

ORDINANCE NO. BG2012 - 32

ORDINANCE AMENDING CODE OF ORDINANCES

ORDINANCE AMENDING CHAPTER 18
(OCCUPATIONAL LICENSE FEES AND TAXES)
OF THE CITY OF BOWLING GREEN CODE OF
ORDINANCES TO REVISE LANGUAGE RELATED
TO THE TAXATION OF INCOME CLASSIFIED AS
CAPITAL GAINS AND LOSSES

WHEREAS, for many years, the City of Bowling Green has imposed an occupational fee for workers and companies earning income in the City; and,

WHEREAS, while the ordinance language appeared to impose this fee on income classified by the Internal Revenue Service as capital gains, the annual reporting form provided by the City stated that capital gains were not taxable while also disallowing deductions for capital losses; and,

WHEREAS, a few years ago, the Kentucky General Assembly adopted statutory language requiring Kentucky cities to adopt standardized language related to the imposition and collection of occupational fees; and,

WHEREAS, City staff interpreted the standardized language to require taxation of capital gains with an allowance for capital losses and revised the annual form to reflect that interpretation; and,

WHEREAS, following comments from individuals and companies impacted by the revised ordinance language and form and following a work session on this issue, the Board of Commissioners has determined that it is in the best interests of the City to amend Chapter 18 (Occupational License Fees and Taxes) to follow the taxation procedure for capital gains and losses prior to the change of the ordinance and form by eliminating City taxation of capital gains and to discontinue the deduction for capital losses.

NOW, THEREFORE, BE IT ORDAINED by the City of Bowling Green, Kentucky as follows:

1. Chapter 18 (Occupational License Fees and Taxes) is hereby amended as follows:

18-1 OCCUPATIONAL LICENSE TAX AND FEES.

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18-1.01 Definitions.

As used in this Chapter:

...

“Net Profit” shall mean 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 carry forward allowed under Section 172 of the Internal Revenue Code;

(d) Include any amount of income and expenses passed through separately as required by the Internal Revenue Code to an owner of a business entity that is a pass-through entity for federal tax purposes; and,

(e) Exclude any amount of income that is exempt from state taxation by the Kentucky Constitution, or the Constitution and statutory laws of the United States and exclude any income or deduction as set out in the provisions of this Chapter.

...

18-1.03 Occupational License Tax Payment Required.

...

b. The following income is specifically determined to be defined as wages and

compensation and subject to the occupational license tax imposed:

...

3. Wages, salaries, commissions or other income, other than income from the sale of real and personal property classified as capital gains by the Internal Revenue Service, earned derived or received on the sales, rental or leasing of personal and real property;

...

c. The occupational license tax imposed in this Subchapter shall not apply to the following persons, business entities or specified income:

...

10. Income from pensions, interest and dividends;

...

21. Income from the sale of real and personal property classified as capital gains by the Internal Revenue Service, except that losses attributable to the sale of real and personal property classified as capital losses by the Internal Revenue Service shall be included as income;

...

2. The provisions of this Ordinance are hereby declared to be severable, and if any section, phrase or provision shall for any reason be declared invalid, such declaration of invalidity shall not affect the validity of the remainder of this Ordinance.

3. All prior Municipal Orders or Ordinances or parts of any Municipal Order or Ordinance in conflict herewith are hereby repealed.

4. The provisions of this Ordinance shall become effective on January 1, 2013, and shall apply to any person or business entity required to file a net profit return with the City and whose fiscal year begins on or after January 1, 2013.

5. This Ordinance is adopted pursuant to KRS 83A.060 in that it was introduced on September 4, 2012, and given final reading on September 18, 2012,

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and said Ordinance shall be in full force and effect as of January 1, 2013, and upon signature, recordation and publication in summary pursuant to KRS Chapter 424.

ADOPTED: September 18, 2012

APPROVED: Bruce Wilkerson
Mayor, Chairman of Board of Commissioners

ATTEST: Katy Shafer
City Clerk

SPONSORED BY: Bruce Wilkerson, Mayor, 8/16/2012, 10:20 a.m.
Ordinance No. BG2012-32 was withdrawn from the agenda at the August 21, 2012 Board of Commissioners meeting. Refiled 08/22/2012, 11:20 a.m.