by an EMPLOYER to an EMPLOYEE at the time of retirement to the extent that said payments represent accrued vacation pay, unused sick pay, severance pay and, if such benefits would be subject to PAYROLL TAX if they were paid to an active EMPLOYEE, other benefits accrued pursuant to an employment contract between the EMPLOYEE and the EMPLOYER;
  - b. Payments which are made in lieu of any payments which the EMPLOYER is obligated to make to or on behalf of the EMPLOYEE arising from the employment to the extent that such payments would be subject to PAYROLL TAX if they were made to an active EMPLOYEE.
- (L) **Expense Accounts**- Sums allowed and paid by EMPLOYERS to EMPLOYEES for expenses, which sums are required to be recognized as COMPENSATION for FEDERAL INCOME TAX purposes.
- (M) **Payments for Services Rendered by Students**- Stipends, honorariums, grants, and other payments made to students to the extent that such payments are made for services rendered by the student and an EMPLOYER.
- (N) **Early Retirement and Similar Inducements**- Payments made in consideration from early retirement or other inducements paid by EMPLOYEES arising from the EMPLOYEE’S service to the EMPLOYER.

(O) **Property and Services Received as Compensation-** The fair market value of property or services received as COMPENSATION by an EMPLOYEE and paid by the EMPLOYER including board and lodging and similar items where such board and lodging is considered part of the COMPENSATION paid and is not afforded for the convenience of the EMPLOYER.

(P) **Other Income-** All other income paid by an EMPLOYER and received by an EMPLOYEE for the performance of any activity subject to PAYROLL TAX, not expressly EXEMPT (see below) unless such income is to be reported and a NET PROFIT LICENSE TAX paid thereon under the provisions of these regulations.

(Q) **Stock Options**

a. **Qualified/Non-qualified**

i. The proceeds from stock option transactions shall be deemed COMPENSATION subject to the PAYROLL TAX, at the time the income is includable on the federal Form W-2 for FEDERAL INCOME TAX purposes. A CAPITAL GAIN resulting from a stock option transaction is not subject to PAYROLL TAX.

b. **Apportionment**

i. Stock options received for activities within the JURISDICTION imposing the tax shall be apportioned pursuant to *Regulation 3-1, Section 3.9*. The APPORTIONMENT shall be made using the percentage for the year in which the option is includable on the federal Form W-2.

**Section 3.6 Compensation Not Subject to Payroll Tax**

PAYROLL TAX is required to be withheld on an EMPLOYEE'S COMPENSATION by the EMPLOYER and remitted to GSCRC. *KRS 67.750* defines COMPENSATION to include wages or remuneration which is, "required to be reported for FEDERAL INCOME TAX purposes" which is governed by the IRC (*26 U.S.C.S §3401*). In reliance on these provisions, the following items are to be excluded from COMPENSATION when calculating PAYROLL TAX liability of an EMPLOYEE:



- A. **Disability payments** - Payments made to an EMPLOYEE under a disability insurance plan which meets one or more of the following criteria:
- a. The payments are made by a third-party payor, which bears an insurance risk as determined by *IRS Regulation Section 31.3401(a)-1(b)*.
  - b. The payments are for “permanent and total disability as defined by *IRC Section 22(e) (3)*.
  - c. The payments are for the loss of limb or disfigurement of an EMPLOYEES as set forth in *IRC Section 105(c) (1)* and the payments are made without regard to the amount of time an EMPLOYEE is absent from work.
- B. **Unemployment Compensation** - Unemployment COMPENSATION payments made by any governmental agency.
- C. **Worker’s Compensation** - Amounts received by EMPLOYEES under the *Worker’s Compensation Act* as a COMPENSATION for disability sustained in the course of employment, together with any amount of damages received by suit or agreement on account of such disability.
- D. **Allowances and reimbursement for expenses** - Sums allowed and paid by an EMPLOYER to an EMPLOYEE for expenses necessarily and actually incurred by the EMPLOYEE in the direct performance of his activities, including meal and lodging allowances, if the EMPLOYEE is not required to include such receipts as income on his FEDERAL INCOME TAX RETURN.
- E. **Strike benefits** - Strike pay benefits paid from a fund which is established and/or replenished, in whole or in part, from an EMPLOYEE’S COMPENSATION.
- F. **Kentucky National Guard** - COMPENSATION paid members of the Kentucky National Guard for active-duty training, unit training assemblies and annual field training (because such income is expressly EXEMPTED from the imposition of license tax by *KRS 92.300*).
- G. **Student grants** - Stipends, honorariums, grants, and other payments made to students to the extent that such payments are conditioned only upon the recipient’s pursuit of studies

and/or participation in athletic or other intercollegiate competition, and scholarships and other non-cash fringe benefits received by duly registered students from the school, college, or university in which they are enrolled.

- H. **Exemptions afforded by treaty** - Any COMPENSATION paid to a foreign national to the extent that such payments are EXEMPT from state and local taxation by a treaty of the United States.
- I. **Payments to non-resident military personnel** - Payments to NON-RESIDENT military personnel EXEMPT from state and local taxation under the *Soldiers and Sailors Federal Relief Act (50 U.S.C.A. §574)*.
- J. **Precinct Workers-** COMPENSATION paid to EMPLOYEES for election training or work at election booths in state, county, and local primary, regular or special elections are not subject to OCCUPATIONAL LICENSE TAX.
- K. **Disaster Response Employee Compensation**
  - a. Pursuant to *KRS 91.200 (h)(1-2)*, the profits earned or COMPENSATION received for work performed during a disaster response period by a disaster response business or a disaster response EMPLOYEE are EXEMPT from NET PROFIT LICENSE and PAYROLL TAX if certain criteria are met.
  - b. *KRS 141.010 (9)* defines “disaster or emergency-related work” as repairing, renovating, installing, building or rendering services that are essential to the restoration of critical infrastructure that has been damaged, impaired, or destroyed by a declared state disaster or emergency.
  - c. *KRS 141.010(10)* defines “disaster response business” as any ENTITY that:
    - i. That has no presence in the state and conducts no BUSINESS in the state, except for disaster or emergency-related work during a disaster response period;
    - ii. Whose services are requested by a registered business or by a local government for purposes of performing disaster or emergency-related work in the state during a disaster response period; and

- iii. That has no registrations, tax filings, or NEXUS in this state other than disaster or emergency-related work during the calendar year immediately preceding the declared state disaster or emergency.
- d. *KRS 141.010(11)* defines “disaster response employee” as an EMPLOYEE who does not work or reside in the state, except for disaster or emergency-related work during the disaster response period;
- e. *KRS 141.010(12)* defines “disaster response period” as a period that begins ten (10) days prior to the first day of the Governor’s declaration under *KRS 39A.100* or the President’s declaration of a major federal disaster or emergency, whichever occurs first, and that extends thirty (30) calendar days after the declared state disaster or emergency.

**Section 3.7 Remote Employees / Telework**

- A. Any EMPLOYEE who is hired to work remotely out of a home located within the taxing JURISDICTION, is deemed to be conducting BUSINESS ACTIVITY on behalf of the EMPLOYER within the JURISDICTION. Therefore, the EMPLOYER who has hired the REMOTE EMPLOYEE is responsible for withholding and remitting PAYROLL TAX.
- B. The EMPLOYER should set up an account with GSCRC and withhold and remit PAYROLL TAX quarterly/monthly depending upon the amount of the tax remittance.
- C. The EMPLOYER of the remote EMPLOYEE will also be required to remit an annual NET PROFIT LICENSE TAX RETURN and maintain a compliant business license for the duration of the employment relationship. The Worksheet Y will allow for APPORTIONMENT based on a PAYROLL FACTOR for the REMOTE EMPLOYEE wage.
  - a. Example: Company X hires a customer service representative to provide call center assistance for their customers. Company X is located in Colorado, but the customer service representative is hired to work in her home located in Scott County Kentucky. This employment relationship is sufficient to establish NEXUS and therefore the company must pay applicable NET PROFIT LICENSE TAX.

- b. If REMOTE EMPLOYEE does not generate SALES REVENUE activity, the NET PROFIT APPORTIONMENT PERCENTAGE calculated on the Worksheet Y of the annual NET PROFIT LICENSE TAX RETURN for the EMPLOYER will be a one-factor formula rather than a two-factor APPORTIONMENT PERCENTAGE.

**Section 3.8 Apportionment of Compensation**

- A. The duties imposed on EMPLOYERS of the ORDINANCE shall apply with respect to COMPENSATION paid to EMPLOYEES who work both inside and outside the JURISDICTION imposing the license tax.
- B. COMPENSATION for the JURISDICTION imposing the PAYROLL TAX shall be computed by multiplying the total COMPENSATION paid to each EMPLOYEE by a fraction whose numerator is the time spent on the job in the JURISDICTION and whose denominator is the total time spent on the job by the EMPLOYEE (includes both inside and outside the JURISDICTION imposing the license tax).
  - a. Time spent on the job includes any time an EMPLOYEE is performing activities on behalf of his or her EMPLOYER. Time for which an EMPLOYEE is compensated for sick and accident leave pay, vacation leave pay, holiday leave pay, compensatory pay or other similar COMPENSATION shall be included in time spent on the job in the JURISDICTION based on the formulas in subsection D of this section.
  - b. Every EMPLOYER with one or more EMPLOYEES employed both inside and outside the JURISDICTION imposing the PAYROLL TAX shall require each said EMPLOYEE to keep accurate records of time spent inside the JURISDICTION imposing the license tax. These records must be available for inspection by the GSCRC.

**C. FILING FREQUENCY**

- a. Pursuant to the OCCUPATIONAL LICENSE TAX ORDINANCE, every EMPLOYER with one or more EMPLOYEE employed both inside and outside the JURISDICTION imposing the PAYROLL TAX shall remit quarterly or monthly the amount of license tax withheld.
  - i. Filing status is determined by the amount of tax being remitted. Any EMPLOYER withholding three hundred dollars (\$300.00) or more in PAYROLL TAXES in any one JURISDICTION during a quarter shall file monthly.

**1. Filing Frequency Status Change**

- a. Upon processing the annual Reconciliation of License Tax Withheld, GSCRC staff will evaluate whether a PAYROLL TAX account is filing properly in accordance to local ordinance.
  - b. If a filing frequency change is required based on the amount of remittance for the prior taxable year then a written notice will be sent to the EMPLOYER. The account will have ninety (90) days to implement the change. If the incorrect filing status is continued all PAYROLL TAX RETURNS received after the ninety (90) day notice period will be assessed penalties and interest as an improper RETURN.
- ii. For purposes of the required withholding of PAYROLL TAX, and of the required quarterly or monthly remittances of PAYROLL TAX withheld, EMPLOYERS are permitted to estimate the portion of an EMPLOYEE'S time spent inside and outside the JURISDICTION imposing the license tax on the basis of an EMPLOYEE'S prior year experience.

- iii. Provided, however, that if there is a substantial and continuing change in assignment respecting the place of an EMPLOYEE'S job performance, the EMPLOYER shall revise the estimate of the portion of the EMPLOYEE'S time spent within the JURISDICTION imposing the PAYROLL TAX to conform to the EMPLOYEE'S current performance.
- iv. Provided, further, that the EMPLOYER shall annually reconcile the license tax due on each said EMPLOYEE'S COMPENSATION based upon the EMPLOYEE'S actual time spent on the job inside and outside the JURISDICTION imposing the PAYROLL TAX.

**D. Apportionment of Employee Vacation Time, Holiday Time, Sick Time & Compensatory Time**

**a. TIME UTILIZED BY EMPLOYEE:**

- i. Vacation time, holiday time, sick time and compensatory time payments made to an EMPLOYEE pursuant to an EMPLOYER'S wage or salary continuation plan during periods of absence by an EMPLOYEE from work shall be subject to PAYROLL TAX.
  - 1. Specifically, by multiple the total COMPENSATION paid to each EMPLOYEE by a fraction whose numerator is the total time spent on the job in the JURISDICTION performing activities on behalf of his or her EMPLOYER in the prior six months and whose denominator is the total time spent on the job by the EMPLOYEE in the prior six months (includes both inside and outside of the JURISDICTION imposing the tax.)
  - 2. If the period worked for the EMPLOYER is less than six months, then complete the calculation using as many days as the EMPLOYEE worked during the previous six months.

**b. TIME ACCRUED BUT UNUSED BY EMPLOYEE WHILE EMPLOYED:**

- i. COMPENSATION received by an EMPLOYEE for accrued unused vacation pay, unused holiday pay, unused sick leave, compensatory time pay, separation pay, or other payment made under an EMPLOYER's wage or salary continuation plan during any period of absence from work shall be apportioned for the EMPLOYEE employed within and without the City/County according to the percentage of time spent on the job by the EMPLOYEE in the prior six months (includes both inside and outside of the JURISDICTION imposing the tax.)
- ii. If the period worked for the EMPLOYER is less than six months, then complete the calculation using as many days as the EMPLOYEE worked during the previous six months.

**c. TIME UNUSED OR ACCRUED AT SEPARATION**

- i. COMPENSATION received by an EMPLOYEE for accrued unused vacation pay, unused holiday pay, unused sick leave, compensatory time pay, separation pay, or other payment made under an EMPLOYER's wage or salary continuation plan during any period of absence from work shall be apportioned for the EMPLOYEE employed within and without the City/County according to the percentage of time spent on the job by the EMPLOYEE in the prior six months (includes both inside and outside of the JURISDICTION imposing the tax.)
- ii. If the period worked for the EMPLOYER is less than six months, then complete the calculation using as many days as the EMPLOYEE worked during the previous six months.

**E. Exception to Apportionment Method**

- a. If it is impossible or administratively impractical to keep accurate records of an EMPLOYEE'S work or COMPENSATION earned in the JURISDICTION because of the peculiar nature of the activities of an EMPLOYEE, or of the unusual basis of COMPENSATION, then the EMPLOYER may request an exception to the record keeping requirement of *Regulation 3-1, Section 3.8*.

- b. Each EMPLOYER or EMPLOYEE seeking an exception under this paragraph shall furnish the GSCRC a detailed statement of facts proposing the method for APPORTIONMENT calculation *prior* to the due date of the first RETURN covering the period for which an exception is sought.
- c. The written proposal will be reviewed and if the APPORTIONMENT is reasonable, it will be approved by the Executive Director of the GSCRC.
  - i. For example, submitting a proposed calculation for APPORTIONMENT of COMPENSATION may be a valuable tool for truck drivers who enter the JURISDICTION for multiple pick up/drop off loads but who are not continuously in the JURISDICTION.

**REGULATION 4-1 NET PROFIT LICENSE TAX**

- A. The City of Georgetown, Kentucky has imposed an NET PROFIT LICENSE TAX, measured by 1.00% of the NET PROFIT of BUSINESS ACTIVITY conducted in the City by a BUSINESS ENTITY excluding the first ten thousand dollars (\$10,000) of such NET PROFIT for SOLE PROPRIETORS over the age of sixty-five (65). The NET PROFIT of a business which conducts activities both inside and outside the City of Georgetown, Kentucky shall be apportioned as provided in *Regulation 3-1, Section 3.9*.
- B. The Scott County Fiscal Court has imposed an NET PROFIT LICENSE TAX, measured by 1.00% of the NET PROFIT of BUSINESS ACTIVITY conducted in the County by a BUSINESS ENTITY excluding the first ten thousand dollars (\$10,000) of such NET PROFIT. The NET PROFIT of a BUSINESS which conducts BUSINESS ACTIVITY both inside and outside Scott County, Kentucky shall be apportioned as provided in *Regulation 3-1, Section 3.9*.
- C. The Scott County Board of Education has imposed an NET PROFIT LICENSE TAX, measured by 0.50% of the NET PROFIT of BUSINESS ACTIVITY conducted in the County by a RESIDENT or NON-RESIDENT BUSINESS ENTITY. The NET PROFIT



of a BUSINESS which conducts BUSINESS ACTIVITY both inside and outside Scott County, Kentucky shall be apportioned as provided in *Regulation 3-1, Section 3.9*.

**Section 4.1 Sufficient Nexus Test**

- A. A PERSON, EMPLOYEE or BUSINESS ENTITY that is conducting BUSINESS ACTIVITY shall be deemed to be subject to the NET PROFIT LICENSE TAX or PAYROLL TAX if the PERSON, EMPLOYEE or BUSINESS ENTITY has NEXUS with the JURISDICTION sufficient to justify the imposition of the license tax in a manner consistent with the *Commerce Clause* and the *Due Process Clause* of the *Fourteenth Amendment of the United States Constitution* or other applicable federal law.
- B. The term NEXUS shall be defined in the context of applicable case law.<sup>2</sup> In general, NEXUS shall be defined as a minimum connection between a PERSON or BUSINESS ENTITY and the JURISDICTION imposing the tax brought about when the PERSON or BUSINESS ENTITY purposefully avails itself of the privileges and protections of the JURISDICTION imposing the tax while conducting BUSINESS ACTIVITY.
- C. Without excluding by implication other activities which may create a NEXUS, any of the following connections between a PERSON or BUSINESS ENTITY and the JURISDICTION shall normally establish a sufficient NEXUS:
  - a. Location of a PLACE OF BUSINESS in the JURISDICTION imposing the tax;
  - b. Frequent and continuing entry into the JURISDICTION imposing the tax in the course of BUSINESS by an OFFICER or EMPLOYEE of a BUSINESS (including a REMOTE EMPLOYEE or telecommuter who works from his or her home on behalf of their EMPLOYER);
  - c. Delivery of goods to RESIDENTS in the JURISDICTION imposing the tax other than through the mail or by common carrier;
  - d. Contracting to sell goods or services in the JURISDICTION imposing the tax; or
  - e. Advertising, solicitation, negotiation, and any other activity in Georgetown-Scott County that leads to a contract for the sale of goods or provision of services;

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<sup>2</sup> See for example, *Moorman Mfg. Co. v. Bair*, 437 U.S. 267, 272-273, 98 S. Ct. 2340, 2344, 57 L.Ed.2d 197 (1978); *National Bellas Hess, Inc., v. Department of Revenue*, 386 U.S. 753, 756, 87 S. Ct. 1389, 1391, 18 L.Ed.2d 505 (1967); *Norfolk & Western R. Co. v. Missouri Tax Comm'n*, 390 U.S. 317, 325, 88 S. Ct. 995, 1000, 19 L.Ed.2d 1201 (1968); *Exxon Corporation v. Wisconsin Department of Revenue*, 100 S. Ct. 2109; 447 U.S. 207; 65 L. Ed. 2d 66 (1980); *South Dakota v. Wayfair, Inc.*, 132 S. Ct.2080 (2018).

- f. The lease or rental of real or tangible personal property located in Georgetown-Scott County or to a PERSON located in Georgetown-Scott County;
  - g. The presence of EMPLOYEES (either in PERSON or REMOTE EMPLOYEE), INDEPENDENT CONTRACTORS, AGENTS, representatives, or other PERSONS acting on the taxpayer's behalf in Georgetown-Scott County.
- D. Conducting substantial BUSINESS ACTIVITY in the JURISDICTION imposing the tax leading to a contract to buy or sell goods or services.
- E. The absence of a branch, office, store, warehouse, or other permanent PLACE OF BUSINESS within the JURISDICTION imposing the tax shall not EXEMPT or render non-licensable the NET PROFIT of any PERSON OR BUSINESS ENTITY activity on which a license tax is imposed by the ORDINANCE.
- F. Any PERSON engaged in the BUSINESS of transporting people, stock, goods, or documents both inside and outside the JURISDICTION imposing the tax will be deemed to be subject to the OCCUPATIONAL LICENSE TAX imposed on NET PROFIT if the PERSON has a NEXUS with the JURISDICTION imposing the tax sufficient to justify the imposition of the license tax
- G. All BUSINESS ENTITIES and FIDUCIARIES with a NEXUS in the JURISDICTION imposing the tax pay the full NET PROFIT LICENSE TAX percentage regardless of whether INDIVIDUAL OFFICERS, directors, partners, or associates have a NEXUS with the JURISDICTION imposing the tax.
- H. **Examples of Persons or Entities that Have Nexus**
  - a. **TRANSPORTATION:** Common carriers and others engaged in interstate commerce are subjected to the OCCUPATIONAL LICENSE TAX in accordance with the APPORTIONMENT formula provided for in local ordinance. Due to the nature of some roles within transportation, such as truck drivers, it may be necessary to come to a reasonable approximation of time spent in the taxing JURISDICTION doing “drop off” or “pick up” responsibilities.

- b. **NON-RESIDENT INDIVIDUALS:** A self-employed non-resident INDIVIDUAL (including an INDIVIDUAL doing BUSINESS as a professional services corporation) who performs personal services has NEXUS with GSCRC regardless of volume of work performed.
- c. **ECONOMIC NEXUS**
  - i. A PERSON or BUSINESS ENTITY who sells tangible personal property or digital property delivered or transferred electronically to a purchaser in Georgetown-Scott County have a tax NEXUS if the seller sold tangible personal property or digital property that was delivered or transferred electronically to purchasers in the JURISDICTION.
  - ii. A PERSON or BUSINESS ENTITY hosting an online booking platform for short-term rentals located in Georgetown-Scott County has a tax NEXUS. *See Regulation 13-1, Short-Term Rental Property.*
  - iii. A PROFESSIONAL EMPLOYER ORGANIZATION (PEO) who contracts with a client to assume the employment-related duties of the EMPLOYEES working on behalf of the client has a Georgetown-Scott County NEXUS if the PEO receives \$2,500 or more in fees per taxable year from a client or clients located in Georgetown/Scott County. The NEXUS status of the PEO shall have no impact on the EMPLOYER obligation to withhold PAYROLL TAX on all EMPLOYEES working in the taxing jurisdiction.

#### **Section 4.2 Special Types of Income to Consider**

- A. **Online Product Sales:** Any PERSON or BUSINESS ENTITY that is engaging in an online based BUSINESS ACTIVITY that is conducted out of a BUSINESS location or address located within the taxing JURISDICTION. Examples of BUSINESS ACTIVITY include (but is not limited to) craft sales through a site such as Etsy, product sales through website or social media site (e.g. Avon, Mary Kay, Advocare, Herbal Life) are

considered to be conducting “BUSINESS ACTIVITY” and thus are required to register for a local BUSINESS LICENSE and remit NET PROFIT LICENSE TAX.

**B. Short Term Property Rental:** *See Regulation 14-1, Short-Term Rental Property.*

**C. Gig Economy**

- a. **Gig Economy Worker:** Any PERSON who performs work for a third-party service provider platform such as (including but not limited to) Uber, Lyft, Task Rabbit, etc. Most gig workers are self-employed INDEPENDENT CONTRACTORS for tax purposes, not EMPLOYEES of the hiring platforms they work with or their clients or customers. In effect, when you become a gig worker—whether full or part time, you are running your own small business and are subject to all applicable local taxes. See below for additional detail and further guidance.
- b. Gig workers provide many different types of services. Other types of projects and work that gig workers perform include but are not limited to the following:
  - i. household services, moving and cleaning (for example, through TaskRabbit and Handy)
  - ii. a variety of business services, such as accounting, marketing, and design services (for example, through Freelancer and Upwork)
  - iii. design work (for example, through 99designs and Visual.ly)
  - iv. coding and other types of hi-tech services (for example, through GetACoder)
  - v. food and grocery delivery services (for example, through Instacart and Postmates), and
  - vi. Health and medical care (for example, through Heal and Pager).”
- c. Any gig economy worker that is conducting activity within Scott County is conducting BUSINESS ACTIVITY and should register for a local BUSINESS LICENSE and remit NET PROFIT LICENSE TAX.
- d. **LEGAL DISCLAIMER:** All the contents of the regulations set forth in this document are meant to present guidance on common issues. If there is a change in case law, applicable ordinance or statute that is inadvertently omitted, or which is

decided after the original enactment of these regulations then the most recent precedent shall be the controlling in all decisions.

#### **Section 4.3 Unitary Business Considerations**

- A. If a PERSON or BUSINESS ENTITY has sufficient NEXUS with the JURISDICTION to justify the imposition of the NET PROFIT LICENSE TAX, the entire NET PROFIT shall be apportioned in accordance with provisions *Regulation 3-1, Section 3.9*. It shall not be necessary that there be an independently established NEXUS between the JURISDICTION imposing the tax and each activity from which the taxpayer has derived income subject to APPORTIONMENT PERCENTAGE.
- B. The NET PROFIT of a sole proprietorship, corporation, FIDUCIARY, partnership, or other association shall be subject to APPORTIONMENT PERCENTAGE and LICENSE TAX based on unitary business principles.<sup>3</sup> Those principles dictate that the income of a sole proprietorship, corporation, partnership, or other association arising from the taxpayer's investments in another legal ENTITY be included in the NET PROFIT LICENSE TAX RETURN unless the separate legal ENTITY is not part of a "unitary business" with the taxpayer.
- a. Those principles also prohibit segregation of the NET PROFIT reported for FEDERAL INCOME TAX purposes into two or more "divisions" or "profit centers" in an attempt to pay a license tax only on the division and/or profit center with NEXUS to the JURISDICTION imposing the tax.
- C. GSCRC may require such information, in addition to the RETURN provided for in the ORDINANCE, as may be deemed necessary to ascertain whether NET PROFIT is properly allocated to the JURISDICTION. If the GSCRC finds NET PROFIT is not properly allocated to the JURISDICTION imposing the tax, the GSCRC may require the filing of either a consolidated or separate RETURN or require adjustment of transactions

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<sup>3</sup> *Exxon Corporation v. Wisconsin Department of Revenue*, 100 S. Ct. 2109; 447 U.S. 207; 65 L. Ed. 2d 66 (1980); *Mobile Oil Corporation v. Commissioner of Taxes of Vermont*, 100 S. Ct. 1223; 445 U.S. 425; 63 L. Ed. 2d 510 (1980); and *Container Corp. of America v. Franchise Tax Board*, 103 S. Ct. 2933; 463 U.S. 159; 77 L. Ed. 2d. 545 (1983).

to produce a fair and proper ALLOCATION of NET PROFIT to the JURISDICTION imposing the tax.

- D. If a taxpayer believes the requirements of this Section do not result in a fair and proper ALLOCATION of the NET PROFIT due to the peculiar or unusual nature of the business involved, he or she shall submit a statement seeking an exception to this Section, furnishing a detailed statement of facts explaining the basis of the exception sought. In each case, BUSINESS ALLOCATION AND APPORTIONMENT PERCENTAGE shall be made in accordance with the facts. The GSCRC may adjust the APPORTIONMENT PERCENTAGE of any taxpayer to reflect BUSINESS ACTIVITY fairly and accurately within the JURISDICTION imposing the tax. Once permission to use a different method in calculating the NET PROFIT LICENSE TAX has been granted, a taxpayer must continue to use the alternate method until given permission to change by the GSCRC.

#### **Section 4.4 Net Profit License Tax Exemptions**

##### **A. Common Carrier Exemption**

- a. Common carriers are not EXEMPT from the NET PROFIT LICENSE TAX even though engaged in interstate commerce. Common carriers and others engaged in interstate commerce are subject to taxation on a fairly apportioned share of their NET PROFIT if they have a sufficient NEXUS with the JURISDICTION imposing the tax. See *Complete Auto Transit, Inc. v. Brady*, 430 U.S. 274, 97 S. Ct. 1076, 51 L. Ed. 2d 326 (1977).
- b. Common carrier EMPLOYEES are subject to the OCCUPATIONAL LICENSE TAX on COMPENSATION to the same extent as all other EMPLOYEES in the JURISDICTION.

##### **B. Public Service Corporation Exemption**

- a. No NET PROFIT LICENSE TAXES are required of companies that are subject to the public service corporation property taxes set forth in *KRS 136.120*. This tax is applied only to utility companies and to certain common carrier companies. As of

January 1, 1984, regular and irregular common carrier trucking companies and taxicab companies are expressly excluded from the definition of “public service corporation” in *KRS 136.120*. Therefore, unless expressly prohibited under Kentucky law, common carriers and others engaged in interstate commerce are subject to taxation on a fairly apportioned share of their NET PROFIT if they have sufficient NEXUS with the JURISDICTION.

b. The specific public service companies EXEMPT from NET PROFIT LICENSE TAX under *KRS 136.120* include:

- i. Railway companies;
- ii. Sleeping car companies;
- iii. Chair car companies;
- iv. Dining car companies;
- v. Gas companies;
- vi. Water companies;
- vii. Bridge companies;
- viii. Street railway companies;
- ix. Interurban electric railroad companies;
- x. Express companies;
- xi. Electric light companies;
- xii. Electric power companies, including wind turbine and solar generating companies;
- xiii. Commercial air carriers;
- xiv. Air freight carriers;
- xv. Pipeline companies;
- xvi. Privately regulated sewer companies;
- xvii. Railroad car line companies;
- xviii. Every other like company or business performing any public service.

c. The following companies are **NOT EXEMPT** under *KRS 136.120*:

- i. Bus line companies;
- ii. Regular and irregular route common carrier trucking companies;
- iii. Taxicab companies;
- iv. Providers of communications serviced in *KRS 136.602*; and
- v. Qualified air freight forwarder in *KRS 141.121*

d. The BUSINESS ENTITY claiming this EXEMPTION for paying public service corporation property taxes shall present to GSCRC proof of payment of the excise

tax imposed under *KRS 136.602*. Any portion of the BUSINESS that is not associated public service corporation property taxes shall apportion the portion of the BUSINESS to GSCRC in accordance with local ordinance.

**C. Multichannel Video Programming & Communication Services**

- a. No NET PROFIT LICENSE TAXES are required of companies engaged in multichannel video programming and communication services identified in *KRS 136.632*.
- b. Multichannel video programming services: live, scheduled or on-demand programming provided by or generally considered comparable to or in competition with programming provided by a television broadcast station, including but not limited to:
  - i. Cable service, including the provision of video, audio, or other programming service
  - ii. Satellite broadcast and wireless cable service
  - iii. Internet protocol television provided through wireline facilities without regard to delivery technology.
  - iv. Video streamlining services.
- c. Communications services, including the provision, transmission, conveyance, or routing, for consideration of voice, data, video, or any other information signals by or through any electronic, radio, light, fiber-optic, or similar medium or method now in existence or later devised. Communications services does not include information services or multichannel video programming services. Communications services includes, but is not limited to:
  - i. Local and long-distance telephone services
  - ii. Telegraph and teletype services
  - iii. Prepaid and postpaid calling services
  - iv. Private communications services involving a direct channel specifically dedicated to a customer's use between specific points
  - v. Channel services involving a path of communications between two (2) or more points



- vi. Data transport services involving the movement of encoded information between points by means of any electronic, radio or other medium or method.
  - vii. Caller ID services, ring tones, voice mail or other electronic messaging services
  - viii. Mobile telecommunications services as defined in *4 U.S.C. Section 124(7)*
  - ix. Voice over Internet Protocol (VOIP)
- d. The BUSINESS ENTITY claiming this EXEMPTION for providing multichannel video programming or communication services shall present to GSCRC proof of payment of the excise tax imposed under *KRS 136.602*. This EXEMPTION APPLIES ONLY TO the portion of the BUSINESS that provide multichannel video programming services or communications services, including products or services or communications services. Any portion of the BUSINESS that is not associated with multichannel video programming or communications services shall apportion the portion of the BUSINESS to GSCRC in accordance with local ordinance.

**D. Public Law 86-272**

- a. This regulation adopts a narrow interpretation of the immunity afford by *Public Law 86-272*, codified as *15 U.S.C. 381 to 384*.
- b. *Public Law 86-272* prohibits states from attributing taxable NEXUS to PERSONS who do not maintain an office within the JURISDICTION and whose sole activity within the JURISDICTION consists of:
  - i. the solicitation of orders by such PERSON, or his representative, in such state for sales of tangible personal property, which orders are sent outside the state for approval or rejection, and, if approved, are filled by shipment or delivery from a point outside the state; and
  - ii. the solicitation of orders by such PERSON, or his representative, in such state in the name of or for the benefit of a prospective customer of such PERSON, if orders by such customer to such PERSON to enable such

customer to fill orders resulting from such solicitation are 6 orders described in paragraph (1).

#### **Section 4.5 Unincorporated Business**

The license tax imposed on the NET PROFIT of a partnership, association, joint venture, or other unincorporated BUSINESS ENTITY owned by two or more PERSONS shall generally be upon said BUSINESS ENTITY rather than the INDIVIDUAL members or owners thereof, but the license tax imposed on the NET PROFIT imposed on an unincorporated ENTITY owned by one PERSON is upon the INDIVIDUAL owner.

#### **Section 4.6 Determination of Net Profit in General**

The provisions in the definitions of NET PROFIT discussed in this Section have general application to all types of taxpayers. DISCLAIMER: The text contained herein is intended as a guide only. If this information becomes outdated due to statutory, legislative, or case precedent change or a conflict occurs then the applicable ordinance, case or statute shall be controlling in all decisions.

- a. NET PROFIT means gross income as defined in *Section 61* of the *IRC* minus all the deductions from gross income allowed by Chapter 1 of the *IRC* except as specified in this Regulation and subject to such other adjustments as may be required by this chapter or otherwise by law
- b. **Expenses associated with income not subject to NET PROFIT LICENSE TAX are not deductible** - Any expenses attributable to income not subject to the NET PROFIT LICENSE TAX shall not be allowed as deductions from the remaining NET PROFIT. In the absence of records showing the actual expenses attributable to income not subject to the NET PROFIT LICENSE TAX, the minimum shall be all expenses up to the amount of income not subject to the NET PROFIT LICENSE TAX.
- c. **Federal tax credit in lieu of deduction** - BUSINESS expenses for which a taxpayer has, for FEDERAL INCOME TAX purposes, elected a credit in lieu of a deduction may be deducted from NET PROFIT. Some current examples of federal credits are the investment tax credit, foreign tax credit, jobs credit and the rehabilitation expenses credit.

The deduction for expenses is allowable in the year(s) the expenses would have been deductible for FEDERAL INCOME TAX purposes had the credit not been taken.

- d. **State and local taxes based on income** – BUSINESS ENTITIES may not deduct state or local taxes or license fees based on income. State or local franchise, license or gross receipts taxes or other taxes which are not based on income, but are costs of doing BUSINESS, are allowed as a deduction in determining NET PROFIT.
- e. **Net operating losses** - Net operating loss carrybacks and carryforwards allowed under IRC Section 172(a) *are not deductible* in determining NET PROFIT LICENSE TAX.
- f. **Capital gain income** – Except as provided, CAPITAL GAIN income related to BUSINESS ACTIVITY shall be subject to the NET PROFIT LICENSE TAX and be reported. This includes the sale of REAL PROPERTY previously used to conduct BUSINESS in the JURISDICTION even if the real estate transaction is/was not in the ordinary course of that BUSINESS.
- g. **Capital gain arising from sale of business** - Except as provided, CAPITAL GAINS realized from the sale of a BUSINESS are subject to NET PROFIT LICENSE TAX if the PERSONS receiving the gain has been engaged in the BUSINESS within the JURISDICTION imposing the tax at any time. The NET PROFIT LICENSE TAX on the gain shall be included in the NET PROFIT of the PERSON receiving the gain for the year in which the gain is recognized.
- h. **Deduction for profit from Kentucky sale of alcoholic beverages** - NET PROFIT from the sale of alcoholic beverages in Kentucky is EXEMPT from OCCUPATIONAL LICENSE TAX. To the extent that a taxpayer's NET PROFIT is from the sale of alcoholic beverages within Kentucky, a deduction may be taken from the taxpayer's total NET PROFIT derived from all sources. This deduction shall be calculated by dividing receipts from Kentucky alcoholic beverage sales by receipts from total sales (whether of alcoholic beverage products or otherwise). This percentage is then multiplied by the taxpayer's NET PROFIT to determine the deduction available to the taxpayer for sale of

alcoholic beverages in Kentucky. A taxpayer shall attach a schedule detailing these calculations to the NET PROFIT LICENSE TAX RETURN. In the case of sole proprietors with more than one distinct BUSINESS ACTIVITY, the alcoholic beverage deduction shall apply only to those BUSINESSES which sell alcoholic beverages.

- i. **Deduction for non-business interest and dividend income** – non-BUSINESS interest and dividend income are allowed as a deduction in determining NET PROFIT. Whether income is classified as passive income by the IRS does not determine BUSINESS or non-BUSINESS income for OCCUPATIONAL LICENSE TAX purposes. BUSINESS interest and dividends are subject to the OCCUPATIONAL LICENSE TAX and are therefore not deductible in determining NET PROFIT LICENSE TAX. Examples of BUSINESS income include, but are not limited to, income in the form of interest from accounts receivable, interest from leasing or financing arrangements or dividends from subsidiaries.
- j. **Deduction for Tobacco Settlement Funds** - Funds received from the state as a share of the tobacco settlement funds to be paid to farmers is EXEMPT from inclusion in NET PROFIT for the purpose of calculating the NET PROFIT which is subject to the OCCUPATIONAL LICENSE TAX as follows:
  - a. Any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;
  - b. Any amount received from the secondary settlement fund, referred to as “Phase II, “established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement; and
  - c. Any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction of the tobacco quota

allotted from the 1998 to the 1999 calendar year as provided under Public Law 106-78, Title 8, Section 803.

**Section 4.7 Net Profit for Corporations other than S Corp**

- A. For corporations other than S corporations, NET PROFIT shall mean a taxpayer's "taxable income" for FEDERAL INCOME TAX purposes adjusted as follows:
  - a. Plus any sum deducted for FEDERAL INCOME TAX purposes as net operating loss carryforwards or carrybacks,
  - b. Plus any deductions for FEDERAL INCOME TAX purposes for state or local taxes or license fees based on income,
  - c. Plus any expense attributable to income not subject to the OCCUPATIONAL LICENSE TAX,
  - d. Less interest on U.S. obligations,
  - e. Less non-business interest and dividend income
  - f. Less business expenses for which a licensee has, for FEDERAL INCOME TAX purposes, elected a credit in lieu of expenses,
- B. NET PROFIT is subject to such other adjustments as may be required by the JURISDICTION imposing the tax or otherwise by law,
- C. Corporations may not attribute income to one or more sources within the JURISDICTION imposing the tax and one or more sources outside the JURISDICTION imposing the tax but must use the BUSINESS ALLOCATION OR APPORTIONMENT PERCENTAGE all NET PROFIT as required by *Regulation 3-1, Section 3.9*.
- D. The corporation's annual NET PROFIT LICENSE TAX RETURN must be signed by the president, vice-president, treasurer, assistant treasurer, chief accounting officer or other authorized officer. The name and title of said OFFICER must be printed legibly or typed underneath the signature.
- E. Corporations with BUSINESS ACTIVITY in the JURISDICTION imposing the tax must file an annual RETURN whether they have NET PROFIT from the BUSINESS ACTIVITY in which they are engaged during the year.

**Section 4.8 Net Profit for Partnerships and S Corporations**

- A. For partnerships and S corporations, NET PROFIT shall mean a taxpayer's "ordinary income" for FEDERAL INCOME TAX purposes adjusted as follows:
- a. Plus income passed through separately on the FEDERAL INCOME TAX RETURN from a partnership to the partners or from an S corporation to the shareholders, including, but not limited to, guaranteed payments to partners, dividends qualifying for exclusion, net CAPITAL GAINS, gains from casualty or theft, *IRC § 1231*
  - b. Plus any deductions for FEDERAL INCOME TAX purposes for state or local taxes or license fees based on income,
  - c. Plus any expense attributable to income not subject to the OCCUPATIONAL LICENSE TAX,
  - d. Less interest on U.S. obligations,
  - e. Less non-BUSINESS interest and dividend income,
  - f. Less BUSINESS expenses for which a license has, for FEDERAL INCOME TAX purposes, elected a credit in lieu of expenses,
  - g. Less BUSINESS expenses passed through separately on the federal tax RETURN from a partnership to the partners or from an S corporation to the shareholders including, but not limited to charitable contributions, expense deduction from recovery property pursuant to *IRC Section 179*, and special ALLOCATIONS passed through separately by the partnership to the partners or by the S corporation to the shareholders.
  - h. And for purposes of this ORDINANCE, the license tax is imposed on the partnership or S Corporation, not the partner or shareholder.
- B. NET PROFIT is subject to such other adjustments as may be required by the JURISDICTION imposing the tax or otherwise by law
- C. Partnerships and S corporations are considered separate entities for purposes of filing NET PROFIT LICENSE TAX RETURNS. No taxpayer is required or permitted to include in its income subject to the OCCUPATIONAL LICENSE TAX its share of any item of income or deduction from partnerships or S corporations with BUSINESS

ACTIVITY in the JURISDICTION imposing the tax (for partnerships or S corporations without BUSINESS ACTIVITY within the JURISDICTION imposing the tax see *Regulation 2-1, Section 2.20*). Thus, for example, a corporation which owns an interest in a partnership which conducts business in the JURISDICTION imposing the tax must exclude the NET PROFIT or loss of the partnership from its NET PROFIT or loss since the partnership would have separately filed a RETURN and paid a license tax on its NET PROFIT.

- D. A partnership's annual NET PROFIT LICENSE TAX RETURN must be signed by a general partner, and the name of the general partner must be printed legibly underneath the signature. An S corporation's annual NET PROFIT LICENSE TAX RETURN must be signed by the president, vice-president, treasurer, assistant treasurer, chief accounting officer or other authorized officer. The name and title of said OFFICER must be printed legibly or typed underneath the signature.
- E. Copies of applicable federal schedules or their equivalent must be attached as evidence supporting a taxpayer's statement of income and expenses. This document must be provided regardless of whether there is a profit, loss or "no activity" is reported on the NET PROFIT LICENSE TAX RETURN.
- F. Partnerships and S corporations with BUSINESS ACTIVITY in the JURISDICTION imposing the tax must file an annual NET PROFIT LICENSE TAX RETURN whether they have net profit from the BUSINESS ACTIVITY in which they are engaged during the year. Partnerships are required to file one annual NET PROFIT LICENSE TAX RETURN on behalf of all INDIVIDUAL partners, and S corporations are required to file one annual NET PROFIT LICENSE TAX RETURN on behalf of all shareholders.

**Section 4.9 Net Profit for Sole Proprietors**

- A. For sole proprietors NET PROFIT shall mean a taxpayer's gross receipts or SALES REVENUE from his BUSINESS ACTIVITY including, but not limited to, royalties, rental income and nonemployee COMPENSATION, less ordinary and necessary expenses of the BUSINESS, trade, occupation, profession, enterprise, or other activity

such as defined as deductions for FEDERAL INCOME TAX purposes adjusted as follows:

- a. Plus ordinary gains and CAPITAL GAINS from the sale of property used in a licensee's BUSINESS, trade, occupation, profession, enterprise, or other activity including, but not limited to *IRC Section 1231, 1245, and 1250*.
  - b. Plus any sum deducted for FEDERAL INCOME TAX purposes as a net operating loss carryforward or carryback,
  - c. Plus any deductions for FEDERAL INCOME TAX purposes for state or local taxes or license fees based on income,
  - d. Plus any expense attributable to income not subject to the OCCUPATIONAL LICENSE TAX
  - e. Less ordinary losses and CAPITAL LOSSES from the sale of property used in the licensee's BUSINESS, trade, occupation, profession, enterprise, or other activity,
  - f. Less business expenses for which a licensee has, for FEDERAL INCOME TAX purposes, elected a credit in lieu of expenses,
- B. NET PROFIT is subject to such other adjustments as may be required by the JURISDICTION imposing the tax or otherwise by law.
- C. A sole proprietor must personally sign the NET PROFIT LICENSE TAX RETURN.
- D. Copies of applicable FEDERAL INCOME TAX RETURN schedules or their equivalent must be attached as evidence supporting a taxpayer's statement of income and expenses. This document must be provided regardless of whether there is a profit, loss or "no activity" is reported on the NET PROFIT LICENSE TAX RETURN.
- E. A sole proprietor conducting BUSINESS ACTIVITY in the JURISDICTION imposing the tax must file an annual NET PROFIT LICENSE TAX RETURN whether they have NET PROFIT from the activity, business, trade, occupation, or profession in which they are engaged during the year.
- F. Each separate and distinct BUSINESS ACTIVITY conducting business in the JURISDICTION imposing the tax as a separate sole proprietorship requires a separate license. These separate and distinct sole proprietorships are required to obtain their own



OCCUPATIONAL LICENSE TAX account, file separate NET PROFIT LICENSE TAX RETURNS and the remit the license tax due thereon.

**Section 4.10 Net Profits for Fiduciaries**

The NET PROFIT of a FIDUCIARY which is engaged in BUSINESS ACTIVITY in the JURISDICTION imposing the tax is subject to the NET PROFIT LICENSE TAX as is the NET PROFIT of any PERSON or BUSINESS ENTITY.

**Section 4.11 Net Profit for Limited Liability Companies**

The NET PROFIT of a limited liability company shall have the same BUSINESS ENTITY classification as that elected for IRS FEDERAL INCOME TAX filings.

**Section 4.12 Net Profit Apportionment**

This section describes the method by which a PERSON or BUSINESS ENTITY engaged in business both inside and outside the JURISDICTION is to APPORTION its NET PROFITS. The APPORTIONMENT PERCENTAGE is determined by a two-part formula using a SALES REVENUE factor and a PAYROLL FACTOR.

**A. Net profit Apportionment - Introduction and overview**

- a. If the operations of a taxpayer are conducted both inside and outside the JURISDICTION imposing the tax, then the extent to which its total NET PROFIT from all sources shall be considered as having been derived from activities within the JURISDICTION imposing the tax shall be determined by application of the BUSINESS ALLOCATION OR APPORTIONMENT PERCENTAGE to be determined by averaging the percentage of two factors: SALES REVENUE FACTOR and PAYROLL FACTOR within the JURISDICTION.

**B. Apportionment factors (Two-Factor Formula)**

- a. Taxpayers shall utilize a two-factor formula to compute their APPORTIONMENT PERCENTAGE.
- b. Factors- Taxpayers doing BUSINESS both within and outside of the JURISDICTION during a taxable year or period shall determine

APPORTIONMENT PERCENTAGE on the Worksheet Y of the NET PROFIT LICENSE TAX RETURN based on two factors:

- i. **Sales Revenue Factor** - The SALES REVENUE factor is the percentage computed by determining the taxpayer's SALES REVENUE attributable to activities within the JURISDICTION imposing the tax and dividing by the taxpayer's total SALES REVENUE (which includes SALES REVENUE earned within JURISDICTION and outside of JURISDICTION.)
- ii. **Payroll Factor** - The PAYROLL FACTOR is the percentage computed by determining the taxpayer's payroll attributable to activities within the JURISDICTION imposing the tax and dividing by the taxpayer's total payroll (which includes payroll earned within JURISDICTION and outside of JURISDICTION.)

**C. Determination of Sales Revenue Factor**

- a. **Definition of Sales Revenue-** SALES REVENUE shall include all cash payments, the fair market value of all property and services received and all receivable from transactions and activities of the licensee's trade or business operations. BUSINESS receipts shall be computed on the cash or accrual basis in accordance with the method of accounting used for FEDERAL INCOME TAX purposes. BUSINESS receipts shall not include any item of income which is excluded from the licensee's NET PROFITS.
- b. **Receipts from the Sale of Tangible Personal Property** Receipts within the JURISDICTION include the SALES REVENUE of tangible personal property delivered to a purchaser within the JURISDICTION, regardless of F.O.B. point or other conditions of sale, unless otherwise specified by the ORDINANCE or these Regulations.
- c. **Other Sales Revenue Attributable to the JURISDICTION Imposing the License Tax.**

- i. SALES REVENUE from sales, other than sales of tangible personal property is attributed to the JURISDICTION imposing the tax as follows.
  - ii. SALES REVENUE from the sale, lease, rental, or other use of REAL PROPERTY. SALES REVENUE from the sale, lease, rental, or other use of REAL PROPERTY is in the JURISDICTION imposing the tax if the REAL PROPERTY is in the JURISDICTION imposing the tax. *See also Regulation 3.1, Section 4.13 (A).*
  - iii. SALES REVENUE from rental, lease, licensing, or other use of tangible personal property. SALES REVENUE from the rental, lease, licensing, or other use of tangible personal property shall be attributable to the JURISDICTION imposing the tax if the property is delivered within the JURISDICTION imposing the tax.
  - iv. SALES REVENUE for the performance of services. SALES REVENUE for the performance of services is attributable to the JURISDICTION imposing the tax based on the time spent in performing such services in the JURISDICTION imposing the tax. Time spent in performing services includes time spent in performing contracts or other obligations which gave rise to such SALES REVENUE.
  - v. SALES REVENUE from the sale of intangible personal property. For PERSONS whose business includes the sale of intangible personal property, SALES REVENUE from the sale of such property shall be attributed to the JURISDICTION imposing the tax based on the time spent in selling such intangible personal property in the JURISDICTION imposing the tax. Time spent in selling includes time spent in performing contracts or other obligations which gave rise to such SALES REVENUE.
- d. **Property Ordered from Outside the JURISDICTION Imposing the Tax**
- i. SALES REVENUES are attributable to activities within the JURISDICTION imposing the tax when property is delivered to a

purchaser within the JURISDICTION even though the property is ordered from outside the JURISDICTION imposing the tax.

ii. Example 1: Property ordered from outside the JURISDICTION imposing the tax.

1. K Corporation, with inventory in Frankfort, Kentucky, sold \$100,000 of its products to a purchaser with branch stores in several locations, including the JURISDICTION imposing the tax. The purchase order was placed by the purchaser's central purchasing department located in Louisville, Kentucky. Twenty-five thousand dollars of the purchase order was shipped directly to purchaser's branch store in the JURISDICTION imposing the tax. The branch store in the JURISDICTION imposing the tax is the "purchaser within the JURISDICTION imposing the tax" with respect to \$25,000 of K Corporation's SALES REVENUE. Therefore, K Corporation has \$25,000 of SALES REVENUE within the JURISDICTION imposing the tax

e. **Shipment Terminating in the JURISDICTION Imposing the Tax Later Transferred.**

i. SALES REVENUES are attributable to activities within the JURISDICTION imposing the tax when property is delivered or shipped to a purchaser in the JURISDICTION imposing the tax even though the property is later transferred by the purchaser to another location.

ii. Example 2: Shipment terminating in the JURISDICTION imposing the tax later transferred.

1. L Corporation makes a sale to a purchaser who maintains a central warehouse in the JURISDICTION imposing the tax, where all merchandise purchases are received. The purchaser reships the goods to its branch stores in other localities for sale. All products shipped to the purchaser's warehouse in the JURISDICTION

imposing the tax are property “delivered or shipped to a purchaser within the JURISDICTION imposing the tax”. Therefore, these are SALES REVENUE within the JURISDICTION imposing the tax for L Corporation.

**f. When Property is Physically Delivered to a Purchaser Outside the JURISDICTION**

i. SALES REVENUES are not attributable to activities within the JURISDICTION imposing the tax when property is delivered or shipped to a purchaser outside the JURISDICTION imposing the tax.

1. Example 3: When property is physically delivered to a purchaser outside the JURISDICTION.

a. A new car dealer located within the JURISDICTION imposing the tax sells used vehicles taken in trade to a wholesaler located in Frankfort, Ky. The new car dealer physically delivers these vehicles to the Frankfort location using a commercial carrier service. These SALES REVENUE are not “in the JURISDICTION imposing the tax”.

**g. Determination of SALES REVENUE FACTOR - Particular Classes of Persons**

i. The following classes of PERSONS have presented difficulties with respect to determining the SALES REVENUE attributable to the JURISDICTION imposing the tax. The provisions of this Subsection (d) are established to set forth clearly which SALES REVENUE is attributable to activities within the JURISDICTION imposing the tax for those classes of PERSONS.

**1. PERSONS engaged in transportation of goods or documents.**

a. SALES REVENUE from the service of transporting goods or documents are attributable to the JURISDICTION imposing the tax if:

- i. the party contracting with the PERSON or BUSINESS ENTITY for the services is located within the JURISDICTION imposing the tax; and
- ii. Such goods or documents are placed in the control of the licensee at such location or are delivered to such location.

- 1. With respect to goods or documents transported “C.O.D.”, the “party contracting with the licensee” shall be deemed to be the party who placed the goods or documents in the control of the licensee.

**2. PERSONS engaged in the transportation of people**

- a. The SALES REVENUE of any PERSON or BUSINESS ENTITY which arises from the service of transporting people shall be deemed to have arisen in the JURISDICTION imposing the tax if the fee for the provision of such service is received within the JURISDICTION imposing the tax.

**3. PERSONS furnishing advertising**

- a. The SALES REVENUE of any PERSON or BUSINESS ENTITY which arises from advertising services is attributable to the JURISDICTION imposing the tax as follows:
  - i. printed media, radio, and television broadcast advertising, 100% of advertising revenues received from customers whose principal PLACE OF BUSINESS is in the JURISDICTION imposing the tax and a percentage of advertising revenues received from customers whose principal PLACES

OF BUSINESS are outside the JURISDICTION imposing the tax equal to the proportion of the licensee's audience/circulation which is within the JURISDICTION imposing the tax.

- ii. Billboard advertising if the billboard is located within the JURISDICTION imposing the tax.

**D. Determination of PAYROLL FACTOR**

a. Definition of "payroll"

- i. The PAYROLL FACTOR is the percentage computed by determining the taxpayer's PAYROLL attributable to activities within the JURISDICTION imposing the tax and dividing by the taxpayer's total PAYROLL (which includes PAYROLL earned within JURISDICTION and outside of JURISDICTION.) For specific details on what is included in COMPENSATION see *Regulation 3-1, Section 3.5*.

**E. Computation of NET PROFIT APPORTIONMENT Percentage**

a. **Computation with SALES REVENUE and PAYROLL FACTOR Present**

- i. The APPORTIONMENT PERCENTAGE is determined by adding together the SALES REVENUE factor and the PAYROLL FACTOR then dividing the total by two (2) if both factors are present. (However, see Paragraph (b) below in the event one factor is absent.)
- ii. This APPORTIONMENT PERCENTAGE is applied to the entire NET PROFIT of the licensee to arrive at subject NET PROFIT. OCCUPATIONAL LICENSE TAX is computed by multiplying subject NET PROFIT by the tax rate imposed by the JURISDICTION.
- iii. **Example 1: APPORTIONMENT calculation with both factors**
  - 1. J Company reported a total of \$2,000,000 of receipts and \$1,000,000 of PAYROLL for the year 2016. J Company's NET PROFIT for 2016 was \$800,000. Receipts of \$500,000 were derived from operations in the JURISDICTION imposing the tax. PAYROLL within the JURISDICTION imposing the tax was \$100,000. The APPORTIONMENT percentage is 17.5%, and J Company's NET

PROFIT upon which the tax is measured is \$140,000, calculated as follows.

	<b>GSCRC APPORTIONMENT</b>	<b>Total Everywhere</b>	<b>APPORTIONMENT PERCENTAGE</b>
Payroll Factor	\$100,000	\$1,000,000	10.0000%
Sales Revenue Factor	\$500,000	\$2,000,000	25.0000%
Total Percentage	35.0000% (Total of both APPORTIONMENT factors)		
<b>Divide by Number of Factors Present (2)</b>			
GSCRC APPORTIONMENT	17.50%		
Total Net Profits	\$800,000		
<b>Multiple by APPORTIONMENT % - 17.5000%</b>			
<b>Subject Net Profit</b>	<b>\$140,000</b>		

**b. Computation of Apportionment with only one Factor**

- i. If either the SALES REVENUE factor or the PAYROLL FACTOR is missing the remaining factor is the APPORTIONMENT PERCENTAGE.
- ii. A factor is not deemed to be absent merely because none of the licensee’s receipts arose inside the JURISDICTION imposing the tax or none of the COMPENSATION paid by the licensee were attributable to activities inside the JURISDICTION imposing the tax.
- iii. If either the SALES REVENUE factor or the PAYROLL FACTOR is missing the remaining factor is the APPORTIONMENT PERCENTAGE.
- iv. **Example 2: APPORTIONMENT calculation with one factor absent.**

1. Ms. C is a sole proprietor who has no EMPLOYEES and performs all the services. Ms. C reported \$1,000,000 of total receipts for 2006, \$500,000 of which were derived from operations in the JURISDICTION imposing the tax. The PAYROLL FACTOR is deemed to be missing because Ms. C has no payroll. Ms. C’s total NET PROFIT is \$400,000. The APPORTIONMENT percentage is 50%, and Ms. C’s NET PROFIT upon which the tax is measured is \$200,000, calculated as follows.

	<b>GSCRC APPORTIONMENT</b>	<b>Total Everywhere</b>	<b>APPORTIONMENT PERCENTAGE</b>
Payroll Factor	\$0.00	\$0.00	0.0000%
Sales Revenue Factor	\$500,000	\$1,000,000	50.0000%
Total Percentage	50.00% (Total of both APPORTIONMENT factors)		
<b>Divide by Number of Factors Present (1)</b>			
GSCRC APPORTIONMENT	50.00%		
Total Net Profits	\$400,000		
<b>Multiple by APPORTIONMENT %- 50.00%</b>			
<b>Subject Net Profit</b>	<b>\$200,000</b>		



c. **Computation of APPORTIONMENT PERCENTAGE with Zero Percent for one Factor.**

i. **Example 3: APPORTIONMENT with zero percent for one factor**

1. G Company operates a factory within the JURISDICTION imposing the tax which processes certain items which are shipped to another factory operated by the company outside the JURISDICTION imposing the tax for completion of the finished product. There are no receipts from SALES REVENUE or services rendered within the JURISDICTION imposing the tax. In 2006, the PAYROLL at the JURISDICTION imposing the tax plant was \$400,000. G Company’s total 2006 PAYROLL, including the JURISDICTION imposing the tax plant’s PAYROLL, was \$4,000,000. Its SALES REVENUE for the year were \$5,000,000. The APPORTIONMENT percentage is 5%, calculated as follows.

	<b>GSCRC APPORTIONMENT</b>	<b>Total Everywhere</b>	<b>APPORTIONMENT PERCENTAGE</b>
Payroll Factor	\$0.00	\$5,000,000	0.0000%
Sales Revenue Factor	\$400,000	\$4,000,000	10.0000%
Total Percentage	10.0000% (Total of both APPORTIONMENT factors)		
<b>Divide by Number of Factors Present (2)</b>			
GSCRC APPORTIONMENT	5.0000%		

2. In this example, the mere fact that the PAYROLL FACTOR is zero (because all payroll was found to be situated entirely outside the JURISDICTION imposing the tax) does not exclude the factor from the formula.

d. **Remedy for distorted APPORTIONMENT PERCENTAGE**

- i. If a licensee believes the requirements of this Section do not result in a fair and proper ALLOCATION of NET PROFIT because of the peculiar or unusual nature of the business involved, the taxpayer shall submit a detailed written request that explains the basis for a deviation request and a proposed remedy to the APPORTIONMENT issue. The statement should provide a detailed facts explaining the basis of the exception sought and proposed remedy for APPORTIONMENT issue.
- ii. In each case, an apportionment deviation determination shall be made in accordance with the facts as permitted in *KRS 67.753*. The Executive

Director of GSCRC (subject to the permission and approval of the GSCRC Board of Commissioners) may adjust the calculation of any licensee to fairly and accurately reflect BUSINESS ACTIVITY within the JURISDICTION imposing the tax. Once permission to use a different method in calculating the NET PROFIT LICENSE TAX has been granted, a licensee must continue to use the alternate method until given permission to change by the GSCRC.

- iii. Once a request for APPORTIONMENT deviation is granted to a taxpayer then that formula shall be used in calculating the NET PROFIT permanently. If the taxpayer requires any additional changes in calculation, then GSCRC must be notified.

**e. Records required**

- i. Every licensee subject to the APPORTIONMENT PERCENTAGE shall keep accurate records sufficient to support each APPORTIONMENT factor. These records must be available for inspection by the GSCRC.

**Section 4.13 Special Cases**

The following special cases have presented questions and difficulties with respect to calculating tax liability for collection of the OCCUPATIONAL LICENSE TAX. The provisions are established to clarify the liability in these special cases and to outline the procedures by which the JURISDICTION shall collect taxes due.

**Section 4.13(A) Income from Real Property**

- A. All INDIVIDUALS AND/OR BUSINESS ENTITIES receiving income from rental of REAL PROPERTY shall be deemed to be in the business of renting property and the rental income is subject to the OCCUPATIONAL LICENSE TAX.
- B. Every BUSINESS ENTITY (including, but not limited to, INDIVIDUALS, FIDUCIARY(IES) acting on behalf of INDIVIDUALS, and deceased INDIVIDUALS) engaged in the rental of REAL PROPERTY shall be deemed with respect to such rentals to be engaged in BUSINESS ACTIVITY which requires a BUSINESS LICENSE tax to

be paid and an annual RETURN filed regardless of the amount of gross rental receipts received. For purposes of these regulations, rental property includes, but is not limited to:

- a. Improvements such as warehouses
  - b. Apartment buildings containing one or more units
  - c. Hotel buildings
  - d. Office buildings
  - e. Restaurant buildings
  - f. Any other commercial structure (trailer, yard, field, farm, barn, etc.).
- C. REAL PROPERTY shall include commercial property, residential property, farm property and all other types of real estate.
- a. SALES REVENUE from the sale, lease, rental, or other use of REAL PROPERTY is earned in the JURISDICTION if the REAL PROPERTY is located in the JURISDICTION.
  - b. A PERSON or BUSINESS ENTITY with rental activity in the JURISDICTION and receiving income from the rental, ownership, management, or operation of REAL PROPERTY, wherever located, are presumed to be in the business of renting property, regardless of the amount of gross annual rental income. The NET PROFITS from such rental, ownership, management, or operation shall be included in the NET PROFIT LICENSE TAX RETURN of the PERSON or BUSINESS ENTITY.

**Section 4.13 (B) Estate and Inheritance Real Property Transactions**

- A. The NET PROFITS of a FIDUCIARY (estate or trust) which is engaged in BUSINESS ACTIVITY in the JURISDICTION are subject to the NET PROFIT LICENSE TAX as is the NET PROFIT of any other business.
- B. To illustrate the various reporting and filing requirements for both the estate and the FIDUCIARY (estate administrator/executor), the following example will be referenced to provide insight into possible scenarios. The example is not exhaustive and due to the complicated nature of estates, it may be necessary to present a written description of the estate operation for review by the GSCRC staff to determine the most appropriate method of filing both NET PROFIT LICENSE TAX and PAYROLL TAX.

a. Example of Estate and FIDUCIARY Tax Requirements:

- i. A sole proprietor of a large agricultural farm located within the taxing JURISDICTION dies and leaves the asset to the administration of a previously appointed estate executor. The executor administers the estate and begins the process of dissolving assets. The executor is a local attorney who has a BUSINESS LICENSE in the taxing JURISDICTION for her law office. Due to the size of the farm operation, the executor continues to maintain the daily operations using existing EMPLOYEES and resources. The “winding-down” process takes multiple years. During this time, the Executor is paid a weekly stipend for the work on the estate. The executor is not paid through the PAYROLL service that is utilized to pay EMPLOYEES. Rather, the executor receives a Form 1099-MISC or Form 1099-NEC at the end of the year. The resolution of the estate requires the sale of multiple properties and physical equipment.

b. **Fiduciary Filing Obligation(s)**

- i. FIDUCIARIES acting on behalf of INDIVIDUALs, deceased INDIVIDUALs, or estates, who receive income are engaged in BUSINESS ACTIVITY subject to NET PROFIT LICENSE TAX.
- ii. The FIDUCIARY may be a relative or a hired professional. The proper reporting method is dependent upon how the FIDUCIARY is compensated.
  1. If FIDUCIARY is paid as an EMPLOYEE and receives a Form W-2 then the estate should remit PAYROLL TAX on wages earned.
  2. If FIDUCIARY receives non-employee COMPENSATION that income should be reported by the FIDUCIARY through an annual NET PROFIT LICENSE TAX RETURN.
- iii. If the FIDUCIARY is an INDIVIDUAL or has a business, the income may be reported on an annual NET PROFIT LICENSE TAX RETURN in the tax JURISDICTION. The income from the Executor obligations may

be reported on the same RETURN as other BUSINESS ACTIVITY conducted in the JURISDICTION or if this is the sole activity in the JURISDICTION, the executor would need to register as a business and remit an annual NET PROFIT LICENSE TAX RETURN and maintain a compliant BUSINESS LICENSE.

1. NOTE: The situation of a paid estate Executor that does not have a business is like that of an INDEPENDENT CONTRACTOR. See Section 3.24(C) of this regulation for more information on INDEPENDENT CONTRACTOR filing obligations.

iv. **Example: Fiduciary Responsibilities Based on the Example in Section B(b)(i).**

1. A sole proprietor of a large agricultural farm located within the taxing JURISDICTION dies and leaves the asset to the administration of a previously appointed estate executor. The executor administers the estate and begins the process of dissolving assets. The executor is a local attorney who has a BUSINESS LICENSE in the taxing JURISDICTION for her law office. Due to the size of the farm operation, the executor continues to maintain the daily operations using existing EMPLOYEES and resources. The “winding-down” process takes multiple years. During this time, the Executor is paid a weekly stipend for the work on the estate. The Executor is not paid through the PAYROLL service that is utilized to pay EMPLOYEES. Rather, the executor receives a Form 1099-MISC or Form 1099-NEC at the end of the year. The resolution of the estate requires the sale of multiple properties and physical equipment.
2. In the example above, the FIDUCIARY would be the appointed estate executor. The farm is located within the taxing

JURISDICTION and thus all work performed at the farm, including the Executor administering the estate, is considered BUSINESS ACTIVITY subject to local NET PROFIT LICENSE TAX and/or PAYROLL TAX filing requirement.

3. In the example set out above, the FIDUCIARY executor continues maintenance of the farm operations and is paid by Form 1099-MISC or Form 1099-NEC. This means that the FIDUCIARY executor would report all income derived from the estate administration on an annual NET PROFIT LICENSE TAX RETURN for the year(s) in which she performs the work.
4. The example states that the FIDUCIARY executor is an attorney who maintains a BUSINESS LICENSE and this income could be reported on the same NET PROFIT LICENSE TAX RETURN as the other BUSINESS ACTIVITY that occurs for the law office.

**c. Estate Filing Obligation(s)**

- i. An estate engaged in BUSINESS ACTIVITY is subject to the NET PROFIT LICENSE TAX which includes the rental or sale of REAL PROPERTY.
- ii. There is no minimum income threshold for when a NET PROFIT LICENSE TAX RETURN should be filed for rental activity associated with REAL PROPERTY.
- iii. The CAPITAL GAIN OR CAPITAL LOSS associated with a REAL PROPERTY transaction of an estate is considered BUSINESS INCOME subject to NET PROFIT LICENSE TAX.<sup>4</sup>
- iv. NOTE: NET PROFIT LICENSE TAX is not a tax on the income generated from the estate but rather is a tax on the BUSINESS ACTIVITY that occurs in the taxing JURISDICTION.

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<sup>4</sup> *Commissioner of the Sinking Fund v. Estate of Doyle, et al.*, 573 S.W. 2d 932 (KY. App. 1978).

1. Any request for deviation related to the rental of REAL PROPERTY must be made by submitting a written request for deviation that provides details explaining the issues related to APORIONMENT and the proposed remedy. For example, a deviation may be requested when an INDIVIDUAL rents REAL PROPERTY to a family member for the exact amount of a mortgage on the REAL PROPERTY.
2. **Example of Estate Filing Obligations in Example in Section (B)(b)(i).**
  - a. The BUSINESS ACTIVITY conducted by the FIDUCIARY for the estate in the example includes the sale of REAL PROPERTY and the sale of equipment/business assets. These transactions are subject to the NET PROFIT LICENSE TAX and should be reported on an annual NET PROFIT LICENSE TAX RETURN. The RETURN should be submitted for either the estate or the existing business account for the farm.
  - b. How the income will be reported to the local taxing JURISDICTION depends on how the income is reported on the FEDERAL INCOME TAX RETURN.
    - i. If the income is reported on the farm business FEDERAL INCOME TAX RETURN, then it should be filed under the existing business account.
    - ii. If the income is reported on a separate FEDERAL INCOME TAX RETURN for the estate, then that BUSINESS ENTITY should create an account and maintain a BUSINESS LICENSE.

**Section 4.13 (C) Independent Contractors**

- A. A PERSON defined as an INDEPENDENT CONTRACTOR under *Regulation 1-1* is deemed to be engaged in BUSINESS ACTIVITY which requires him or her to obtain his

or her own NET PROFIT LICENSE TAX account, to file an annual RETURN and remit tax due.

- B. This requirement exists for all INDIVIDUAL INDEPENDENT CONTRACTORS regardless of BUSINESS ENTITY formation (i.e., if a taxpayer acts as an INDEPENDENT CONTRACTOR, it does not matter if they are legally incorporated or not, the filing requirement is the same for BUSINESS ACTIVITY even if conducted by a single INDIVIDUAL PERSON).
- C. All companies conducting BUSINESS in the JURISDICTION must submit copies of all Form 1099-MISC or Form 1099-NEC issued to any subcontract laborers (or equivalent listing). If the issuing company does not provide details on what portion of the Form 1099-MISC or Form 1099-NEC COMPENSATION was earned by the recipient in Scott County, then the default will be to assess taxes on 100% of the amount reported.
  - a. The BUSINESS operating in the JURISDICTION is not responsible for any tax due on the compensation paid through the Form 1099. The recipient is responsible for filing an annual NET PROFIT and payment of any tax due. The only obligation for the issuing BUSINESS is to report the compensation paid to the RECIPIENT.
- D. There is no minimum non-employee COMPENSATION threshold which triggers the responsibility of a BUSINESS to remit the Form 1099-MISC or Form 1099-NEC and/or an equivalent listing.
- E. If a BUSINESS ENTITY located within the taxing JURISDICTION makes payment to a non-employee vendor for work conducted in taxing JURISDICTION, then that information must be reported to GSCRC even if it does not meet the federal threshold of \$600.00.
  - a. If no Form 1099-MISC or Form 1099-NEC is issued then an equivalent listing may be submitted that provides the name of vendor, address, total non-employee COMPENSATION paid for BUSINESS ACTIVITY conducted within Georgetown/Scott County.



- F. If a BUSINESS ENTITY fails to remit the Form 1099-MISC or Form 1099-NEC, then GSCRC may add any federal deduction taken for subcontractors/labors back to the local NET PROFIT LICENSE TAX calculation worksheet.
- G. INDEPENDENT CONTRACTORS working in the JURISDICTION can avoid late filing penalties and interest by proactively registering with GSCRC and filing timely NET PROFIT LICENSE TAX RETURNS. If no work is conducted, then a “no activity” RETURN should be filed and/or the account should be closed.
- H. In determining whether a PERSON is an INDEPENDENT CONTRACTOR or an EMPLOYEE, a thorough analysis must be done. The primary factors to be considered are:
  - a. **Behavioral Factors**: A worker is an EMPLOYEE when the BUSINESS ENTITY has the right to direct and control the work performed, even if that right is not exercised. Behavior control categories may include:
    - i. Type of instructions given, such as when and where to work, what tools to be used or where to purchase supplies and services. Receiving types of instructions in these examples may indicate a worker is an EMPLOYEE.
      - 1. Degree of instruction, more detailed instructions may indicate that the worker is an EMPLOYEE. Less detailed instructions reflect less control, indicating that the worker is more likely an INDEPENDENT CONTRACTOR.
      - 2. Evaluation systems to measure the details of how the work is done points to an EMPLOYEE relationship. Evaluation systems measuring just the end result point to either an INDEPENDENT CONTRACTOR or an EMPLOYEE.
      - 3. Training a worker on how to do the job- or periodic or on-going training about procedures and methods is strong evidence that the worker is an EMPLOYEE. INDEPENDENT CONTRACTORS ordinarily use their own methods.

- b. **Financial Factors:** Does the BUSINESS ENTITY have the right to direct or control the financial and business aspects of the worker’s job? Consider:
    - i. Significant investment in the equipment the worker uses for someone else.
    - ii. Unreimbursed expenses, INDEPENDENT CONTRACTORS are more likely to incur unreimbursed expenses than an EMPLOYEE.
    - iii. Opportunity for profit or loss is often an indicator of an INDEPENDENT CONTRACTOR.
    - iv. Services available to the market. INDEPENDENT CONTRACTORS are generally free to seek out business opportunities.
    - v. Method of payment. An EMPLOYEE is generally guaranteed a regular wage amount for an hourly, weekly, or monthly period even when supplemented by commission. However, an INDEPENDENT CONTRACTOR is most often paid for a job by a flat fee.
  - c. **Type of Relationship:** The type of relationship depends upon how the worker and the business perceive their interaction with one another. This may include:
    - i. Written contracts which describe the relationship the parties intend to create. Although a contract stating that the worker is an EMPLOYEE, or an INDEPENDENT CONTRACTOR is not sufficient to determine the worker’s status.
    - ii. Businesses providing EMPLOYEE benefits, such as health insurance, pension, vacation pay, etc. Businesses generally do not grant these benefits to INDEPENDENT CONTRACTORS.
    - iii. The permanency of the relationship of the parties is important. An expectation that the relationship will continue indefinitely, rather than for a specific project or period, is generally seen as evidence that the intent was to create an EMPLOYER-EMPLOYEE relationship.
- I. All these factors must be considered when determining whether a worker is an EMPLOYEE or an INDEPENDENT CONTRACTOR. There is no “magic” set of factors but rather a factual analysis must be done of the overall relationship. The chart below is not exhaustive but details some of the primary considerations for determining if someone is an EMPLOYEE or an INDEPENDENT CONTRACTOR.
- a. For a more detailed discussion of this topic and related legal issues, please see the Internal Revenue Service website [www.irs.gov](http://www.irs.gov) for resources related to

EMPLOYEE classification. The Social Security Administration has also issued statements concerning the “control test” determination that may be referenced in making the classification between EMPLOYEE versus INDEPENDENT CONTRACTOR.

Factor	Employee	IC
PERSON rendering service controls the manner and method of performance.	NO	YES
PERSON rendering the service has substantial investment in tools/equipment.	NO	YES
PERSON performing the work undertook substantial cost(s).	NO	YES
Service required special training or licensure not provided by recipient of services.	NO	YES
Is the relationship between the PERSON rendering service and recipient business permanent?	YES	NO
Is the person rendering services paid on regular intervals such as weekly, monthly?	YES	NO
Is the worker able to publicly advertise his/her expertise to solicit other business?	NO	YES
Is there a contractual agreement for the rendering of services for one specific project?	NO	YES
Does the worker have an annual performance evaluation with a supervisor?	YES	NO

**Section 4.13 (D) Tipped Employees**

A. All COMPENSATION earned for work performed in the taxing JURISDICTION, including tipped income, is subject to PAYROLL TAX.

- a. Tipped income is defined as cash tips received directly from customers and tips from customers who leave a tip through electronic settlement or payment (including credit card, debt card, gift card or any other electronic payment method). All cash and non-cash tips received by an employee are income and subject to federal income tax and PAYROLL TAX. *See IRS Publication 1244.*
- b. According to the IRS, an employee who receives tips must do the following:
  - i. Keep a daily tip record
  - ii. Report tips to the employer, unless the total is less than \$20.00 per month per employer.
  - iii. Report all tips on an individual income tax return.

- d. PAYROLL TAX is due on all COMPENSATION even if a deficit in earnings prevents an EMPLOYER from being able to withhold the entirety of an EMPLOYEE'S tax liability based upon their COMPENSATION.
- e. In the case of tipped EMPLOYEES, all EMPLOYERS SHALL remit a report to GSCRC with each EMPLOYER'S Return of License Tax Withheld RETURN. The report is to be filed at the same frequency as PAYROLL TAXES are remitted by the EMPLOYER (quarterly or monthly).
  - i. The tipped EMPLOYEE income report must include:
    - i. EMPLOYEE name
    - ii. EMPLOYEE mailing address
    - iii. Total COMPENSATION earned (per JURISDICTION, if applicable)
    - iv. Total tax withheld for each JURISDICTION
    - v. Total tax that should be remitted based on COMPENSATION total
- f. GSCRC may use the information provided in the report to seek compliance from the EMPLOYEES for any PAYROLL TAX due based upon all COMPENSATION earned (including tip income).
- g. Any tipped EMPLOYEE that receives COMPENSATION that is not subject to PAYROLL TAX through his or her EMPLOYER is required to register for an account with GSCRC to pay PAYROLL TAX due.
  - i. EMPLOYEE must remit an Annual Reconciliation of License Tax Withheld to reconcile the PAYROLL TAX withheld by the EMPLOYER and the total PAYROLL TAX due based on COMPENSATION received.
    - 1. This will not be necessary if the EMPLOYER has withheld the total PAYROLL TAX due on COMPENSATION that includes all tipped income.
  - ii. This annual return should be submitted with a copy of the EMPLOYEE W-2. The PAYROLL TAX withheld by the EMPLOYER should be used to off set the PAYROLL TAX due by the EMPLOYEE on the annual reconciliation.

2. For example: Joe Smith is a tipped bell hop at a local hotel and works 25 hours per week and is paid \$2.50 per hour and earns tipped income through credit card payments and cash payments. The tipped income from credit card payments is allocated to Joe by his EMPLOYER and is included on the employee W-2. The cash tip income is reported by Joe to his employer and is included on his employee W-2. Joe is responsible for recording the cash tips received for federal income tax and local occupational tax purposes. The EMPLOYER remits federal taxes and the remainder is used to pay local PAYROLL TAXES due. The balance that remains due is PAYROLL TAX and is the personal responsibility of Joe. The remainder is what would be required to be reported on an annual reconciliation by the EMPLOYEE.

\$1,625.00 in hourly compensation
\$2,500.00 of credit card tips
= \$4,125.00
+ \$15,000.00 in cash tips recorded by Joe not remitted to Employer
<hr/>
\$19,125.00 total COMPENSATION
\$4,125.00 total EMPLOYER controlled wage
-\$2,926.13 FICA Tax
-\$956.25 KY Income Tax (5%)
-\$191.25 City of Georgetown Tax (1%)
-\$191.25 Scott County Tax (1%)
-\$95.63 Scott School Tax (0.50%)
<hr/>
-\$235.51 TAX DUE

3. The total wages earned by the EMPLOYEE that were controlled by the EMPLOYER were not sufficient to pay the PAYROLL TAX due on his total COMPENSATION that includes tip income. The employer paid a total PAYROLL TAX of \$242.62 on behalf of Joe Smith. Joe Smith must open an account with GSCRC and remit taxes for the wages earned that were not reported by his EMPLOYER. The total due would be City: \$191.25 County: \$191.25 School: \$95.63 = \$478.13 – \$242.62 (withheld by EMPLOYER and remitted to GSCRC) = \$235.51.

**Section 4.13 (E) Employees of Federal Agencies (United States Postal Employees)**

- A. Certain federal agencies do not withhold and remit to the JURISDICTION imposing the tax the full amount of their EMPLOYEES' license tax. For example, the United State Postal Service (hereafter, USPS) does not remit local PAYROLL TAXES in Scott County. Therefore, it is the INDIVIDUAL EMPLOYEE'S responsibility to register with the Georgetown-Scott County Revenue Commission and remit PAYROLL TAXES in accordance with local ORDINANCE and state law.

- a. Such EMPLOYEES are required to file a monthly/quarterly Form PR100, Employer's Return of License Tax Withheld and remit the license tax due as if they were their own EMPLOYER.
- b. An annual Reconciliation of License Tax Withheld shall also be submitted with a copy of the annual EMPLOYEE W-2.
- c. For more information on satisfying local filing obligations, USPS EMPLOYEES can refer to the USPS website. Specifically, to the "The Code of Ethics, Principals of Ethical Conduct for Government Officers and EMPLOYEES" which states: "EMPLOYEES shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those — such as federal, state, and local taxes — that are imposed by law." The website continues, "All Postal Service EMPLOYEES must adhere to the highest possible ethical standards concerning the payment of their taxes and other debts. As a Postal Service EMPLOYEE, you are personally responsible for ensuring correct federal, state, and local taxes are deducted from your pay. If you are subject to federal, state, and local taxes, and the correct deductions are not being withheld from your pay, you must take immediate action to ensure appropriate tax withholdings."

**Section 4.13 (F) Income Deriving from a Covenant not to Compete**

- A. Payments deriving from a covenant not to compete are excluded from a licensee's NET PROFIT subject to the OCCUPATIONAL LICENSE TAX to the extent that the recipient does not perform services in consideration for such payments.
- B. Licensees are required to report income deriving from a covenant not to compete and to show that such income is entitled to the exclusion hereunder by attaching a copy of the covenant from which the income is derived.

**Section 4.13 (G) Commissions or fees Received by Trustees, Executors and Administrators**

- A. Monies received as commissions or fees by a PERSON who holds in trust property or monies to which another has the beneficial title or interest or who receives and controls income for another PERSON or PERSONS are subject to the NET PROFIT LICENSE TAX unless the PERSON receiving such commissions or fees is a bank, trust company,

or combined bank and trust company EXEMPTED from payment of the NET PROFIT LICENSE TAX by statute.

## **REGULATION 5-1 EXEMPT ACTIVITIES**

### **Section 5.1 Exemptions to Payroll Tax on Wages**

The following classes of businesses are EXEMPT from payment of PAYROLL TAX on COMPENSATION. Unless stated otherwise these EXEMPTIONS apply to the PAYROLL TAX imposed by the City of Georgetown, Kentucky, the Scott County Fiscal Court, and the Scott County Public School District.

#### **A. Domestic Servants & Casual Labor**

a. No NET PROFIT LICENSE TAX shall be required of DOMESTIC SERVANTS employed in private homes, or for temporary or *casual farm labor*.

i. CASUAL LABOR is generally defined as work that is not in the normal course of a trade, business, occupation, or profession. Thus, any service that occurs regularly or repeatedly does not meet the definition of CASUAL LABOR.

#### **ii. Foreign Agricultural Workers (H-2A Visa Workers)**

i. H-2A Agricultural Workers are EXEMPT from PAYROLL TAX pursuant to an interpretive finding issued by the Georgetown-Scott County Revenue Commission on April 27, 2016.

#### **C. Duly Ordained Minister of Religion**

a. No OCCUPATIONAL LICENSE TAX shall be imposed on a DULY ORDAINED MINISTER who has been ordained in accordance with the ceremonial ritual or discipline of a recognized church, religious sect or religious organization, to teach and preach its religious doctrines or to administer its rites in public workshop, in the performance of one or more of those duties; however, it is not intended to EXEMPT such DULY ORDAINED MINISTER OF RELIGION from the necessity of paying PAYROLL TAX for work done or services performed in the City in activities not connected with his regular duties as a minister of religion.

#### **D. PERSON over the age of 65**

- a. No PAYROLL TAX shall be imposed of PERSONS of the age of sixty-five (65) and older as to the first ten thousand dollars (\$10,000.00) of COMPENSATION earned by such persons in the City/County for work done or services performed or rendered in the City/County.

**E. Kentucky National Guard**

- a. No OCCUPATIONAL LICENSE TAX shall be imposed of any COMPENSATION received by a member of the Kentucky National Guard for active-duty training, unit training, assemblies, and annual field training.

**F. Election Precinct Workers**

- a. No OCCUPATIONAL LICENSE TAX shall be imposed of any COMPENSATION received by precinct workers for election training or work at election booths in state, county, and local primary, regular or special elections.

**Section 5.2 Exemptions to License Tax on Net Profit**

The following classes of BUSINESSES are EXEMPT from NET PROFIT LICENSE TAX.

Unless stated otherwise these EXEMPTIONS apply to the NET PROFIT LICENSE TAX imposed by the City of Georgetown, Kentucky, the Scott County Fiscal Court, and the Scott County Public School District.

**A. BANK & TRUST COMPANIES**

- a. No NET PROFIT LICENSE TAX is imposed upon or collected from and no filing is required of any bank, trust company, combined bank and trust company or combined trust, banking, and title business in Kentucky, or upon any state or federally chartered savings and loan association because these entities are expressly EXEMPTED from the license fee by *KRS 91.200*, *KRS 68.180*, *KRS 160.483*, and *KRS 96A.320*.

**B. INSURANCE COMPANIES.**

- a. NET PROFIT LICENSE TAX is imposed by the city and county on insurance companies other than domestic life insurance companies who engage in the sale of any product that is not subject to the insurance premium tax authorized by *KRS 91A.080*.



**C. RACETRACK**

- a. No NET PROFIT LICENSE TAX is imposed on, and no filing is required of PERSONS engaged in the business of conducting a racetrack because this is prohibited by *KRS 137.190*.

**D. BOARDS, CHAMBERS, TRADE ASSOCIATIONS, UNIONS**

- a. No NET PROFIT LICENSE TAX is imposed on the activities of boards of trade, chamber of commerce, trade associations or unions, community chest funds or foundations; corporations or associations organized and operated exclusively for religious, charitable, scientific, literary, educational, or civil purposes or for the prevention for cruelty to children or animals; or clubs or fraternal organizations operated exclusively for social, literary, educational, or fraternal purposes *where no part of the earnings, income or receipts of such units, groups or associations inures to the benefit of any private shareholder or individual*, because such entities are not defined as “businesses” under the ordinances which impose the NET PROFIT LICENSE TAX and are therefore EXEMPT.
- b. To qualify for this EXEMPTION, the organization must submit satisfactory proof of their exempt status for federal income tax purposes.
- c. **Homeowners’ Associations**
  - a. A homeowners’ association (HOA) that consists of a membership organization formed by a real estate developer or by members of a neighborhood for the purpose of maintaining common green areas, streets, sidewalks and to enforce covenants to preserve the appearance of the neighborhood and/or development shall be EXEMPT from NET PROFIT TAX if:
    - i. As an association it is operated exclusively for the benefit of all the residents of a community;
    - ii. There is no profit earned and no BUSINESS ACTIVITY conducted beyond neighborhood maintenance and beautification;

- iii. No income inures to the benefit of a single property owner or to an officer, director or shareholder of the association.
- b. To qualify for EXEMPTION, the association shall submit a written notice which should be signed by current leadership of the association and include a copy of any bylaws or incorporation documents for the association.
- c. An association is NOT EXEMPT if it purchases real estate for development activity that is conducted for profit or engages in the maintenance of private property for profit.
- d. If there is a material change in the structure or operation of the association then the association shall notify GSCRC in writing and resubmit their written explanation and bylaws to determine if the association is still EXEMPT from NET PROFIT TAX requirements.

**E. PUBLIC SERVICE CORPORATION.**

- a. No NET PROFIT LICENSE TAX shall be required of 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*; *KRS 91.200*; *KRS 68.180*. Licensees whose BUSINESSES are predominantly non-public service who are also engaged in public service activity are required to pay a NET PROFIT LICENSE TAX on their NET PROFIT derived from the non-public service activities apportioned to the City/County/School District.

**F. LOCAL GOVERNMENT AUTHORIZATION**

- a. No NET PROFIT LICENSE TAX shall be required of any PERSON or BUSINESS ENTITY authorized by the City of Georgetown, City of Stamping Ground, City of Sadieville, City of Oxford or the Scott County Fiscal Court to demonstrate, sell or offer for sale any goods, wares, or merchandise at an annual, semi-annual, or other FESTIVAL or arts and crafts show.

**G. DULY ORDAINED MINISTER OF RELIGION**

- a. No NET PROFIT LICENSE TAX shall be imposed on a DULY ORDAINED MINISTER who has been ordained in accordance with the ceremonial ritual or discipline of a recognized church, religious sect or religious organization, to teach and preach its religious doctrines or to administer its rites in public workshop, in the performance of one or more of those duties; however, it is not intended to EXEMPT such DULY ORDAINED MINISTER OF RELIGION from the necessity of paying NET PROFIT LICENSE TAX for work done or services performed in the City in activities not connected with his or her regular duties as a minister of religion.

H. **NON-RESIDENT FARM PRODUCTS.**

- a. No NET PROFIT LICENSE TAX shall be required of NON-RESIDENTS who sell farm products, other than trees, shrubs, or ornamental plants, in the City/County, or NON-RESIDENTS owners who sell livestock in the City/County or who board their livestock in the City/County for breeding purposes.
- b. Please note that under Kentucky law any form of “seafood” is considered a commodity not an agricultural product (*KRS 257.010*) and therefore it is subject to NET PROFIT LICENSE TAX.

I. **PERSONS OVER AGE 65**

- a. No NET PROFIT LICENSE TAX shall be required of PERSONS of the age of sixty-five (65) and older as to the first ten thousand dollars (\$10,000.00) of NET PROFIT from BUSINESS conducted in the City by such PERSONS as a sole proprietor. **This EXEMPTION is for the City of Georgetown, Kentucky license tax only!**

J. **LOCAL GOVERNMENT SPONSORSHIP.**

- a. No NET PROFIT LICENSE TAX shall be required of any PERSON or BUSINESS ENTITY authorized by the City of Georgetown, City of Stamping Ground, City of Sadieville, City of Oxford or the Scott County Fiscal Court to demonstrate, sell or offer for sale any goods, wares, or merchandise at an annual, semi-annual, or other FESTIVAL or arts and crafts show.

**K. ALCOHOLIC BEVERAGE MANUFACTURING.**

- a. No NET PROFIT LICENSE TAX shall be required of PERSONS or BUSINESS ENTITIES that have been issued a license under *KRS 243* to engage in manufacturing or trafficking in alcoholic beverages.
- b. PERSONS engaged in the BUSINESS of manufacturing or trafficking in alcoholic beverages are required to file a NET PROFIT LICENSE TAX RETURN but may exclude the portion of their NET PROFIT derived from the manufacturing or trafficking in alcoholic beverages.
  - i. PERSONS only having a portion of their BUSINESS ACTIVITY being derived from the manufacturing and/or selling of alcoholic beverages are required to file a RETURN but may exclude that portion of their NET PROFIT through a calculation adjustment. See instructions for NET PROFIT LICENSE TAX RETURN for detailed information.

**L. MASTER TOBACCO SETTLEMENT FUNDS**

- a. Funds received from the state as a share of the tobacco settlement funds to be paid to farmers are EXEMPT from NET PROFIT LICENSE TAX for the purpose of calculating the NET PROFIT.
  - ii. Any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco, known as the Master Settlement Agreement, signed on November 22, 1998.
  - iii. Any amount received from the secondary settlement fund, referred to as “Phase II” established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses by the national tobacco settlement; and
  - iv. Any amount received from funds of the Commodity Credit Corporation for the Tobacco Loan Assistance Program as a result of a reduction of the tobacco quota allotted from the 1998 to 1999 calendar year as provided under *Public Law 106-78, Title 8, Section 803*.

**M. DISASTER RESPONSE BUSINESS**

- a. Pursuant to *KRS 91.200 (h)(1-2)*, the profits earned or income received for work performed during a disaster response period by a disaster response business or a disaster response employee. See *KRS 141.010*.
- b. *KRS 141.010 (9)* defines “disaster or emergency-related work” as repairing, renovating, installing, building or rendering services that are essential to the restoration of critical infrastructure that has been damaged, impaired, or destroyed by a declared state disaster or emergency.
- c. *KRS 141.010(10)* defines “disaster response business” as any entity that:
  - v. That has no presence in the state and conducts no BUSINESS in the state, except for disaster or emergency-related work during a disaster response period;
  - vi. Whose services are requested by a registered BUSINESS or by a local government for purposes of performing disaster or emergency-related work in the state during a disaster response period; and
  - vii. That has no registrations, tax filings, or NEXUS in this state other than disaster or emergency-related work during the calendar year immediately preceding the declared state disaster or emergency.
- d. *KRS 141.010(11)* defines “disaster response employee” as an EMPLOYEE who does not work or reside in the state, except for disaster or emergency-related work during the disaster response period;
- e. *KRS 141.010(12)* defines “disaster response period” as a period that begins ten (10) days prior to the first day of the Governor’s declaration under *KRS 39A.100* or the President’s declaration of a major federal disaster or emergency, whichever occurs first, and that extends thirty (30) calendar days after the declared state disaster or emergency.

## **REGULATION 6-1      QUARTERLY ESTIMATED PAYMENTS**

### **Section 6.1    Net Profit License Tax Return Quarterly Estimated Payments**

- A. Every BUSINESS ENTITY, other than a sole proprietorship, subject to a NET PROFIT LICENSE TAX imposed by a taxing JURISDICTION shall make quarterly estimated tax

payments on or before the fifteenth (15th) day of the fourth, sixth, ninth and twelfth month of each taxable year if the tax liability for the taxable year exceeds five thousand dollars (\$5,000).

- B. The estimated payment should be submitted on the NP FORM RC/ES 100 NET PROFIT LICENSE TAX ESTIMATED PAYMENT FORM.
- C. The quarterly estimated tax payments required shall be based on the lesser of:
  - a. Twenty-two and one-half percent (22.5%) of the current taxable year tax liability;
  - b. Twenty-five percent (25%) of the preceding full year taxable year tax liability; or
  - c. Twenty-five percent (25%) of the average tax liability for the three (3) preceding full year taxable year's tax liabilities if the tax liability for any of the three (3) preceding full taxable years exceeded twenty thousand dollars (\$20,000).
- D. Any BUSINESS ENTITY that fails to submit the minimum quarterly payment required under subsection (2) of this section by the due date for the quarterly payment shall pay an amount equal to twelve percent (12%) per annum simple interest on the amount of the quarterly payment required under subsection (2) of this section from the earlier of:
  - a. The due date for the quarterly payment until the time when the aggregate quarterly payments submitted for the taxable year equal the minimum aggregate payments due under subsection (2) of this section: or
  - b. The due date of the annual RETURN.
  - c. A fraction of month is counted as an entire month.
- E. The provisions of this section shall not apply to any BUSINESS ENTITY'S first full or partial taxable year of doing business in the JURISDICTION imposing the NET PROFIT LICENSE TAX or any first taxable year in which a BUSINESS ENTITY'S tax liability exceeds five thousand dollars (\$5,000).

## **REGULATION 7-1      RECORDS REQUIRED**

### **Section 7.1    Auditor Identification**

AGENTS and EMPLOYEES authorized by the GSCRC to inspect or audit records of any PERSON or BUSINESS ENTITY shall carry proper identification, which shall be subject to

examination by any PERSON whose records are sought to be examined. A licensee may confirm audit authorization directly with the Director of the GSCRC by telephone at (502) 603-5860 or in PERSON at the GSCRC office in Georgetown, Kentucky. The licensee may not use this Regulation to unreasonably delay audits or examinations where the AGENT or EMPLOYEE is carrying proper identification.

**Section 7.2 Power to Examine Books, Papers and Records**

The GSCRC is authorized and empowered to examine the relevant books, papers, records, and copies of federal tax RETURN (and all applicable schedules and explanations) of any licensee, or supposed licensee, to verify the accuracy of any RETURN made or, if no RETURN was made, to ascertain the license tax due, if any.

**Section 7.3 Licensee to Furnish Opportunity for Examinations**

Every licensee or supposed licensee is required after notice of not less than ten (10) days to furnish to the GSCRC the means, facilities, and opportunity to conduct the examinations, investigations and audits authorized in these regulations.

**Section 7.4 Power to Examine Under Oath/Compel Production of Records**

To the extent that any OFFICERS empowered to administer oaths in this Commonwealth are permitted to so order, the GSCRC is empowered to:

1. Order any PERSON presumed to have knowledge of the facts to appear before him.
2. Examine such PERSON, under oath, concerning all RETURNS and transactions relating to alleged COMPENSATION and/or NET PROFIT.
3. Compel the production of books, papers, records, and copies of federal tax RETURNS reasonably related to such COMPENSATION or NET PROFIT.

**Section 7.5 Records Required**

- A. Every BUSINESS ENTITY subject to an OCCUPATIONAL LICENSE TAX governed by provisions of these regulations shall keep records, render statements under oath, make RETURNS and comply with rules from the city, county, and school district. Whenever it is deemed necessary, GSCRC may require a BUSINESS ENTITY or PERSON, by notice served to the BUSINESS ENTITY or PERSON, to make a RETURN, render statements

under oath or keep records, as GSCRC deems sufficient to determine the tax liability of the account.

- B. Every BUSINESS ENTITY shall submit a copy of the corresponding FEDERAL INCOME TAX RETURN (and all applicable schedules and explanations) at the time of filings the annual NET PROFIT LICENSE TAX RETURN with GSCRC. This is true even if the RETURN is reporting “no activity” or a loss is reported. If it becomes necessary, GSCRC may compel the BUSINESS ENTITY to produce for inspection a copy of all statements and schedules in support of the annual NET PROFIT LICENSE TAX RETURN. GSCRC may also require reports of adjustments made by the federal government.
- C. All annual NET PROFIT LICENSE TAX RETURNS received without the corresponding FEDERAL INCOME TAX RETURN will be considered incomplete and a BUSINESS LICENSE will not be issued until all documentation is received by GSCRC.
- D. The requirements of this regulation are permitted under *KRS 67.760(2)*.

**Section 7.6 Federal Form 1099-MISC (or Form 1099-NEC)**

- A. Every BUSINESS ENTITY required to file IRS Form 1099-MISC (of any variety or type) with the Internal Revenue Service shall provide a copy of the issued Forms 1099-MISC to the GSCRC for work done or services performed or rendered within the Georgetown/Scott County.
- B. The Forms 1099-MISC required to be filed with GSCRC under this subsection shall be due on or before February 28th of the year following the close of the calendar year in which such payments were paid or payable.
- C. If the amount of COMPENSATION is not sufficient to issue a 1099-MISC Form (or any variety of Form 1099) (below the \$600.00 threshold of the federal government), the information must still be reported to GSCRC in a report that includes the name, address and total amount paid to each INDIVIDUAL recipient. **There is no minimum income requirement for local NET PROFIT LICENSE TAX in Georgetown-Scott County.**



- D. Please note, if the Form 1099-MISC (or any of Form-1099) information is not provided, the BUSINESS LICENSE for the account will be withheld until such time that all required information is provided to make the account compliant with local regulations.
- E. All INDEPENDENT CONTRACTORS and/or vendors that are issued 1099-MISC for non-employee COMPENSATION earned for work performed in Scott County must be registered as a BUSINESS and are required to file the annual NET PROFIT LICENSE TAX RETURN in the JURISDICTION where the COMPENSATION was earned.
- F. GSCRC will seek compliance with all PERSONS or BUSINESS ENTITIES that are the recipient of any FORM 1099-MISC for non-employee COMPENSATION that/who have not remitted the proper local taxes. It is the responsibility of each taxpayer to understand his or her filing obligations and responsibilities.

## **REGULATION 8-1 SEPARATE RETURNS; FILING REQUIREMENT**

### **Section 8.1 Fiscal Period**

NET PROFIT of a BUSINESS ENTITY shall be determined using the same fiscal period ending date as required for FEDERAL INCOME TAX purposes.

### **Section 8.2 Net Profit License Tax Return**

- A. Every PERSON or BUSINESS ENTITY who has income which is subject to the NET PROFIT LICENSE TAX, regardless of whether such income is sufficient to result in tax liability, is required to file an annual RETURN with copies of the FEDERAL INCOME TAX RETURN and applicable schedules and statements supporting income and expenses. This requirement applies to every PERSON or BUSINESS ENTITY regardless of whether there is a profit, loss, or no activity in the JURISDICTION.
- B. The annual NET PROFIT LICENSE TAX RETURN shall be filed on Form NP100 NET PROFIT LICENSE TAX RETURN available from the GSCRC, by the 15th day of the 4th month following the close of calendar year (or FISCAL YEAR).
- C. GSCRC has received an EXEMPTION from the Kentucky Secretary of State and DOES NOT ACCEPT THE FORM OL-S for the filing of the NET PROFIT LICENSE TAX RETURN. GSCRC collects taxes for three JURISDICTIONS (not a single or dual

JURISDICTION as reported on the Form OL-S). Thus, GSCRC requires that the NET PROFIT LICENSE TAX RETURN be submitted using the local NP 100 NET PROFIT LICENSE TAX RETURN form. The form is available online at [www.gscrevenue.com](http://www.gscrevenue.com)

**D. SCHEDULE FOR FILING NET PROFIT LICENSE TAX RETURNS**

<b>SCHEDULE FOR FILING LICENSE TAX RETURNS ON NET PROFIT</b>	
<b>For Fiscal Years Ending</b>	<b>Due Date (Postmarked or Hand Delivered By)</b>
December 31	April 15
January 31	May 15
February 28	June 15
March 31	July 15
April 30	August 15
May 31	September 15
June 30	October 15
July 31	November 15
August 31	December 15
September 30	January 15
October 31	February 15
November 30	March 15

E. The PERSON making the RETURN shall, at the time of the filing, pay the amount of the NET PROFIT LICENSE TAX (OR PAYROLL TAX) shown as due. If payment is not submitted with original RETURN penalties and interest may be assessed as permitted by state law.

**Section 8.3 Amended Net Profit License Tax Return**

(A) A PERSON or BUSINESS ENTITY shall file an amended NET PROFIT LICENSE TAX RETURN to report and pay any additional license tax, penalty and interest amounts due within three months after a licensee files an amended FEDERAL INCOME TAX RETURN.

(B) There is no separate form to be used to file an amended NET PROFIT LICENSE TAX RETURN. Rather, the specific year NP 100 NET PROFIT LICENSE TAX RETURN should be used. However, the word AMENDED should be clearly placed at the top of the first page of the RETURN.

- (C) A licensee shall file an amended RETURN and pay any additional license tax, penalty, and interest amounts due within six months after FINAL DETERMINATION of a FEDERAL INCOME TAX liability resulting from a FEDERAL AUDIT.

## **REGULATION 9-1      REQUESTING FILING EXTENSIONS**

### **Section 9.1    Extension of Time for Filing**

- (A) To request an extension of time for filing the annual NET PROFIT LICENSE TAX RETURN, a request must be made using the NP FORM 102- EXTENSION REQUEST. This form must be submitted and signed by a PERSON, BUSINESS ENTITY or a duly authorized AGENT, and received on or before the due date for filing. GSCRC may extend the time for filing the NET PROFIT LICENSE TAX RETURN for a period not to exceed that granted by the Internal Revenue Service (or a time period agreed to by the GSCRC and the taxpayer) for the filing of the FEDERAL INCOME TAX RETURN for the same year.
- (B) Please note that submitting a copy of an approved federal tax extension at the time of filing the extended RETURN will not be sufficient to prevent the assessment of late filing penalties and interest. The request for an extension must be received prior to the applicable tax deadline. If a RETURN is submitted past the filing deadline with a copy of the federal tax extension it will be assessed late filing penalties and interest.
- (C) The extension request submitted shall set out the PERSON or BUSINESS ENTITY name and federal identification number maintained for filing purposes, the period which the extension of time for filing is desired and the length of extension.
- (D) Merely sending an estimated payment is not an acceptable request for an extension. A copy of the federal *Form 4868, 8736, or 7004* for the same year may be used for the written request, provided that the PERSON or BUSINESS ENTITY's federal identification number used for OCCUPATIONAL LICENSE TAX purposes is plainly noted. A written request may be submitted without the federal extension form and that will suffice for an extension request.

- (E) An extension of time for filing the NET PROFIT LICENSE TAX RETURN does not extend the time for payment of the NET PROFIT LICENSE TAX due. Except as provided for under subsection (C) of this section, full payment of the estimated license tax liability must accompany the request for extension. If when the extension request is made the NET PROFIT LICENSE TAX liability cannot be determined, an estimated liability shall be remitted based on the preceding year's license tax liability.
- (F) Interest at the rate of twelve percent (12%) per annum or 1% per month shall apply to any unpaid license tax during the period of extension and shall be included with the amount remitted in payment of the license tax at the time of filing the NET PROFIT LICENSE TAX RETURN. No penalty shall be assessed if all filing and payment requirements have in good faith been fulfilled and the final license tax and interest has been paid with the filing of the NET PROFIT LICENSE TAX RETURN within the period as extended. The required estimated license tax payment is presumed to have been made in good faith provided that the taxpayer remits with the timely filed extension request 50% or more of the NET PROFIT LICENSE TAX liability as indicated on the extended NET PROFIT LICENSE TAX RETURN.
- (G) There shall be an automatic extension if due date falls on Saturday, Sunday, or legal holiday. Any RETURN required to be filed hereunder shall be considered to have been timely filed if it is postmarked or hand-delivered to the GSCRC on or before the due date or, in the event the due date is a Saturday, Sunday or legal holiday, if it is postmarked or hand-delivered to the GSCRC offices on the next day which is not a Saturday, Sunday or legal holiday.

## **REGULATION 10-1 MAINTENANCE OF ACCOUNT & ACCOUNT CLOSURE**

### **Section 10.1 Establishing & Maintaining Current Accounts**

- A. To open an account with GSCRC, all BUSINESS ENTITIES/INDIVIDUALS must submit a completed BQ 100 Questionnaire for Occupational License Tax. All portions of this form must be complete for a BUSINESS LICENSE to be issued. The taxpayer must also submit a copy of a government issued identification with the questionnaire.

- B. A BUSINESS LICENSE will be issued upon receipt of a completed BQ 100 Questionnaire for Occupational License Tax. There is no initial fee for taxpayers. There is no set annual fee for the BUSINESS LICENSE to be maintained except for those BUSINESS ENTITIES and INDIVIDUALS subject to a city regulatory fee. For details see Section 11-1 of this regulation.
- C. Each year upon receipt of the timely filed NET PROFIT LICENSE TAX RETURN and complete payment of all taxes and fees due a renewed BUSINESS LICENSE will be issued. This will be based upon whether the taxpayer is a calendar year or FISCAL YEAR taxpayer. A renewed BUSINESS LICENSE will not be issued until an account is compliant with all requirements which includes the processing of all EMPLOYEE PAYROLL TAX documents. There may be an administrative delay in processing the required documentation before a BUSINESS LICENSE is issued.
- D. All accounts that are associated with a taxpayer (by name, social security number, federal identification number) must be compliant for a BUSINESS LICENSE to be issued on any account.
- E. **Consequences of Non-Compliance**
- a. **City of Georgetown Administrative Hold Ordinance**
- i. All accounts that are associated with a taxpayer (by name, social security number, federal identification number) must have a current BUSINESS LICENSE for GSCRC to sign any form required by any other local government agency. This may include agencies such as the Alcohol Beverage Control Administrator, City Clerk, County Clerk, Building Inspection, Code Enforcement, Planning & Zoning, or any other city/county agency.
- ii. Under the City of Georgetown Administrative Hold Ordinance, INDIVIDUALS or BUSINESS ENTITIES who have unpaid fines, taxes, violate any code or ordinance of the city, shall be administratively

ineligible for the issuance of any license, permit or other approval issued by the city or its agencies. See *City of Georgetown Code of Ordinances Section 1-14- Administrative Hold Ordinance*.

**Section 10.2 Cessation of Business & Account Closure**

- A. Upon cessation of BUSINESS in the taxing JURISDICTION, all related accounts with GSCRC should be closed. An account cannot be closed until it is compliant with all filing requirements and all delinquent balances are paid in full.
- B. There are various events that may trigger the closure of a BUSINESS account. The chart below summarizes common events that may require an account be closed, but it is not an exhaustive list of taxpayer responsibilities.

<b>Event</b>	<b>Account Closure Required</b>	<b>Account Maintenance Required</b>
<i>A business continues to operate but moves to a new location.</i>	NO (unless the business moves outside of the jurisdiction and will no longer have business activity within the jurisdiction.)	YES- In this situation the account address just needs updated but the account should remain open. If the business is moving outside of the jurisdiction with no additional activity in the taxing jurisdiction then the account can be closed with the filing of the final net profit license tax return.
<i>A business is forced to file bankruptcy and is no longer operating.</i>	YES. The business should submit a final NET PROFIT LICENSE TAX RETURN for the final period of business. This is true even if it is a partial year.	
<i>A business owner dies suddenly.</i>	YES. When a business owner dies suddenly, and the business will not continue to operate then the account should be closed. This can be done by submitting a final NET PROFIT LICENSE TAX RETURN for the final tax period where operations occurred. This is true even if it was a partial period.	IT DEPENDS. If the business will be purchased or continued as a part of the estate, then it will need to be maintained. It may require some account updates such as contact information which can be done by submitting an updated BQ 100 Questionnaire for Occupational Tax to GSCRC.
<i>A business is located out of state but often has business in the taxing jurisdiction. The business does not have any activity for a one-year period.</i>	NO. Most taxpayers choose to maintain accounts rather than open/close them each year. This is the taxpayer's decision but either way the account must remain compliant. A failure to submit a "no activity return" or to close the account will result in the account becoming delinquent.	Yes. Businesses often find it more convenient to maintain an active account by submitting "no activity returns" for the annual NET PROFIT LICENSE TAX RETURN requirement. This will result in the issuance of a new BUSINESS LICENSE.
<i>A business continues to submit "no activity" returns each year but has not operated in the taxing jurisdiction for ten (10) years.</i>	YES. After multiple taxable years of "no activity," the business may evaluate whether it would be more convenient for the account to be closed and then reopened should there ever be additional business in the taxing JURISDICTION. This minimizes filing requirements for the business.	

**C. CLOSING A NET PROFIT LICENSE TAX ACCOUNT: FINAL NET PROFIT LICENSE TAX RETURN**

- a. A final NET PROFIT LICENSE TAX RETURN should be submitted to report the final period of work completed in the JURISDICTION. The NP 100 NET PROFIT LICENSE TAX RETURN has a designated area to denote that a return is “Final Return.” See Image below for more detail.
  - i. The box directly beneath the Name and Address portion of the NP 100 form should be marked. The box indicates that the RETURN is final and that the account should be closed.
  - ii. If the “Final Return” box is marked, then the taxpayer must also complete Line D of the NP 100 NET PROFIT LICENSE TAX RETURN. If the business was discontinued in the current or a prior year enter the date the business ceased operations. In addition, indicate whether the BUSINESS was dissolved or sold. If the BUSINESS was sold, then enter the name and address of new purchaser. The method of dissolution must be provided.

Georgetown/Scott County Revenue Commission  
2020 Net Profit License Tax Returns

For Year Ended: / /

Name and address	Federal ID # or Social Security #	Business type
		Individual
		Corporation
		Partnership
		LLC/Individual
		LLC/Partnership
		Other

Final return (Check only to inactivate the account-- Complete Question D)

No activity in jurisdictions during tax year (Check only if no activity in all jurisdictions)

A) Business telephone: \_\_\_\_\_ B) Principal business activity: \_\_\_\_\_

C) Principal owner/administrative officer: \_\_\_\_\_

D) If business activity was discontinued within the jurisdiction during the year, state when

Dissolution Sale  if sale, name and address of successor \_\_\_\_\_

Other  if other, describe \_\_\_\_\_

E) Is the business entity an affiliate of a consolidated corporate federal return? YES  NO

F) Did you have employees in the jurisdiction during the tax year? YES  NO  If YES, how many? \_\_\_\_\_

**D. CLOSING A PAYROLL TAX ACCOUNT: FINAL PR 100 EMPLOYER’S RETURN OF LICENSE TAX WITHHELD & RECONCILIATION OF LICENSE TAX WITHHELD**

- a. A final PR 100 EMPLOYER’S RETURN OF LICENSE TAX WITHHELD FORM should be submitted for the final period with EMPLOYEE activity in the taxing JURISDICTION. The form should be clearly marked as a final RETURN when submitted. This can be accomplished by writing, typing, or stamping FINAL RETURN on the top of the form.

- b. REMEMBER- A final RECONCILIATION OF LICENSE TAX WITHHELD must be submitted for the account even if there was only employment for a partial period in the taxable year. The reconciliation must be submitted per the requirements set forth in *Regulation 12-1, Section 12.2*. The form should be clearly marked as a final RETURN when submitted. This can be accomplished by writing, typing, or stamping FINAL RETURN on the top of the form. Upon receipt of all taxes and fees due, the account will be closed.

## REGULATION 11-1 PERIOD OF LIMITATION

### Section 11.1 Period of Limitation

- A. No additional audit of OCCUPATIONAL LICENSE TAX shall be made by the GSCRC after five (5) years from the time the RETURN was due or filed, whichever is later. This limitation shall not apply to an additional assessment in the case of a RETURN that omits gross income in excess of twenty-five percent (25%) of that required to be reported, or in the case of filing a false or fraudulent RETURN to evade the license tax or in the case of failure to file a RETURN. Please note, the maximum penalty that may be assessed on any RETURN is twenty-five percent (25%) of the taxes due per JURISDICTION. This rate accumulates at a rate of five percent (5%) per month for five months. However, there is no statutory limitation on the assessment of interest which accumulates at one percent (1%) of the taxes due per month until the delinquency is resolved.
- B. There is no statute of limitations for tax returns that have not been filed and where a debt has not been established. Pursuant to *26 U.S. Code Section 6501*, the following situations do not have a statute of limitations as to collectability:
  - a. **False return-** In the case of a false or fraudulent return with the intent to evade tax, the tax may be assessed or a proceeding in court for collection of such tax may be begun without assessment, at any time.
  - b. **Willful attempt to evade tax-** In case of a willful attempt in any manner to defeat or evade tax imposed, the tax may be assessed, or a proceeding in court for collection of such tax may be begun without assessment at any time.



- c. **No return filed (failure to file)**- in the case of a failure to file a return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment at any time.
  - d. **Extension by agreement**- In general, where an agreement is in place prior to the expiration of the statute of limitations prescribed for the assessment of any tax imposed then the tax may be assessed at any time prior to the expiration of the period agreed upon.
- C. In those cases, in which the Internal Revenue Service and the licensee have executed a waiver of the federal statute of limitations, the period within which an assessment/refund may be made by the GSCRC is extended one (1) year from the time of final determination of FEDERAL INCOME TAX liability.
- D. Additional amounts of less than one dollar (\$1.00) shall not be assessed unless such assessment results from income which the licensee has failed to report.

## **REGULATION 12-1 REFUNDS**

### **Section 12.1 Refunds**

- A. An overpayment of OCCUPATIONAL LICENSE TAX shall be refunded if a claim for refund is made within two (2) years from the date on which such payment was due. The taxpayer must submit a written request for refund to GSCRC.
- B. No refund shall be made to any PERSON or BUSINESS ENTITY until he or she has complied with all provisions of the ORDINANCE and has furnished all required information.
- C. No refund shall be made of any estimated tax paid unless a complete NET PROFIT LICENSE TAX RETURN is filed as required by the ORDINANCE.

### **Section 12.2 Employee Refunds**

- A. A refund cannot be issued for a delinquent account. Refunds may be withheld from an EMPLOYEE until the EMPLOYER has filed all required forms and provided all required information.

- B. An EMPLOYEE who has COMPENSATION attributable to activities outside the JURISDICTION imposing the tax, but whose EMPLOYER has withheld and remitted the PAYROLL TAX on such income to the JURISDICTION imposing the tax, may file for a refund using Form RF100 Application for Refund, obtainable from the GSCRC, with a schedule and computation sufficient to verify the claim attached. The GSCRC may confirm with the EMPLOYER the percentage of time spent and the amount of income for activities outside the JURISDICTION imposing the tax prior to the approval of a refund.
- a. When submitting a Form RF100 the EMPLOYEE must submit the form with a copy of the W-2 that shows PAYROLL TAXES for the city, county, and school district (where applicable).
  - b. All Form RF100 forms must be signed by a supervisor to be considered complete.
  - c. Form RF100 take approximately four (4) to six (6) weeks to process. The process may take longer depending on the time of year in which the request is submitted.
- D. Any EMPLOYEE who is over the age of sixty-five (65) is entitled to request a refund for taxes paid on the first \$10,000 of their income. EMPLOYEE must submit a completed RF-100-65 Application for Refund form and submit a copy of EMPLOYEE W-2 that shows the taxes withheld for city, county, and school district.
- E. *Per KRS 67.788*, when an EMPLOYEE has overpaid PAYROLL TAX for a given year due to working outside of the JURISDICTION or not being given the over age sixty-five (65) income EXEMPTION, then a refund shall be made to the EMPLOYEE if a request is properly filed. It is the responsibility of the EMPLOYEE to submit a completed RF 100 Application for Refund (or RF 100-65) within two (2) years from the date the overpayment was made, or no refund will be allowed.
- F. The typical processing time for an accurate and complete refund request is 4-6 weeks. However, there may be a delay due to the work volume of GSCRC or the meeting schedule of GSCRC commissioners because all refund requests that exceed \$10,000 must be approved by the commissioners who only meet once per month.

**Section 12.3 Account Credits or Overpayments**

- A. An account overpayment or credit is created when the payment(s) remitted exceeds the tax liability due to the taxing JURISDICTION for the taxable period. This is true for both NET PROFIT LICENSE TAX and PAYROLL TAX. See *KRS 134.58*.
- B. It is the policy of GSCRC that all overpayments will first be applied to previous tax delinquencies prior to any other disposition.
- C. Overpayments of less than one dollar shall not be refunded.
- D. If the credit or overpayment exceeds the delinquent balance on the account, then the taxpayer will receive a notification of the credit. The notice will inform the taxpayer of the account credit and request that the taxpayer respond with instructions on how to use the credit balance. Options include:
  - a. Request a full or partial refund of the overpayment.
  - b. Request that part or all the overpayments be credited to a future but currently unfiled tax period.
  - c. Combination of solutions above.
- E. Failure to respond to the credit notice within the two (2) year statute of limitations permitted under *KRS 134.590(2)*, shall result in the GSCRC deeming this overpayment to be OCCUPATIONAL LICENSE TAX appropriately paid. The two (2) year period is calculated based upon the date prescribed by law for the filing of the RETURN or the date the money was paid to the taxing JURISDICTION (whichever is later). See *Paradise Tomato Kitchens, Inc. v. Louisville/Jefferson County Revenue Commission*, No. 2007-CA 000965-NR. See also *KRS 67.778*.
  - a. Per *KRS 67.778*, any NET PROFIT LICENSE TAX collected may be refunded 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 tax district. It is the responsibility of the BUSINESS ENTITY to submit a written request for refund within two (2) years or no refund will be permitted.

- i. It is the policy of GSCRC, to accept a written request for refund through written notice or note on the relevant tax RETURN or in selecting the “Credit” or “refund” option on Line 12 of the NET PROFIT LICENSE TAX RETURN.
      - b. If the claim for refund is related to an adjustment following a FEDERAL TAX 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.
        - i. The taxpayer must submit a copy of a signed copy of the final determination of the federal audit with any refund request.
- F. Refund or credit of overpayments shall be made to the EMPLOYER only to the extent that the amount of the overpayment was not deducted and withheld by the EMPLOYER. Any amount that is withheld from an EMPLOYEE must be remitted to GSCRC.
  - a. For WITHHOLDING TAX amounts to be refunded, GSCRC must receive a written affidavit attesting to the overpayment issue with proof that the amount was refunded to the impacted EMPLOYEE prior to GSCRC issuing a refund to the EMPLOYER. This document must be signed by a human resource/payroll staff member who can verify the refund occurred.
- G. Overpayment resulting from the payment of estimated NET PROFIT LICENSE in one taxable period may be credited against the amount of estimated tax determined to be due for next taxable year or for any deficiency or nonpayment of tax for any previous taxable year.
  - a. To have the overpayment credit balance for one year to be carried forward to the next taxable period, the appropriate box must be selected on the NET PROFIT LICENSE TAX RETURN. By selecting the “credit” box on Line 12 of the NET PROFIT LICENSE TAX RETURN (see circle below), this credit will be carried forward on the next year’s NET PROFIT LICENSE TAX RETURN and can be

used to offset the tax due by applying the amount as an “estimated payment” on the worksheet for the following year (see arrow below). Selecting this box shall constitute “written request” for refund or credit by the taxpayer.

6) Total tax due.....  
 7) Less: Estimated payments/credits..  
 8) Balance due.....  
 9) Late Filing/Payment Penalty 5% a month Max 25%  
 Minimum \$25- due even if filed late with no tax due  
 10) Interest.....12% per annum.....  
 11) Total amount due/(overpayment)>>  
 12) Overpayment Refund  Credit  Payment Due (Add Line 11, Columns A,B & C)

**REGULATION 13-1 DEDUCTIONS FROM EMPLOYEE WAGES**

**Section 13.1 Responsibility of Employers to Withhold and Report Employee License Tax**

- A. Every EMPLOYER who employs one or more PERSONS within the JURISDICTION imposing the tax shall deduct at the time of payment of COMPENSATION to any EMPLOYEE the OCCUPATIONAL LICENSE TAX in accordance with *Regulation 2-1*.
- B. The EMPLOYER shall report for the quarterly periods ending March 31, June 30, September 30, and December 31 of each year the COMPENSATION from which license taxes have been so withheld on or before the last day of the month following the end of each such quarter.
  - a. If the amount of license tax withheld exceeds three hundred dollars (\$300.00) in any one of the preceding four (4) quarters, see Paragraph (B) below. In addition, the EMPLOYER shall make the payment required to be made on account of such EMPLOYEE of PAYROLL TAXES on or before the time required for the filing of the quarterly RETURNS

SCHEDULE FOR EMPLOYER’S RETURN OF LICENSE TAX WITHHELD	
LICENSE TAX REQUIRED TO BE WITHHELD IN:	REQUIRED TO BE PAID BY (POSTMARKED OR HAND DELIVERED BY):
January	February 15
February	March 15
March	April 30
April	May 15
May	June 15
June	July 31
July	August 15

<b>August</b>	<b>September 15</b>
<b>September</b>	<b>October 31</b>
<b>October</b>	<b>November 15</b>
<b>November</b>	<b>December 15</b>
<b>December</b>	<b>January 31</b>

- C. Notwithstanding the provisions of Paragraph (A) hereof, monthly reporting is required of each EMPLOYER who employs PERSONS within the JURISDICTION imposing the tax and PAYROLL TAX required to be withheld from all EMPLOYEE COMPENSATION for any one (1) of the preceding four (4) quarters shall exceed the sum of three hundred dollars (\$300.00). If the taxpayer is required to file monthly for any one of the three JURISDICTIONS imposing the tax, then the taxpayer is required to file monthly for the remaining JURISDICTIONS regardless of the amount of the remaining JURISDICTIONS quarterly PAYROLL TAX. Each EMPLOYER shall remit the PAYROLL TAX required to be withheld from EMPLOYEES monthly based upon the schedule above. Except for the months that contain a quarter end period the monthly RETURN should be remitted with all PAYROLL TAX due by the 15th of the following month. *For example, the January monthly return would be due to GSCRC by the 15th of February to be considered timely.*
- D. A NON-RESIDENT EMPLOYER, either maintaining in the JURISDICTION imposing the tax an office, BUSINESS address, or doing BUSINESS therein (which includes any REMOTE EMPLOYEE working from their home inside of Scott County), is subject to the PAYROLL TAX provisions of this Section.
- E. Each EMPLOYER within the JURISDICTION imposing the tax will in every instance be required to pay the full license tax which should have been withheld, even though the EMPLOYER may have failed to withhold from the EMPLOYEE’S COMPENSATION. If too much has been withheld the excess shall be refunded by the EMPLOYER to the EMPLOYEE within the same calendar year. It is the responsibility of the EMPLOYER to request a refund according to the requirements of *Regulation 12-1*.

- F. Where an EMPLOYEE receives COMPENSATION attributable to activities partly inside and partly outside the JURISDICTION imposing the tax, the withholding AGENT shall deduct and withhold license tax only on that portion of the COMPENSATION which is attributable to the JURISDICTION imposing the tax in accordance with *Regulation 3-1, Section 3.5-3.6*.

**Section 13.2 Annual Reconciliation of License Tax Withheld**

- A. Each EMPLOYER within the JURISDICTION imposing the tax shall annually on or before February 28 of each year complete and file a RETURN with the GSCRC, Form RE100, Reconciliation of License Fee Withheld, provided by or obtainable from GSCRC. Either copies of federal Forms W-2 and Form W-3, Transmittal of Wage and Tax Statements, or a detailed EMPLOYEE listing with equivalent information must be submitted. The equivalent EMPLOYEE listing must contain: EMPLOYEE name, mailing address, total COMPENSATION earned for each JURISDICTION and the total tax withheld for each JURISDICTION.
- B. Each EMPLOYER within the JURISDICTION imposing the tax shall furnish each EMPLOYEE a statement on or before January 31 of each year showing the amount of COMPENSATION and the license tax deducted and paid by said EMPLOYER during the preceding calendar year.
- C. Each EMPLOYER within the JURISDICTION imposing the tax who is notified of or discovers an underpayment by the EMPLOYER of the EMPLOYEE license tax, shall correct the previously submitted RETURNS which had shown the under withholding and shall remit payment of the EMPLOYEE license tax not previously paid, together with any applicable penalty and interest.

**Section 13.3 Liability of Employers who Fail to Comply**

- A. Under *KRS 67.780*, EMPLOYERS are required to withhold and remit PAYROLL TAXES on behalf of all EMPLOYEES owing taxes to the JURISDICTION (with few exceptions permitted under Kentucky law). When EMPLOYERS deduct and withhold

the PAYROLL TAX, they shall remit the tax withheld to the GSCRC using Form PR100, Employer's Return of License Tax Withheld.

B. Every such EMPLOYER that is required to deduct and withhold the EMPLOYEE OCCUPATIONAL LICENSE TAX is liable jointly and severally under *KRS 67.783 (2)* to the JURISDICTION imposing the tax for failure to file the Form PR100, Employer's Return of License Tax Withheld and for failure to make payment of such taxes, this is true regardless of whether the taxes are withheld by the EMPLOYER.<sup>5</sup>

a. Per *KRS 67.783 (2)*, "Every employer who fails to withhold or pay the tax district any sums required by *KRS 67.750 to 67.790* to be withheld and paid shall be personally and individually liable to the tax district for any sum or sums withheld or required to be withheld in accordance with the provisions of *KRS 67.780*."

**C. Partnership Liability Issues**

a. Per *KRS 362.210*, "when, by any wrongful act or omission of any partner acting in the ordinary course of the business of the partnership or with the authority of his co-partners, loss, or injury to any person, not being a partner in the partnership. Or any penalty is incurred, the partnership is liable therefor to the same extent as the partner so acting or omitting to act."

**D. Vicarious Liability**

a. Vicarious liability extends only to negligent acts of an AGENT committed in the course and scope of the principal's business, and the test is the same whether the agency relationship is one of partnership, principal/AGENT, or master/servant. See *Roethke v. Sanger*, 68 S.W.3d 352 (Ky. 2001).

**E. Personal Liability of Officers of Business Entity**

a. Per *KRS 67.785*, an EMPLOYER shall be liable for the payment of the tax required to be deducted and withheld under *KRS 67.780*.

b. Specifically in *KRS 67.785 (2)*, "the president, vice president, secretary, treasurer or any person holding an equivalent corporate office of any BUSINESS ENTITY

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<sup>5</sup> *Laurel Run Resources, Inc. v. Commonwealth*, 853 S.W.2d 905 (1992); *Koppel v. Revenue Cabinet, Commonwealth*, 777 S.W. 2d 938 (1989); *First & Peoples Bank v. Fielder*, 323 S.W. 2d 853 (1959); *KRS 141.310*; *KRS 67.780*; *KRS 362.210*; *KRS 67.783*



subject to KRS 67.780 shall be personally and individually liable, both jointly and severally, for any tax required to be withheld under *KRS 67.750 to 67.790* from COMPENSATION paid to one or more EMPLOYEES of any BUSINESS ENTITY, and neither the corporate dissolution or withdrawal of the BUSINESS ENTITY from the tax district nor the cessation of holding any corporate office shall discharge the liability of any PERSON; provided that the personal and individual liability shall apply to each or every person holding the corporate office at the time the tax becomes or became obligated.”<sup>6</sup>

**F. Criminal Prosecution of Employer for Failure to Make Required Disposition of Property**

a. An EMPLOYER may be criminally prosecuted for failure to remit PAYROLL TAX under Kentucky law.

**i. *KRS 514.070 (4)* Theft by Failure to Make Required Disposition of Property:**

1. EMPLOYEES trust EMPLOYERS to withheld and remit the proper PAYROLL TAX to the designated taxing JURISDICTION. This is a relationship of trust between an EMPLOYEE and the EMPLOYER.
2. Per *KRS 514.070 (1)*, “ a person is guilty of failure to make required disposition of property received when: (a) He obtains property upon agreement or subject to a known legal obligation to make specific payment or other disposition whether from such property or its proceeds or from his own property to be reserved in equivalent amount; and (b) He intentionally deals with the property as his own and fails to make the required payment or disposition.”

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<sup>6</sup> *KRS 67.785; KRS 67.750 through KRS 67.790.*

3. The severity of the criminal charge is based upon the cumulative value of the PAYROLL TAX that was withheld.
4. Per *KRS 514.070 (4)*, “Theft by failure to make required disposition of property received is a Class A Misdemeanor unless the value of the property is:
  - a. (a) Five hundred dollars (\$500) but less than ten thousand dollars (\$10,000), in which case it is a Class D Felony; or
  - b. (b) ten thousand dollars (\$10,000) or more, in which case it is a Class C Felony.”

ii. ***KRS 67.783 Employer to Report Tax Withheld- Liability of Employer for Failure to Withhold or Pay Tax***

1. (2) Every EMPLOYER who fails to withhold or pay to the tax district any sums required by *KRS 67.750 to 67.790* to be withheld and paid shall be personally and individually liable to the tax district for any sum or sums withheld or required to be withheld in accordance with the provisions of *KRS 67.780*.

**G. Professional Liability Issues**

- a. Certain professions are governed by codes of conduct that include ethics standards. There are mechanisms for reporting ethical violations to the governing boards. This category includes, but is not limited to, practicing attorneys and accountants.
- b. GSCRC reserves the right to make formal complaints against any practicing professional that conducts BUSINESS ACTIVITY in the taxing JURISDICTION, when the governing body for a professional has adopted a code of ethics (or related opinion/note) that specifies that a failure to properly file or pay tax may be a violation of code of conduct for that profession.
- c. **Attorneys**

- i. GSCRC reserves to the right to make formal ethics complaints against practitioners that fail to resolve ongoing account delinquency issues including failure to withheld and/or remit PAYROLL TAX or failure to pay taxes due.<sup>7</sup>
- ii. *Kentucky Supreme Court Rule 8.4, Comment 2*, indicates that many kinds of illegal conduct reflect adversely on the fitness to practice law. These offenses involve fraud and the offense of willful failure to file an income tax RETURN. Offenses involving violence, dishonesty, breach of trust, or serious interference with the administration of justice are in that category. A pattern of repeated offenses, even ones of minor significance when considered separately can indicate indifference to legal obligation.<sup>8</sup>

H. GSCRC will pursue collection of PAYROLL TAX due through all available legal remedies. See *Regulation 17-1 Tax Collection Procedures* for more information.

#### **REGULATION 14-1 SPECIAL CITY REGULATORY FEES**

- A. The City of Georgetown finds the following enterprises are of such a nature, i.e., generate extraordinary traffic, necessitate inordinate police activity, as to require special regulation and supervision.
- B. The license fees set out below are imposed on every PERSON involved in the BUSINESS, occupation, calling or profession (activity) named in this section.
- C. PERSONS engaged in a designated activity shall pay the regulatory fee to GSCRC in advance in the case of enterprises not operating throughout the year or on or before the beginning of the FISCAL YEAR for enterprises in continuous operation.
- D. In addition to submission of the regulatory fee prescribed below, BUSINESSES and PERSONS who obtained a Regulatory License are also required to file an annual NET

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<sup>7</sup> *Ky. SCR Rule 8.4; KRS 141.340*

<sup>8</sup> See *Kentucky Bar Ass'n. v. Kramer*, 555 S.W.2d 245 (Ky. 1977); *Johnson v. Kentucky Bar Ass'n.*, 836 S.W.2d 411 (1992); *Kentucky Bar Ass'n v. Warren*, 849 S.W.2d 540 (1993); *Kentucky Bar Ass'n. v. Rowland*, 962 S.W.2d 875 (1998); *Ky Bar Ass'n. v. McDaniel*, 205 S.W. 3d 201 (Ky. 2006); *Ky Bar Ass'n. v. Schott*, 353 S.W.3d 621 (Ky. 2011).

PROFIT LICENSE TAX RETURN as well as PAYROLL TAX RETURN if the BUSINESS has EMPLOYEES.

1. **AMUSEMENTS.** Amusement, athletic contest, or entertainment not a part of a duly licensed business or not held in a regularly licensed theater or in a publicly owned or religious building, and not sponsored by a bona fide civic, patriotic, religious or educational organization shall pay a license fee of fifty dollars (\$50.00) per show or event, or, at the option of the owner or operator, pay an annual license fee of two hundred dollars (\$200.00) such fee to be paid prior to the show, or, if paying on an annual basis, prior to operation and prior to the each anniversary of operation.
2. **CARNIVALS.** Every PERSONS engaged in the BUSINESS of operating a CARNIVAL regardless of local sponsorship shall pay a license fee of two hundred fifty dollars (\$250.00) per day that the CARNIVAL is operating in the city.
3. **CIRCUS.** Every PERSON who engages in the BUSINESS of operating a CIRCUS, regardless of local sponsorship shall pay a fee of two hundred (\$200.00) per show.
4. **DANCE HALLS** Each DANCE HALL in the city shall pay a license fee of fifty dollars (\$50.00) per year or ten dollars (\$10.00) per dance. Any PLACE OF BUSINESS held open to the general public where patrons are permitted to dance shall be deemed a DANCE HALL within the meaning of this subsection.
5. **DEALERS IN FIREARMS.** Every PERSON who engages in the BUSINESS of buying, selling, or trading in firearms of any type shall pay an annual fee of one hundred fifty (\$150.00).
  - i. DEALERS IN FIREARMS shall include FLEA MARKETS and PAWNBROKERS which, as a significant part of their BUSINESS, or, in the case of FLEA MARKETS, the business of their vendor or vendors.

- ii. The regulatory fee for DEALERS IN FIREARMS shall be assessed to FLEA MARKETS and PAWNBROKERS in addition to the regulatory fees otherwise required under paragraphs (6) and (8).
- 6. **FESTIVAL.** A public gathering of broad appeal where citizens are invited and encouraged to attend without significant cost of admission. Includes, but is not limited to the following: convention, conference, celebration, pageant, parade, festival, fair, public display, commemoration, or other type of public assemblage conducted for the benefit and enjoyment of the general public. See *KRS 2343.260*.
  - i. If a festival is authorized or sponsored by the local city or county government then no festival regulatory license is required.
  - ii. If a festival is conducted that is private and commercial in nature, then all booth holders shall be considered ITINERANT MERCHANTS subject to a special regulatory fee as detailed below.
- 7. **FLEA MARKET.** Every PERSON who operates or conducts a flea market shall pay an annual license fee of twelve hundred dollars (\$1,200.00). An owner or operator of a flea market shall be deemed to be any legal ENTITY which owns, leases, uses or occupies any public place and who lets or rents spaces therein to any other PERSON for the sale or trading of any merchandise, goods, or wares to the public.
  - i. Excluded from this paragraph are the antique mall type BUSINESSES located in the downtown area of the city. These BUSINESSES, while generally fitting the definition of flea market, do not require the additional municipal services like the larger weekend flea markets located in the highway commercial areas of town. The antique mall type BUSINESSES ordinarily rent vendors' space for longer terms resulting in less frequent turnover of merchandise as compared to the flea markets. At least partially related to this difference, the city has not experienced additional municipal service costs as a result of these BUSINESSES. The traffic generated by these BUSINESSES is spread over a longer time. The parking required for

these BUSINESSES is accommodated by the available parking throughout the downtown. See paragraph (5) above, for applicability of additional fee.

8. **ITINERANT MERCHANT.** Every PERSON who shall engage in, do, or transact any temporary or transient BUSINESS in the city, for the sale of any goods, wares or merchandise, and who, for the purpose of carrying on such business, shall hire, lease, use or occupy any building or structure, motor vehicle, tent, car, lot, boat, or public room or any part thereof, including rooms in hotels, lodging houses, or in any street, alley, or other public place, or elsewhere, for a period of less than one (1) year for the exhibition of or sale of such goods, wares or merchandise shall pay a license fee of one hundred fifty dollars (\$150.00).
  - i. No PERSON shall be EXEMPT from the payment of the license imposed by this section by reason of a temporary association with any local merchant, dealer, or trader or by reason of conducting such temporary or transient business in connection with or as a part of the business in the name of any local merchant, dealer, or trader.
  - ii. Vendors who temporarily setup a booth to sell any goods or services as part of a FESTIVAL, e.g., rental of a booth during the Festival of the Horse, shall not pay a separate fee under this section.
  - iii. In lieu of the fee which would otherwise be due for each of the vendors under this section, the sponsor of the FESTIVAL shall be responsible for the payment of a one-time fee of three hundred dollars (\$300.00). This includes all food truck operators that operate inside of the JURISDICTION that do not have a permanent restaurant location within the JURISDICTION.
9. **PAWNBROKERS.** A PAWNBROKERS shall pay an annual license fee of two hundred fifty dollars (\$250.00). See paragraph (5) above, for applicability of additional fee (9). Every natural PERSON engaged in peddling any goods, wares

or merchandise of any kind or soliciting orders therefor in the city shall pay an annual license fee of twenty-five dollars (\$25.00) annually.

**10. SHORT TERM RENTAL PROPERTY OR PROPERTIES:**

- i. All SHORT-TERM RENTAL HOST(S) shall pay an annual fee of twenty-five dollars (\$25.00) per host (not per property).
- ii. The annual fee shall be submitted to GSCRC with a completed STR 100 Short Term Rental Registration form.
- iii. The annual registration and fee are due when the annual NET PROFIT LICENSE TAX RETURN is submitted to GSCRC.
- iv. Compliance status of a taxpayer with this short-term rental registration process may be communicated with other city and county departments.
- v. For additional information related to SHORT TERM RENTAL PROPERTY refer to *City of Georgetown Ordinance No. 22-008; City of Georgetown Ordinance No. 22-007.*

**E. CITY OF GEORGETOWN SCHEDULE OF REGULATORY FEES**

<b>Activity</b>	<b>Cost</b>	<b>Deadline for Application</b>
<b>AMUSEMENTS</b>	\$50.00 per show \$200.00 per year	Due prior to show. Due prior to operation and prior to each anniversary of operation.
<b>CARNIVAL</b>	\$250.00 per day	Due prior to event.
<b>CIRCUS</b>	\$200.00 per show	Due prior to event.
<b>DANCE HALL</b>	\$10.00 per dance \$50.00 per year	Due prior to show. Due prior to operation and prior to each anniversary of operation.
<b>DEALERS IN FIREARMS</b>	\$150.00 per year	Due prior to operation and prior to each anniversary of operation.
<b>FESTIVAL</b>	\$300.00 per event	Due prior to the event to be paid by sponsor on behalf of vendors. Fee is in lieu of the fees due from each vendor.
<b>FLEA MARKETS</b>	\$1,200 per year	Due prior to operation and prior to each anniversary of operation.
<b>ITINERANT MERCHANT</b>	\$150.00 per year	Due prior to event.
<b>PAWNBROKERS</b>	\$250.00 per year	Due prior to operation and prior to each anniversary of operation.
<b>PEDDLER/SOLICITOR</b>	\$25.00 per PERSON per year.	Due prior to operation and prior to each anniversary of operation.

<b>SHORT-TERM RENTAL PROPERTY</b>	\$25.00 per HOST per year.	Due with submission of the annual net profit license tax return for the activity. The fee must be remitted with a completed STR 100 Short Term Rental Registration.
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## **REGULATION 15-1 Interest and Penalties**

### **Section 15.1 Interest and Penalties**

Failure to timely file any RETURN or report and/or pay any NET PROFIT LICENSE TAX OR PAYROLL TAX due under the ORDINANCE or these Regulations shall result in the assessment of interest and penalties as described in Paragraphs (A) and (B) of this Section.

- A. **Interest:** All PAYROLL TAX imposed and all monies withheld or required to be withheld by EMPLOYERS and remaining unpaid after they become due shall bear interest at the rate of twelve percent (12%) per annum (1% per month.) A fraction of a month is counted as an entire month.
- B. **Penalties:** In addition to interest as provided for in Paragraph (A) of this Section, penalties based on the unpaid license tax due are imposed as follows: The penalty for all types of OCCUPATIONAL LICENSE TAX filings (both NET PROFIT LICENSE TAX and PAYROLL TAX RETURNS) will be the larger of either the minimum late filing penalty of \$25.00 per JURISDICTION (3) or five percent (5%) per month. Penalties shall never exceed twenty-five percent (25%) of the taxes due per JURISDICTION.
- C. **Abatement of Penalties:** Penalties are subject to abatement in limited circumstances. For detailed information on penalty abatement request see *Section 15.2 of this Regulation*.

### **Section 15.2 Penalty and Interest Abatement Requests**

In limited circumstances the GSCRC Executive Director and/or Board of Commissioners may abate penalties and interest where there is “reasonable cause.”

- A. **“Reasonable Cause”** exists if the taxpayer establishes to the satisfaction of the Commission that either:
  - a. There were significant mitigating factors for the failure or



- b. The failure arose as a result of an event, happening or circumstance entirely beyond the knowledge or control of a taxpayer who has exercised due care and prudence in the filing of a RETURN and in the payment of the tax due.
  - i. Events which will be generally considered beyond the taxpayer's knowledge or control include, but are not limited to, the following:
    - 1. **Unavoidable absence.** The absence (e.g., due to death or serious illness) of the PERSON with the sole responsibility for filing the RETURN in issue or for payment of the tax. The duration of the absence and its proximity to the due date of the RETURN or payment will be considered in the Commission's determination.
    - 2. **Unavailability of relevant business records.** Necessary BUSINESS records must have been unavailable under such conditions, in such manner and for such period as to prevent timely compliance.
    - 3. **Revenue Commission advice or error.** The taxpayer must show that the failure to comply was due to taxpayer's reasonable reliance on erroneous information provided by the Revenue Commission. This exception will not apply if the Revenue Commission was not aware of all the relevant facts when it provided the information to the taxpayer. The erroneous advice must have been provided in writing or be acknowledged by the Revenue Commission.
  - ii. **Not Sufficient to Establish "Reasonable Cause"**- Events which will not generally be considered as establishing reasonable cause include, but are not limited to, the following:
    - 1. **Actions of Agent or Employee.** The filing of a tax RETURN and the payment of tax due are both personal, non-delegable duties of the taxpayer. Reasonable cause is not established by merely showing that the taxpayer relied upon an EMPLOYEE, accountant,

attorney, payroll service or other PERSON, who failed to file the RETURN or pay the tax.

2. **Ignorance of the Law**. Neither ignorance of the law, nor ignorance of the necessity of filing a RETURN or paying the tax is sufficient in and of itself to relieve the taxpayer from liability for penalty or interest.
3. **No tax forms**. Failure to receive or obtain tax forms.

- C. In addition to establishing that an event beyond the taxpayer's knowledge of control caused the failure to file or pay timely, the taxpayer must also establish that the taxpayer acted in a responsible manner both before and after the failure occurred. The taxpayer must demonstrate appropriate steps to avoid or mitigate the failure were taken and that the delinquency was rectified as promptly as possible once the impediment to compliance was removed or the failure discovered.
- D. In evaluating the hazards and cost of litigation, the Commission will consider waiving penalties or interest, in whole or in part, based on doubt as to collectability. To establish such doubt, a taxpayer must demonstrate lack of both present and future income and assets (inability to pay must be permanent or long-term and the taxpayer's lack of present ability to pay is not sufficient). That the taxpayer will suffer hardship by reason of payment of penalty or interest is not in and of itself a sufficient basis to waive penalty or interest.
- E. Circumstances which will generally be considered in evaluating collectability include, but are not limited to, the following:
  - a. The taxpayer is in receivership or any proceeding under the Bankruptcy Act, taking into account the priority of the Revenue Commission's claim.
  - b. The taxpayer has made or is making an assignment for the benefit of creditors or other arrangement or composition with the taxpayer's creditors.
  - c. The taxpayer is involved in any other insolvency or liquidation proceedings.
  - d. The taxpayer is seriously ill, disabled, or deceased.
  - e. Any lien rights and other security the Revenue Commission may possess.
  - f. Any court proceedings involving the taxpayer, pending substantial claims against the taxpayer outside of the ordinary course of business, and other unusual circumstances impacting the taxpayer's financial condition.

- F. In considering requests for waiver of interest and penalties, the Commission will consider the history, if any, of the taxpayer in complying with its obligations to the Revenue Commission in the past.
- G. Other evidence demonstrating a lack of willful neglect on the part of the taxpayer with respect to the taxpayer's failure to comply will also be considered.
- H. Since interest represents merely a charge for the benefit realized by the taxpayer from retaining money beyond the date it should have been paid to the Revenue Commission and the loss incurred by the Revenue Commission from not having use of the money for the same period, the Commission will generally be more disposed to granting waivers of penalties as opposed to waivers of interest.
- I. **Procedure for Submitting Request for Abatement**- To obtain a waiver of penalty or interest, a taxpayer must submit the following:
  - a. Taxpayer must submit a completed Abatement Request Form no later than sixty (60) days after notice of assessment of the penalty or interest from the GSCRC. The Abatement Request Form may be supplemented with written request for the waiver, but the completed form is mandatory for all requests.
  - b. In such request, the taxpayer shall set forth the facts and circumstances that constitute reasonable cause for the non-compliance giving rise to the penalty or interest.
  - c. Such request must be signed by the taxpayer, acknowledged, and sworn that it is made under penalties of perjury.
  - d. The taxpayer should submit the request with all documentation, affidavits, and other material necessary or relevant in support of the taxpayer's position.
  - e. The taxpayer may request an extension of up to ninety (90) days to obtain material facts relevant to the request.
- J. The Commission will not generally consider a request for waiver of interest or penalty unless the taxpayer has filed all required filings and has paid all the tax to which the interest or penalty relates before or at the same time as the taxpayer submits the request. The taxpayer may request an extension of up to ninety (90) days to meet this obligation.
  - a. No waiver of penalty or interest shall be granted unless approved by the Board of Commissioners of the Revenue Commission. The Director shall have a staff report made of the request for penalty and interest abatement. The staff report

shall document the case as presented by the requestor. The Director shall review the staff report and shall make a formal recommendation to the Board of Commissioners. Such recommendation shall not name the requestor. The Board may ask for additional material which it deems necessary to allow it to make a final determination.

**Section 15.3 Issuance of Form 1099 (C)**

Any penalty and/or interest abatement approval, voluntary disclosure agreement (VDA) or settlement negotiation that results in a taxpayer paying less than what is statutorily owed to GSCRC will result in the issuance of a Form 1099 (C) to that taxpayer for the tax year wherein the discharge of debt took place. *See 26 U.S.C.S. 6050(P); Internal Revenue Service Publication 4681: Canceled Debts, Foreclosures, Repossessions and Abandonments.*

**Section 15.4 First-Time Penalty Waiver Program**

- A. To promote the goal of being a business-friendly community, the GSCRC Board of Commissioners has delegated the authority to the Executive Director of GSCRC to authorize a one-time courtesy penalty waiver for all new account holders.
- B. The intent of this program is to provide a one-time courtesy penalty waiver to newly registered Georgetown-Scott County business accounts that may not be fully aware of all applicable filing procedures and deadlines in the JURISDICTION.
- C. For purposes of this policy and program, “new account holders” is defined as follows.
  - a. This policy considers a “new account holder” to be those taxpayers who have registered a business account with GSCRC no more than one year prior to submitting a waiver request.
    - i. The one-year period to be used for determining eligibility will be the designated accounting period for the taxpayer account. Specifically, either a calendar year or FISCAL YEAR will be used to establish the look-back window for applicability of this policy.
    - ii. All RETURNS and/or filings pertaining to the first year of BUSINESS ACTIVITY conducted in the JURISDICTIONS will be eligible for the first-time abatement request. This means that any RETURN due after the

first year of operation (i.e., NET PROFIT LICENSE TAX RETURN or Reconciliation of License Tax Withheld) would be eligible for the first-time waiver because the RETURN was related to the first year of BUSINESS ACTIVITY conducted in the JURISDICTION.

- b. All eligible accounts may submit a First-Time Penalty Abatement Request Form to GSCRC if they should incur a penalty for failure to file, failure to pay or underpayment of taxes owed or for submitting a late RETURN/form during the first year of operation in the JURISDICTION.
- c. To be eligible for this first-time penalty waiver of the RETURN/form in question must be submitted within 24 months of the first year of operation.
  - i. For example, if a business operates on a calendar year and begins operation on January 1, 2018, and does not submit the 2018 NET PROFIT LICENSE TAX RETURN until January 1, 2022 they could not use their first-time waiver.
    - 1. In this case, the RETURN would be due April 15, 2019 (with a proper extension request October 15, 2019) so submission on January 1, 2022, exceeds the 24-month period after operation for the first year.
    - ii. If in the same fact pattern above, the taxpayer submitted the delinquent RETURN on January 1, 2020, then the first-time waiver would be applicable because the RETURN was submitted before the end of the 24-month period.
- D. The first-time penalty waiver shall not exceed more than \$75.00.
  - a. It is the policy of GSCRC to apply a minimum late filing penalty on all late RETURNS or for RETURNS submitted without proper payment of \$25.00 per applicable JURISDICTION.

- b. If payment is not made within 30 days after notice of the delinquency is mailed, the RETURN will then be assessed at 5% of the tax owed per month up to 25% maximum per local ORDINANCE.
- E. The first-time penalty waiver will only apply to the amount of the first notice of delinquency received therefore the maximum penalty to be “forgiven” is \$75.00 (depending on what JURISDICTIONS the taxpayer is subject to this amount may vary.)
- F. If the RETURN in question accumulates additional penalties beyond the minimum imposed by GSCRC, then by submitting a First-Time Penalty Abatement Request Form, the taxpayer can request the value of the first-time penalty waiver be used to off-set the late filing penalties that accumulate (value of the taxpayer waiver is determined by what JURISDICTIONS apply to the taxpayer).
- G. The first-time penalty waiver privilege can only be used for one delinquency and/or filing for one specific period/form.
- H. The first-time penalty waiver does not mitigate the accumulation of interest at 1% per month for all delinquent RETURNS.
- I. The First-Time Penalty Abatement Request Form will act as acknowledgment that this courtesy privilege has been utilized and cannot be used for additional delinquencies or penalties that may accrue after the form is submitted.
- J. The first-time penalty waiver is not transferrable to subsequent years or other accounts. If not, all JURISDICTIONS apply to the RETURN the remainder of the maximum \$75.00 cannot be used as a credit against future penalties that may accumulate.
- K. The value of the first-time penalty waiver is not transferrable to any other delinquent filings.

## **REGULATION 16-1 MISCELLANEOUS ACCOUNT ISSUES**

### **Section 16-1 Deceased Taxpayer**

- A. In the case of a taxpayer that is deceased but has an open account with GSCRC, the immediate next of kin to the deceased or the FIDUCIARY responsible for the resolution of financial affairs for the deceased PERSON must contact GSCRC and notify them of

the death and provide verification of the death through a copy of a death certificate or obituary for the deceased.

- B. If a taxpayer is deceased and has an outstanding tax filing requirement or debt but there are no assets from the estate with which to satisfy the debt, the account will be closed as of the date of death.
  - a. If there are other BUSINESS owners or partners listed in the account record, then those PERSONS will be required to satisfy all pending filing or payment requirements before the account can be closed.
  - b. If a taxpayer is deceased and has an outstanding tax filing requirement or debt and there are assets from the estate to satisfy the debt, payment or submission must be made. In the event of death, the next of kin or business partner/owner should contact GSCRC so that the facts can be analyzed to determine the best path to resolution of the account issue.
- C. Please note that in certain BUSINESS formations (partnership, limited liability corporation, etc.), the death of one officer or partner does not negate the liability of the other remaining partners or officers. See *KRS 362.210*.

### **Section 16.2 Duplicate Accounts or Affiliated Accounts**

- A. Any account that is “affiliated” through an INDIVIDUAL owner, BUSINESS ENTITY or FEIN/SSN will be considered when determining if a BUSINESS LICENSE can be renewed.
- B. Any account that is “affiliated” through an INDIVIDUAL owner, BUSINESS ENTITY or FEIN/SSN will be considered if a new BQ 100 Questionnaire for Occupational License is submitted for another account. No license will be issued if there are outstanding delinquencies either for missing RETURNS or unpaid taxes. All affiliated accounts must be current for any new licenses to be issued.
  - a. For example, if a BQ 100 Questionnaire for Occupational License Tax is received for a Mr. John Smith with an SSN of 000-00-0000 and an existing account exists for Johnny Smith, 000-00-0000 that is delinquent. The delinquent account must be made compliant or closed prior to the issuance of a new license.

- b. For example, if a BQ 100 Questionnaire for Occupational License Tax is received for a Mr. John Smith with an SSN of 000-00-0000 and an existing account exists for Smith Plumbing with a FEIN that differs from the SSN and that account is delinquent, the delinquent account must be made compliant prior to the issuance of a new license/account.
  - i. Other reasonable factor that may make an account an “affiliate” account include: name of owner/partner(s), address, SSN, FEIN, or other factor that indicates there is a link or association between the accounts in question.
- C. Any account that is “affiliated” through an INDIVIDUAL owner, BUSINESS ENTITY or FEIN or SSN will be considered when and if GSCRC is asked to confirm if a BUSINESS account is in good standing. This will be applicable on certain city or county licensing applications or renewal processing (i.e., ABC liquor license renewal or planning and zoning development, etc.)
  - a. For example, if a BUSINESS owner presents a form to be signed confirming that he or she is in compliance with the GSCRC in order to get approval for a development permit through the Georgetown-Scott County Planning and Zoning office, the form will not be signed if the BUSINESS owner has a delinquent account with GSCRC. This will be true even if the account specified on the form is current but others with the same INDIVIDUAL owner are delinquent. All “affiliated” accounts must be current in order for the owner to be in good standing with GSCRC. *See Regulation 15-1, Section 15.2; Regulation 17-1, Section 17.4*

### **Section 16.3 Returned Check Policy**

- A. If a check is submitted to GSCRC for payment of taxes due and it is returned by the issuing bank for any reason, the following process will be followed:
  - a. The account holder will be notified when the check is returned and be given fourteen (14) days to replace the check without being assessed failure to pay penalties (unless the RETURN was submitted late).



- b. If the account holder has not submitted a new check within fourteen (14) days, the original RETURN in question will be considered a “failure to pay” RETURN and will be assessed failure to pay penalties and interest.
  - i. Failure to pay penalties will be assessed according to the penalty and interest provisions in *Regulation 14-1, Penalties, and Interest*.
  - ii. If penalties are assessed the replacement payment must be remitted in two checks.
    - 1. Check one will be the original amount of the taxes that were due.
    - 2. Check two will be submitted to pay the penalties and interest due on the failure to pay assessment.

**B. Multiple Returned Checks & Certified Funds Only Status**

- a. If during a twelve (12) month period, an account has more than three (3) checks that are returned by the issuing bank for any reason, GSCRC reserves the right to temporarily refuse to accept payment in the form of check for any RETURN on that account. The account will be placed on “certified funds only” status for a period not longer than twelve (12) months.
- b. If an account is placed on “certified funds only” status, then all payments must be submitted through verified funds (cashier’s check or money order) for a period of no longer than twelve (12) months. This status means that no checks will be accepted for payment.
- c. During the “certified funds only” status, all checks submitted as payment for taxes due will be rejected and sent back to the account holder for replacement with verified funds. One courtesy notice will be sent to the account holder to inform them that the account is being placed on “certified funds only” status. All subsequent checks will be returned and if not replaced within seven (7) business days with certified funds the RETURN will be considered delinquent for failure to properly pay taxes due.

**Section 16.4 Returned, Late or “Lost” Mail**

- A. GSCRC follows general practice of the IRC including *Section 7502(a)* as it relates to the common law **“mailbox rule”** which provides:
- a. If any RETURN, claim, statement, or other document required to be filed, or any payment required to be made, within a prescribed period or on or before a prescribed date, after such period or such date, delivered by United States mail to the agency, the date of the United States postmark stamped on the cover in is deemed to be the date of delivery or the date of payment.
- B. GSCRC staff shall date stamp all mail on the date that it is received by the agency. If a RETURN is considered delinquent or received beyond the prescribed filing deadline, a copy of the postmarked envelope will be retained for the account record. A copy of the postmarked envelope will be sent with the delinquent notice (where possible).
- C. If mail is received late or GSCRC did not receive the mail at all, it is the responsibility of the taxpayer to produce evidentiary support that the RETURN/payment was timely mailed. Examples of sufficient evidence include: proof of mailing through certified mail receipt, date/time stamped facsimile receipt, online payment receipt, email receipt of submission of RETURN or any other type of dated documentation.
- D. If a filing deadline date falls on a weekend or a holiday, then the filing deadline will automatically be extended to the next business day that is not a weekend (Saturday or Sunday) or a federally recognized holiday. For example, if the 15th occurs on a Saturday, the filing deadline for the EMPLOYER’S Return of License Tax Withheld for the prior month will be extended to the next business day which in the example would be the following Monday the 17th.

**REGULATION 17-1 REQUEST FOR PAYMENT PLAN**

**Section 17.1 Procedure for Requesting Payment Plan**

- A. Any taxpayer may request a payment plan arrangement to pay their tax liability to GSCRC. In order to utilize this option, the following must be done:

- a. Written request for a payment plan must be submitted and include:
  - i. Amount of monthly payment requested
  - ii. Due date for the monthly payment must be specified
- B. GSCRC staff may authorize a payment plan not exceeding twenty-four (24) months or a \$10,000 delinquent tax balance.
  - a. All payment plan arrangements will be documented on the taxpayer account and a copy of a written Payment Plan Agreement will be mailed to the taxpayer and must be signed and returned. Upon receipt of the signed Payment Plan Agreement, the GSCRC Executive Director will sign the agreement and a fully executed copy will be sent to the taxpayer and the original will be retained by GSCRC.
- C. No monthly payment plan may be granted for a period that exceeds twenty-four (24) months without written approval of the GSCRC Executive Director.
  - a. If a payment plan is requested that exceeds a period of forty-eight (48) months or for a delinquent tax balance that exceeds \$10,000, the proposed payment plan agreement must be submitted for review and approval by the GSCRC Board of Commissioners.
  - b. If a longer payment plan period is requested, a written description for why such an extension should be granted must be submitted. Upon receipt of such a request, all facts will be reviewed by the GSCRC Board of Commissioners, but an extension of the time for a payment plan is not a right nor is it guaranteed. The requesting taxpayer will receive notification in writing of the determination made by the Revenue Commission.
- D. Interest will not accumulate while a taxpayer is utilizing a payment plan agreement. However, if a taxpayer becomes non-compliant with the terms of the payment plan, then interest will accumulate at 1% per month for any non-timely payments.

- E. An account that is utilizing a payment plan will be considered in “good standing”; however, a current BUSINESS LICENSE will not be issued until all taxes have been paid. This means that a current BUSINESS LICENSE will not be issued if the taxes have not been paid for the current year due to an ongoing payment plan. Upon completion of the plan, a BUSINESS LICENSE will be issued.
- F. GSCRC will maintain an electronic record of all Payment Plan Agreements.

**Section 17.2 Requesting a Payment Plan & Administrative Hold Ordinance Requirements**

- A. The City of Georgetown has in place an “administrative hold” ordinance which sets forth the following:

*(A) City of Georgetown, Code of Ordinances, Section 1-14 Administrative Hold*

- i. Persons, businesses, or entities who:
  - 1. Own property in the city for which there exists:
    - a. Unpaid city ad valorem taxes,
    - b. Unpaid fines and abatement costs assessed by the city, or
    - c. A final order finding a violation of any code or ordinance of the city that has not been remedied, or
  - 2. Are delinquent on payment or filing of OCCUPATIONAL LICENSE TAX (PAYROLL TAX AND/OR NET PROFIT LICENSE TAX), insurance premium taxes, tourism taxes or any other taxes owed to the city or its agencies; shall be administratively ineligible for the issuance of any license, permit or other approval issued by the city or its agencies, including the Planning Commission and Staff, Building Inspection Department, Revenue Commission, City Clerk, City Engineer, or Fire Department, or by any agency with which the city has an agreement for reciprocal application of this section, until such time as the deficiency or deficiencies have been corrected.  
Notwithstanding this prohibition, the city or agency may issue any

permit necessary to remedy the condition causing the administrative ineligibility.

- B. An administrative hold resulting from the application of section (a) shall run with the land and be binding on the person, BUSINESS ENTITY’S successors and heirs, provided that the successors and heirs have notice or constructive notice of the delinquent obligation. The filing of a lien in the County Clerk’s office shall presumptively establish constructive notice to all PERSONS.
- C. The Administrative Hold Ordinance requires that all City of Georgetown department staff must verify that a BUSINESS or INDIVIDUAL is compliant with all other departments to issue any permit, license, or inspection right.

(A) **Issuing Agencies (6):** Building Inspection, City Clerk, Fire Department, Georgetown Scott County Revenue Commission, Georgetown Scott County Planning & Zoning, and the City Engineer.

(B) **Target Agencies:** City Clerk, Code Enforcement, and the Georgetown-Scott County Revenue Commission.

(C) No issuing agency may issue any license, permit or approval until it has verified with all target agencies that the applicant BUSINESS/INDIVIDUAL is in good standing with respect to all requirements of the Administrative Hold Ordinance.

(D) If a BUSINESS or INDIVIDUAL wishes to request a payment plan to resolve a delinquency, so long as the taxpayer remains compliant with the terms of the payment plan arrangement, the account will be considered in “good standing.” If there is any default from the payment plan arrangement then the issuing agency will contact all city departments to immediately suspend all permit, licensing, and inspection privileges for that business and/or INDIVIDUAL.

## **REGULATION 18-1 VOLUNTARY DISCLOSURE AGREEMENT**

- A. Voluntary Disclosure Agreements (hereafter referred to as a VDA) is designed to promote compliance and to benefit taxpayers who discover a past filing obligation and

liability that has not been discharged. This arrangement may be available to taxpayers that have failed to file RETURNS and pay any taxes due to the GSCRC.

- B. The VDA does not apply to a taxpayer that files a RETURN but underreports the tax due on the RETURN.
- C. The VDA does not apply to a taxpayer that intentionally and knowingly fails to report to the taxing JURISDICTION.
- D. In order to qualify to submit a VDA to GSCRC the following must be established:
  - a. GSCRC has not had any prior contact with the BUSINESS ENTITY or PERSON seeking the VDA. No prior contact means no communication through letter, email, fax, or other form of compliance effort.
  - b. Taxpayer shall remit full payment of tax due plus accrued interest within sixty (60) days of the date of GSCRC's acceptance of the Agreement.
  - c. The taxpayer agrees to cooperate with GSCRC in the process of verifying taxpayer's liability. This process may include requesting additional documentation to verify tax liability and establish interest due.
  - d. Taxpayer shall submit all required documentation and forms within ninety (90) days of the date of a signed agreement.
- E. If a VDA is entered into by both parties, GSCRC will waive any applicable penalties relating to Taxpayer's failure to remit NET PROFIT LICENSE TAX and PAYROLL TAX. Specifically, GSCRC will waive the penalty of 5% per month up to 25% of tax due with a minimum of \$25 on all tax RETURNS.
- F. GSCRC will toll interest on delinquent taxes owed (which accumulates at 1% per month) to the postmark date on the formal request for voluntary disclosure.
- G. The terms of a VDA shall be null and void if there has been any willful material misrepresentation of fact or if there is bad faith exhibited in the fulfillment of all VDA related obligations including submission of documents or payment of taxes. For purposes of this section, the following definition applies:

- a. “Bad Faith” implies or involves actual or constructive fraud, or a design to mislead or deceive another, or a neglect or refusal to fulfill some duty or some contractual obligation, not prompted by an honest mistake as to one’s rights or duties, but by some interested or sinister motive. Examples of “bad faith” include but are not limited to entering an executed VDA agreement with no intention of paying the taxes due.

## **REGULATION 19-1 TAX COLLECTION PROCEDURE(S)**

### **Section 19.1 Collection Procedures**

- A. **Informal Collection Procedure:** The following process will be utilized when a delinquency is established. The informal internal collections procedure will be the first response to a delinquency. It will be followed by the formal due process procedure. This procedure is codified in *City of Georgetown Ordinance No. 2020-12*.
  - a. **Preliminary Notice (1st Notice):** The first notice to be sent by GSCRC will be a written letter in response to the establishment of a delinquency (failure to file, failure to pay, incomplete payment). The notice will be written and sent to the taxpayer address listed on the account. The notice will provide for thirty (30) days for taxpayer to cure the delinquency.
    - i. Please note: It is the responsibility of the taxpayer to notify GSCRC of all address changes when such a change shall occur.
  - b. **Courtesy Notice (2nd Notice):** If there is no response to the preliminary notice sent then a second courtesy notice will be sent that will include the assessment of penalties and interest and will provide information on steps to be taken to if non-responsiveness continues to notice.
  - c. **Taxpayer Protest:** If at any point during the informal collections process a taxpayer protests an assessment or the method used to determine tax liability, the informal process will cease immediately, and the formal due process procedure will be implemented. Upon receipt of a protest by a taxpayer, either verbally or in

writing, the account manager will immediately begin the formal due process procedure.

**B. Formal Due Process Collection Procedure**

**a. NET PROFIT LICENSE TAX RETURN Delinquency**

i. **Failure to Pay:** If a taxpayer files a NET PROFIT LICENSE TAX RETURN showing that taxes are due but does not pay the taxes, there is no right to appeal (because there is no decision to appeal). The tax and the penalties and interest due constitute a personal debt by law (*KRS 67.790*). If no resolution occurs during the informal collections procedure detailed in Section I of this policy, then the third and final notice shall be Form 401—Notice of Net Profits Tax Delinquency.

1. Form 401-- Notice of Net Profits Tax Delinquency shall act as the third and final notice for a failure to pay. The formal notice must include details on penalties and interest due and allow the taxpayer thirty (30) days to resolve the issue prior to the commencement of civil litigation.

ii. **Incomplete Payment:** If a taxpayer submits a NET PROFIT LICENSE TAX RETURN that includes payment, but the taxes are underpaid due to error, mathematical or otherwise, this also constitutes a failure to pay delinquency. If no resolution occurs during the informal collections procedure detailed in Section I of this policy, then the third and final notice shall be the Form 402—Notice of Assessment.

1. Form 402 – Notice of Assessment should be utilized as the third and final notice for an incomplete payment. This notice shall provide the taxpayer thirty (30) days to pay the taxes due or to request a payment plan or other arrangement.



2. The assessment of additional taxes also triggers a right of the taxpayer to appeal the additional balance. See Section III of this policy for information on appeal rights related to assessments.
  3. If the failure to pay the correct amount was due to an unintentional error, mathematical error or otherwise, the first thirty (30) day notice sent shall not include penalties and interest.
  4. If the taxpayer does not remit the complete payment of taxes due or fails to submit a written appeal to the assessment, then the taxpayer waives his/her right to appeal the assessment and civil litigation may commence.
- iii. **Failure to File:** If a taxpayer has an open account with GSCRC but fails to file an annual NET PROFIT LICENSE TAX RETURN this is considered a failure to file delinquency. If no resolution occurs during the informal collections procedure detailed in Section I of this policy, then the third and final notice shall be the Form 401—Notice of Net Profits Tax Delinquency.
1. Form 401-- Notice of Net Profits Tax Delinquency shall act as the third and final notice for a failure to pay. The formal notice must include details on penalties and interest due and allow the taxpayer thirty (30) days to resolve the issue prior to the commencement of civil litigation.
  2. Subject to appeal right of taxpayers set forth in *Section III* of this policy.
- b. **Occupational License Tax Delinquency (PAYROLL TAX)**
- i. **Failure to Pay:** If an EMPLOYER/business is required to file a monthly/quarter EMPLOYER’S Return of License Tax Withheld or an annual Reconciliation of License Tax Withheld with corresponding

EMPLOYEE W-2s evidencing the taxes were withheld but does not remit the taxes due then there is no right to appeal (because there is no decision to appeal). The tax and the penalties and interest due constitute a personal debt by law (KRS 67.790). If no resolution occurs during the informal collections procedure detailed in Section I of this policy, then the third and final notice shall be Form 411—Notice of Withholding Tax Delinquency.

1. Form 411-- Notice of Withholding Tax Delinquency shall act as the third and final notice to be sent. The formal notice must include details on penalties and interest due and allow the taxpayer thirty (30) days to resolve the issue prior to the commencement of civil litigation.
- ii. **Incomplete Payment:** If a taxpayer submits either a monthly/quarter EMPLOYER'S Return of License Tax Withheld or an annual Reconciliation of License Tax Withheld that includes payment, but the taxes are underpaid due to error, mathematical or otherwise, this also constitutes a failure to pay delinquency. If no resolution occurs during the informal collections procedure detailed in Section I of this policy, then the third and final notice shall be Form 412—Notice of Withholding Assessment.
1. Form 412 – Notice of Withholding Assessment shall act as the third and final notice to be sent. The formal notice must include details on penalties and interest due and allow the taxpayer thirty (30) days to resolve the issue prior to the commencement of civil litigation.
  2. All PAYROLL TAXES are paid using a set rate that is codified in local ORDINANCE. That rate is then applied to total COMPENSATION reported by the EMPLOYER that is remitting the taxes; therefore, there is no right to appeal an assessment that

additional taxes are due because the assessment is based upon COMPENSATION information that is submitted by the EMPLOYER.

- a. If the taxpayer does not remit the complete payment of taxes due, then civil litigation may commence.
- iii. **Failure to File:** If a taxpayer has an open PAYROLL TAX account with GSCRC but fails to file the required monthly/quarter EMPLOYER'S Return of License Tax Withheld forms or the annual Reconciliation of License Tax Withheld that constitutes a failure to file delinquency. If no resolution occurs during the informal collections procedure detailed in Section I of this policy, then the third and final notice shall be Form 412— Notice of Withholding Tax Assessment.
  1. Form 412 – Notice of Withholding Tax Assessment shall act as the third and final notice to be sent. The formal notice must include details on penalties and interest due and allow the taxpayer thirty (30) days to resolve the issue prior to the commencement of civil litigation.
  2. Subject to appeal right of taxpayers set forth in Section III of this policy.
- c. **Request for Documentation Delinquency**
  - i. If a RETURN (either PAYROLL TAX or NET PROFIT LICENSE TAX) is received that is not submitted with all required documentation, then it is considered an incomplete RETURN and GSCRC has the legal right to request submission of all required information/documentation to complete the RETURN.
  - ii. *KRS 67.760* requires all business entities to maintain proper records related to the business income generated which may include

documentation related to EMPLOYEE PAYROLL TAX (such as EMPLOYEE W-2 forms) and/or Form 1099-MISC (of any variety) for subcontract labor.

iii. If no resolution occurs during the informal collections procedure detailed in Section I of this policy, then the third and final notice shall be Form 451-- Request for Documentation.

1. Form 451-- Request for Documentation shall act as the third and final notice to be sent. If a business does not remit the requested information to GSCRC within thirty (30) days of the final notice, then an assessment will be conducted using the best information available.
2. The following forms of assessment are examples of methods that may be applied if a taxpayer fails to provide documentation:
  - a. Assessment of the average adjusted NET PROFIT LICENSE TAX from prior years;
  - b. Assessment on Form 1099-MISC (of any variety) issued at 100%;
  - c. Assessment on revenue figures obtained through an exchange of information with the Kentucky Department of Revenue;
  - d. Assessment on all COMPENSATION reported on FEDERAL INCOME TAX RETURN;
  - e. Any other reasonable method of assessment based upon the facts of the account and available information.
3. Subject to appeal right of taxpayers set forth in Section III of this policy.

**C. Legal Remedies Available to GSCRC for Delinquent Tax Debt:**

- a. If both the informal and formal due process procedures set forth above have failed to produce a resolution to an account delinquency, GSCRC may be forced to

pursue compliance and/or payment of delinquent taxes using all available legal means which may include the following (non-exhaustive list of remedies):

- i. Filing a complaint in civil court against taxpayer, seeking a judgment for delinquent taxes, penalties, and interest due;
- ii. Seeking injunctive relief in civil court via garnishment of COMPENSATION against account holder;
- iii. Seeking judgment for seizure of business and personal assets;
- iv. Filing of liens against personal property, REAL PROPERTY and/or the bank accounts for PERSON and/or BUSINESS ENTITY;
- v. Seeking satisfaction of the debt owed through the small claims process in district court if the amount owed does not exceed \$2,500.00;
- vi. Referral to Georgetown Police Department for criminal behavior (if applicable);
- vii. Referral to a third-party debt collection agency to enforce valid debt;
- viii. GSCRC reserves the right to pursue tax debts in all available legal means.

**D. Annual Review:** Written account status notices will be sent upon completion of an annual review. This courtesy notice will you inform you if there is a delinquency on your account that needs resolved. However, should time or resources not permit an annual review to occur on regular basis, it does not negate the responsibility of the taxpayer to file complete RETURNS on a timely basis. All RETURNS that are received beyond the original filing deadline are considered delinquent and subject to late filing penalties and interest as detailed in Section 12-1 of this regulation.

### **Section 19.2 Referral of Account to a Debt Collection Agency**

- A. If there is no response to written notices sent by GSCRC within 90 days of the original notice, GSCRC reserves the right to refer the delinquency to a third-party debt collection agency.
- B. Any impacted taxpayer will be notified prior to the referral taking place that the action is imminent. This will be the final warning prior to the referral taking place.

- C. Upon referral to a third-party debt collection agency, GSCRC can no longer accept payments or arrange payment plans with referred accounts. All account actions will need to go through the third-party debt collection agency. GSCRC will not have discretion to utilize any internal procedures or processes once an account is referred to a third-party debt collection agency.

### **Section 19.3 Exchange of Information Agreement**

- A. GSCRC may utilize an exchange of information agreement to obtain relevant tax RETURNS.

- a. GSCRC may enter into exchange of information agreements with the Kentucky Department of Revenue and/or the taxing agents of other governments/localities to obtain information related to tax compliance.
- b. This type of exchange is permitted per *Georgetown City Ordinance #04-019, Section 18 (10)*, “The City reserves the right to disclose to the Commissioner of Revenue of the Commonwealth of Kentucky 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 the city the reciprocal right to obtain information from the files and records of the Kentucky Department of Revenue and maintains the privileged character of the information so furnished.”
- c. Upon receipt of the tax RETURNS, the BUSINESS /ENTITY will be assessed at 100% of the NET PROFIT / income reported on the RETURN and a tax assessment will be mailed to this BUSINESS/ENTITY.
  - i. If no response is received to the tax assessment, the account will then be sent for legal collection efforts with the third-party debt collection agency.
  - ii. If the assessment is not accurate, it is the taxpayer’s obligation to submit a NET PROFIT LICENSE TAX RETURN to refute the assessment.

- d. GSCRC may exchange information related to employee refunds with other taxing jurisdictions that are referenced on the refund application under *KRS 67.750 to 67.795*:
  - i. Notwithstanding any legal restrictions or limitations to the contrary, a tax district as defined in *KRS 67.750(10)* may share a refund application and any related information that is submitted to it by an employee seeking a refund of any amount of tax withheld and paid by his or her employer to the tax district under *KRS 67.750 to 67.795* with any other tax district that is referenced in the refund application or related information.

**Section 19.4 Suspension of Privileges for Delinquent Accounts**

- A. GSCRC reserves the right to refer delinquent accounts to the City of Georgetown or Scott County agencies for suspension of any city/county issued privileges.
  - a. This referral will result in the suspension of certain city and/or county privileges. This referral is especially important for businesses that have an ABC liquor license, require electrical permits and/or inspections (HVAC), require building development approval through Georgetown-Scott County Planning and Zoning or any other city agency.
  - b. The suspension of privileges will not be lifted until the account is current and all necessary documents are submitted as requested by GSCRC.
- B. This suspension of city privileges is permitted under the *Administrative Hold Ordinance in City of Georgetown Ordinance 1-14*. This permits an administrative hold to be issued for:
- C. PERSONS and BUSINESS ENTITIES who are delinquent on payment or filing of PAYROLL TAX /NET PROFIT LICENSE TAXES makes any such account administratively ineligible for the issuance of any license, permit or other approval issued by the city or its agencies, including the planning commission and staff, building inspection department, revenue commission, city clerk, city engineer, or fire department,

or by any agency with which the city has an agreement for reciprocal application of this section, until such time as the deficiency or deficiencies have been corrected. For more information see *Section 15.2 Requesting a Payment Plan & Administrative Hold Ordinance Requirements*

## **REGULATION 20-1 APPEAL RIGHTS OF TAXPAYERS**

- A. **Appeal Process:** All taxpayers have the right to appeal eligible decisions of the GSCRC within thirty (30) days of receipt of notice of the issue. To submit an appeal, the taxpayer must:
- a. Send a written notice, including sufficient documentation to support the appeal, to the Director of the GSCRC; or
  - b. Submit a written request for a meeting with the Director of the GSCRC to explain his or her appeal and present evidence.
  - c. After reviewing documentation and/or hearing the licensee, the Director of the GSCRC shall in writing affirm, modify, or withdraw the decision.
- B. **Secondary Appeal Process:** A taxpayer shall have the right to appeal a decision of the Director of GSCRC made under Section III(a)(iii) of this policy within thirty (30) days of receipt of the written decision. To request a secondary appeal, the taxpayer must:
- a. Submit a written request for a meeting with the Board of Commissioners to explain his or her appeal and present evidence.
  - b. After reviewing documentation and/or hearing the licensee, the 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.
  - c. Eligible decisions subject to appeal under this section shall be limited to:
    1. Audit findings or an additional assessment under *KRS 67.775*
    2. APPORTIONMENT PERCENTAGE used for calculating tax liability
    3. Questions as to NEXUS in the JURISDICTION
    4. Other factors related to the assessment/calculation of tax liability



- d. An appeal shall serve to stay the collections process, during which time GSCRC shall not take any adverse actions against the taxpayer or commence civil litigation. After the appeals process is final, this stay shall immediately expire.
- C. The above stated appeal rights apply to all tax matters including PAYROLL TAX and NET PROFIT LICENSE TAX matters and pertain to statutory and constitutional rights only.

### **REGULATION 21-1 GSCRC AUTHORITY**

The GSCRC is charged with the enforcement of the provisions of the ORDINANCE and is empowered to prescribe, adopt, promulgate, and enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of the ORDINANCE. This edition of the Regulations is issued pursuant to that authority. The Regulations are intended to document the policies and procedures of the GSCRC for the administration and enforcement of the ORDINANCE. In addition, the *Regulations* should provide licensees with guidance for compliance with the ORDINANCE.