

Ordinance No. 182-16

AN EMERGENCY ORDINANCE

To amend Section 192.03 of the Codified Ordinances of Cleveland, Ohio, 1976, as enacted by Ordinance No. 1412-15, passed November 23, 2015, increasing the rate of municipal income tax from 2% to 2 ½% per annum for the purposes of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements of the City and for the purposes of payment of debt charges and elimination of deficits existing in City funds and for all other lawful purposes.

Mayor Jackson

WHEREAS, the financial situation of the City of Cleveland warrants the enactment by the voters of additional municipal income tax so that the City may continue to meet its obligations and continue to provide proper services to its citizens; and

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That, subject to the approval of the electors of the City of Cleveland, Ohio, as provided in Section 718.04 of the Revised Code of Ohio, Section 192.03 of the Codified Ordinances of Cleveland, Ohio, 1976, as enacted by Ordinance No. 1412-15, passed November 23, 2015, is amended to read as follows:

Section 192.03 Rate and Taxable Income

For the purposes specified in Section 192.02, on and after January 1, 1967, an annual tax of one-half of one percent (0.5%) per annum shall be imposed upon the hereinafter specified income; provided that on an after July 1, 1968, the rate of tax shall be a total of one percent (1%) per annum; and that on and after March 1, 1979, the rate of such tax shall be a total of one and five-tenths percent (1.5%) per annum; and that on and after January 1, 1981, the rate of tax shall be two percent (2%) per annum; and that on and after _____, the rate of tax shall be two and one-half percent (2.5%) per annum. Such tax shall be imposed upon all taxable income as follows:

(a) On all qualifying wages, net profits, rental income and other taxable income earned and/or received on and after January 1, 1967 by residents of the City;

(b) (1) On all qualifying wages, earned and/or received on and after January 1, 1967, by nonresidents of the City for work done or services performed or rendered within the City or attributable to the City; on all net profits earned and/or received by a nonresident from the operation or conduct of any business or profession within the City; and on all other taxable income, including rental income, earned and/or received by a nonresident derived from or attributable to sources, events or transactions within the City;

(2) For nonresidents employed at a place of business or profession within the City, only those qualifying wages earned and/or received by such

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nonresident that are specifically attributable to a place or location worked that is outside the City will be treated as earned outside the City;

(c) (1) On the portion attributable to the City of the net profits earned and/or received on and after January 1, 1967, of all resident associations, pass-through entities or other unincorporated business entities treated as a pass-through entity for federal income tax purposes or professions or other activities, derived from sales made, work done, services performed or rendered, and business, or other activities conducted in the City and/or derived from sales made, work done, services performed or rendered and business or other activities attributable to the City;

(2) On the portion of the distributive share of the net profits earned and/or received on and after January 1, 1967, of a resident partner or owner of a resident association, pass-through entity or other unincorporated business entity treated as a pass-through entity for federal income tax purposes not attributable to the City and upon which the City's income tax has not been imposed and levied;

(d) (1) On the portion attributable to the City of the net profits earned and/or received on and after January 1, 1967, of all nonresident associations, pass-through entities or other unincorporated business entities treated as a pass-through entity for federal income tax purposes, professions or other activities, derived from sales made, work done, services performed or rendered, and business, or other activities conducted in the City and/or derived from sales made, work done, services performed or rendered and business or other activities attributable to the City, whether or not such association, pass-through entity or other unincorporated business entity treated as a pass-through entity for federal income tax purposes has an office or place of business in the City;

(2) On the portion of the distributive share of the net profits earned and/or received on and after January 1, 1967, of a resident partner or owner of a nonresident association, pass-through entity or other unincorporated business entity treated as a pass-through entity for federal income tax purposes not attributable to the City and upon which the City's income tax has not been imposed and levied from wherever such business is located;

(e) On the portion attributable to the City of the net profits earned and/or received on and after January 1, 1967, of all corporations and all other entities and business activities not defined herein as associations, pass-through entity or unincorporated business entity treated as a pass-through entity for federal income tax purposes derived from sales made, work done, services performed or rendered, and business, or other activities conducted in the City, and/or derived from sales made, work done, services performed or rendered, and business, or other activities attributable to the City, whether or not such corporations, entities or business activities have an office or place of business in the City;

(f) On the net profits of an electric company, combined company or telephone company apportioned and attributable to the City in accordance with RC 718.01(F)(6) and RC Chapter 5745;

(g) On all income derived from prizes, awards, gaming, wagering, lotteries or other similar games of chance by a resident from whatever source and from anywhere derived and by a nonresident from whatever source when the prize, award, gaming, wagering, lottery or other similar game of chance takes place in the City. For purposes

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of this statute, the purchase of a lottery ticket or similar instrument shall be deemed to occur in the City when said instrument is purchased in the City;

(h) On all income earned and/or received from covenants not to compete or similar agreements and on all income attributable to cancellation of indebtedness to the extent reported on the taxpayer's federal income tax return;

(i) On all the guardian, executor, conservator, trustee or administrator fees earned and/or received by a taxpayer in connection with the operation or conduct of a business or profession;

(j) On all other compensation, net profits and income earned and/or received by the taxpayer that is not specifically exempted from the tax imposed by this chapter and RC Chapter 718;

(k) (1) For taxable years beginning on or after January 1, 2004, the net profits from a business or profession shall be taxed only to the extent of the taxpayer's adjusted federal taxable income except that nothing shall be construed as limiting the ability of the Tax Administrator to administer, audit, or enforce the provisions of this chapter including making all necessary adjustments and allocations to adjusted federal taxable income to produce a fair and proper allocation of net profits to the City;

(2) Division (k)(1) of this section shall not apply to any taxpayer required to file a return under RC 5745.03 or to the net profits from a sole proprietorship;

(l) For taxable years beginning on or after January 1, 2004, in the case of a taxpayer who has a net profit from a business or profession that is operated as a sole proprietorship, or in the case of a taxpayer who has a net profit from a business and the taxpayer is an individual, the City shall not tax or use as the base for determining the amount of the net profit that shall be considered as having a taxable situs in the City, an amount other than the net profit required to be reported on Internal Revenue Service Schedules C or F from such sole proprietorship for the taxable year; and

For taxable years beginning on or after January 1, 2004, in the case of a taxpayer who has a net profit from rental activity required to be reported on Internal Revenue Service Schedule E, the City shall not tax or use as the base for determining the amount of the net profit that shall be considered as having a taxable situs in the City, an amount other than the net profit from rental activities required to be reported by the taxpayer on Schedule E for the taxable year.

Section 2. That existing Section 192.03 of the Codified Ordinances of Cleveland, Ohio, 1976, as enacted by Ordinance No. 1412-15, passed November 23, 2015, is repealed effective _____, subject to the approval of the electors of the City of Cleveland, Ohio, as provided in Section 718.04 of the Revised Code of Ohio; provided, however, that if such approval is not obtained the aforesaid section shall remain in full force and effect as presently written.

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Section 3. That it is the desire of this Council that the question of an additional levy of one-half percent (0.5%) tax on income, until repealed, for purposes of general municipal operations, maintenance, new equipment, extension and enlargement of services and facilities and capital improvements of the City and for the purposes of payment of debt charges and for the elimination of deficits existing in City funds and for all other lawful purposes be submitted to the electors of the City of Cleveland by the Board of Elections of Cuyahoga County at the election to be held on _____, as authorized by law and said election shall be held at the regular places of voting in said City as established by the Board of Elections of Cuyahoga County, Ohio, or otherwise, within the time permitted by law and shall be conducted, canvassed, and certified in the manner provided by law.

Section 4. The form of ballot to be cast at such election on the question of such additional income tax shall be substantially as follows:

PROPOSED ADDITIONAL TAX LEVY
CITY OF CLEVELAND

Majority vote is necessary for passage.

Shall the ordinance providing for an additional one-half percent (1/2%) tax to be levied on income for the purposes of providing for general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements with an effective date of _____, of the City be passed?

FOR THE TAX LEVY _____
AGAINST THE TAX LEVY _____

Section 5. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

DDR:nl
2-8-16
FOR: Mayor Jackson

