

Occupational License Tax

CITY OF CAMPBELLSVILLE

Ordinance No. 09-03

An ordinance relating to the imposition and administration of an occupational license requirement, and payment of an occupational license tax by persons and business entities conducting businesses, occupations and professions within THE CITY OF CAMPBELLSVILLE, TAYLOR COUNTY, Kentucky, pursuant to KRS 92.281, 67.750 b - 67.790 and Section 181 of the Kentucky Constitution.

Whereas the campbellsville city council finds it necessary to raise revenues to meet the needs and expenses of the city of campbellsville,

Be it ordained by the Campbellsville City Council, as follows:

Sections:

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§ 1 - Definitions

As used in this ordinance, the following terms and their derivatives shall have the following meanings unless the context clearly indicates that a different meaning is intended:

- (1) "Association" means a partnership or any other form of unincorporated enterprise owned or operated by two or more persons.
- (2) "Business entity" means each separate corporation, limited liability company, business

development corporation, partnership, limited partnership, registered limited liability partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted;

- (3) "Business" means any enterprise, activity, trade, occupation, profession or undertaking of any nature conducted for gain or profit. "Business" shall not include a board of trade, chambers of commerce, trade associations, or unions, or other associations performing services usually performed by trade associations or unions as recognized by the Internal Revenue Service. "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.
- (4) "City" means Campbellsville, Kentucky.
- (5) "Compensation" means wages, salaries, commissions, or any other form of remuneration paid or payable by an employer for services performed by an employee, which are required to be reported for federal income tax purposes and adjusted as follows:
 - (a) Include any amounts contributed by an employee to any retirement, profit sharing, or deferred compensation plan, which are deferred for federal income tax purposes under a salary reduction agreement or similar arrangement, including but not limited to salary reduction arrangements under Section 401(a), 401(k), 402(e), 403(a), 403(b), 408, 414(h), or 457 of the Internal Revenue Code; and
 - (b) Include any amounts contributed by an employee to any welfare benefit, fringe benefit, or other benefit plan made by salary reduction or other payment method which permits employees to elect to reduce federal taxable compensation under the Internal Revenue Code, including but not limited to Sections 125 and 132 of the Internal Revenue Code;
- (6) "Conclusion of the federal audit" means the date that the adjustments made by the Internal Revenue Service to net income as reported on the business entity's federal income tax return become final and unappealable;
- (7) "Corporation" means a corporation of joint stock company including S corporations organized under the laws of the United States, Kentucky, another state, territory or foreign country or a dependency thereof, or to otherwise existing under color of law as a corporation including a nonprofit corporation and a joint stock company and recognized as such for federal income tax purposes.
- (8) "Domestic Servant" means an individual employed to drive his employer as a chauffeur or employed on the grounds or in the home of his employer, to cook, clean, wash, garden,

transport, or otherwise care for or wait upon the employer, the employer's family and guests or to care for the person, home, grounds, and/or vehicles of the employer, the employer's family and guests, including but not limited to maids, butlers, nurses, nursemaids, gardeners, cooks' launderers and chauffeurs engaged to service the employer, the employer's family and guests, but not including such individuals who are employed by a cleaning service, personal nursing service, chauffeuring service or other entity which offers the services of its employees to the public.

- (9) "Employee" means any person who renders services to another person or any business entity for compensation, including an officer of a corporation and any officer, employee, or elected official of the United States, a state, or any political subdivision of a state, or any agency of instrumentality of any one (1) or more of the above. A person classified as an independent contractor under the Internal Revenue Code shall not be considered an employee.
- (10) "Employer" means the person for whom an individual performs or performed any service, of whatever nature, as the employee of such person, except that:
- (a) if the person for whom the individual performs or performed the services does not have control of the payment of the wages for such services, the term "employer" means the person having control of the payment of such wages, and
 - (b) in the case of a person paying wages on behalf of a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States, the term "employer" means such person;
- (11) The term "Federal Income Tax Return" means all forms filed for Federal Income Tax purposes including all schedules.
- (12) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any individual or corporation acting in a fiduciary capacity for any other person. This includes all persons required to file under KRS 141.190.
- (13) "Final determination of the federal audit" means the revenue agent's report or other documents reflecting the final and unappealable adjustments made by the Internal Revenue Service;
- (14) "Fiscal year" means fiscal year as defined in Section 7701(a)(24) of the Internal Revenue Code;
- (15) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, of the year in which the tax is due, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, of the year in which the tax is due, that would otherwise terminate;
- (16) "Itinerant Merchant" means an individual who does not have a permanent business

location in the CITY and who sells items of merchandise.

- (17) The term "Kentucky State Income Tax Return" means all forms filed for Kentucky State Income Tax purposes including all schedules.
- (18) The phrase "License Fee" shall mean a tax imposed on (a) salaries, wages, commissions and other compensation earned by persons within the CITY for work done and services performed or rendered in the CITY; and (b) the net profits of self-employed persons, corporations, S corporations, associations, partnerships, limited liability companies, joint ventures, fiduciaries, itinerant merchants, or any other entity resulting from businesses, trades, occupations, professions, or activities conducted in the CITY.
- (19) "Licensee" means any person required to file a separate return or to pay a license fee thereon under this chapter.
- (20) "Limited Liability Company" means an unincorporated association formed under KRS Chapter 275, or similar statute of another state.
- (21) "Net profit" means gross income as defined in Section 61 of the Internal Revenue Code minus all the deductions from gross income allowed by Chapter 1 of the Internal Revenue Code, and adjusted as follows:
 - (a) Include any amount claimed as a deduction for state tax or local tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, local taxing authority in a state, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country or political subdivision thereof;
 - (b) Include any amount claimed as a deduction that directly or indirectly is allocable to income which is either exempt from taxation or otherwise not taxed;
 - (c.) Include any amount claimed as a net operating loss carryback or carryforward allowed under Section 172 of the Internal Revenue Code;
 - (d) Include any amount of income and expenses passed through separately as required by the Internal Revenue Code to an owner of a business entity that is a pass-through entity for federal tax purposes; and
 - (e) Exclude any amount of income that is exempt from state taxation by the Kentucky Constitution, or the Constitution and statutory laws of the United States;
- (22) "Nexus" shall mean a minimum connection between a person/business entity and the taxing jurisdiction brought about when the person/business entity purposefully avails itself of the privileges and protection of the jurisdiction while engaging in business or practicing a trade, occupation, or profession, without excluding by implication other activities which may create a nexus.

- (23) "Occupation Tax Administrator" means the official collector and administrator of the occupational tax, to be appointed by the City of Campbellsville.
- (24) "Partnership" means the relationship between two or more who join together to carry on a trade or business. Each partner contributes money, property, labor, or skills, and each expects to share in the profits and losses. A partner can be an individual person, corporation, trust, estate, or another partnership.
- (25) "Person" shall mean every natural person, whether a resident or non-resident of the CITY. Whenever the word "person" is used in a clause prescribing and imposing a penalty in the nature of a fine or imprisonment, the word, as applied to a partnership or other form of unincorporated enterprise, shall mean the partners or members thereof, and as applied to corporations, shall mean the officers and directors thereof;
- (26) "Questionnaire" means the registration form required by the Occupational Tax Office to be completed before the commencement of business within CITY.
- (27) "Rental Unit" shall mean any room or rooms connected or other structure or portion thereof constituting a separate, independent establishment of premises for rent, lease, or sublease to the occupant thereof.
- (28) "Return" or "Report" means any properly completed and, if required, signed form, statement, certification, declaration, or any other document permitted or required to be submitted or filed with the CITY;
- (29) "Salaries", "Wages", "Commissions" and other "Compensation" when applied to a person employed by others shall have the same meaning and shall include the gross amount of all salaries, wages, commissions, fees (including director fees), bonuses or any other money payments of any kind, or other considerations having a monetary value, which a person receives or becomes entitled to, or is given credit for by an employer, without deducting for withholding taxes, social security benefits, any form of insurance or retirement benefits, or other deductions made by an employer in calculating "take home-pay".
- (30) "Sales Revenue" means receipts from the sale, lease, or rental of goods, services, or property;
- (31) "Sole Proprietor" means a natural person engaged in any business, profession or occupation, but not as an employee.
- (32) "Tax district" means any CITY or city with the authority to levy net profits or occupational license taxes;
- (33) "Taxable net profit" in case of a business entity having payroll or sales revenue only within the CITY means net profit as defined in this section;

- (34) "Taxable net profit" in case of a business entity having payroll or sales revenue both within and without the CITY means net profit as defined in this section, and as apportioned under Section (4) of this Ordinance; and
- (35) "Taxable year" means the calendar year or fiscal year ending during the calendar year, upon the basis of which net income is computed.
- (36) "Taxpayer" means any person or business made liable for taxation or for the payment of amounts withheld from employees under the terms of this chapter.
- (37) The words and phrases "Trade, Occupation, or Profession" shall include any and all activities and the rendering of any and all services of all kinds for net profit or gain of any kind when applied to persons so engaged for themselves whether the person be a resident of CITY or not.
- (38) The singular shall include the plural, the plural shall include the singular, the masculine or feminine shall include both and the neuter genders whenever susceptible to such.

§ 2 - Occupational License Fee Generally

- (1) Every person or business engaged in any trade, occupation, or profession, or other activity or anyone required to file a return under this Ordinance in the City of Campbellsville, Kentucky shall be required to complete and execute the questionnaire prescribed by the Occupational Tax Office. Each person shall be required to complete a separate questionnaire for each separate business before the commencement of business or in the event of a status change, other than change of address. Licensees are required to notify the Occupational Tax Office of changes of address, or the cessation of business activity, and of other changes which render inaccurate the information supplied in the completed questionnaire.
- (2) Every natural person and every entity defined in Section One engaging in any activity for profit, or filing Kentucky Income Tax forms 740, 741, 765, 720, or 720S, shall be required to file and pay to the Occupational Tax Administrator an annual Occupational License Fee resulting from engaging in each said activity. Said license fee shall be measured by **one percent (1.00 %)** of compensation defined in Section One (1) and **one percent (1.00 %)** of the net profits defined in Section One (1) for each separate business or entity.
 - (a) Each person, business, and entity above operating for profit entirely within the City of Campbellsville shall attach a copy of their appropriate Kentucky Income Tax Return (form 720 or 720S along with 720L, 740, 741, or 765) and supporting schedules (e. g. Federal Schedule C, E, or F.).
 - (b) All partnerships and LLCs (not their partners or members) and S Corporations (not their shareholders) are subject to this Ordinance, that is, the Occupational

License Fee is not “passed through” these entities. In the case of guaranteed payments to partners, the partners are subject to the Occupational License Fee on any such payments. The partnership will be subject to the Occupational License Fee on any income shown on Schedule K, page 3, of Kentucky Form 765, less said guaranteed payments.

- (3) Subject to this Ordinance is all income derived from the hire, rental or leasing of personal property, including those persons engaged in farm activity. All wages, salaries, commissions, or other income earned or received by persons, associations, partnerships, corporations, S corporations, joint ventures or any renting or leasing real estate if said person, association, partnership, corporation, joint venture or other entity owns any interest in real estate in the City of Campbellsville used for commercial or industrial purposes.
- (4) Persons, associations, partnerships, corporations, joint ventures or any other entity will be subject to the Occupational License Fee on any income shown on Federal Schedule E.
- (5) Every person or business engaged in farm activity for profit will be subject to the Occupational License Fee on any net income shown on Federal Schedule F.
- (6) Sole proprietors engaged in any business activity for profit will be subject to the Occupational License Fee on any income shown on Federal Schedule C.
- (7) Wages earned either within or outside the City of Campbellsville may not be used as a credit against the Net Profits of a business.
- (8) A person practicing a business, profession, trade or occupation shall be deemed to be subject to the net profits licenses fee if the person has a nexus with the City of Campbellsville sufficient to justify the imposition of the license fee in a manner consistent with the commerce clause and the due process clause of the Fourteenth Amendment to the Constitution of the United States and other applicable federal law. If the person has a sufficient nexus with the City of Campbellsville, but also has a sufficient nexus with other cities or counties of Kentucky, other states of the United States, and/or other nations, then the net profits derived from activities conducted within the City of Campbellsville shall be determined by the apportionment formula set out in Section Four (4) herein (or other applicable section). It shall not be necessary that there be an independently established nexus between the City of Campbellsville and each activity from which the licensee has derived income subject to apportionment. Consequently, the “net profit” of the corporation, fiduciary, partnership or other association shall be subject to apportionment and taxation based on unitary business principles. To the extent that the licensee submits satisfactory proof that any income is not from a unitary source, such income may be excluded.
- (9) Establishing “Nexus”

Without excluding by implication other activities which may create a nexus, one or more of the following connections between a person/business entity in the City of Campbellsville shall normally establish a sufficient nexus:

- (a) Location of a place of business in the City;
 - (b) Frequent and continuing entry into the City in the course of business by an officer or employee of a business;
 - (c.) Delivery of goods to residents in the City other than through the mails or by common carrier;
 - (d) Contracting to buy or sell goods in the City;
 - (e) Contracting substantial business activity in the City leading to a contract to sell goods.
- (10) Paid Preparer Certification in lieu of filing of return: Upon the Certification the taxpayer and the certification of a "paid tax preparer", provided on a form approved by the occupational tax administrator, that the net profit or other income of an employee, taxpayer, or other entity shown upon the approved form is and has been calculated by the paid tax preparer certifying the form based on actual filed tax returns which are and shall remain for the applicable Federal statute of limitation on file in the preparer's office. Said filing shall be deemed consent by the taxpayer and preparer for the administrator to review said forms on file at any time deemed necessary by the administrator. Upon such filing section 1.03 shall be deemed to have been complied with without the necessity of deposit of a copy of said returns or forms with the Administrator. Notwithstanding the above the paid preparer and taxpayer shall make said return or forms available to the Administrator immediately upon written request from the Administrator.

§ 3 - Occupational License Tax Payment Required

- (1) Occupational license fee is required generally as set forth in § 2.
- (2) All partnerships, S corporations, and all other entities where income is "passed through" to the owners are subject to this ordinance. The occupational license tax imposed in this ordinance is assessed against income before it is "passed through" these entities to the owners.
- (3) If any business entity dissolves, ceases to operate, or withdraws from the CITY during any taxable year, or if any business entity in any manner surrenders or loses its charter during any taxable year, the dissolution, cessation of business, withdrawal, or loss or surrender of charter shall not defeat the filing of returns and the assessment and collection of any occupational license tax for the period of that taxable year during which the business entity had business activity in the CITY.

- (4) If a business entity makes, or is required to make, a federal income tax return, the occupational license tax shall be computed for the purposes of this ordinance on the basis of the same calendar or fiscal year required by the federal government, and shall employ the same methods of accounting required for federal income tax purposes.

Exemptions

- (5) The occupational license tax imposed in this section shall not apply to the following persons or business entities:
- (a) Any bank, trust company, combined bank and trust company, combined trust, banking and title business organized and doing business in this state, any savings and loan association whether state or federally chartered;
 - (b) Any compensation received by members of the Kentucky national guard for active duty training, unit training assemblies and annual field training;
 - (.c.) Any compensation received by precinct workers for election training or work at election booths in state, CITY, and local primary, regular, or special elections;
 - (d) 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. Licensees whose businesses are predominantly non-public service who are also engaged in public service activity are required to pay a license fee on their net profit derived from the non-public service activities apportioned to the CITY;
 - (e) Persons or business entities that have been issued a license under KRS Chapter 243 to engage in manufacturing or trafficking in alcoholic beverages. Persons engaged in the business of manufacturing or trafficking in alcoholic beverages are required to file a return, but may exclude the portion of their net profits derived from the manufacturing or trafficking in alcoholic beverages;
 - (f) Insurance companies incorporated under the laws of and doing business in the Commonwealth of Kentucky except as provided in KRS 91A.080;
 - (g) Any profits, earnings, distributions of an investment fund which would qualify under KRS 154.20-250 to 154.20-284 to the extent any profits, earnings, or distributions would not be taxable to an individual investor;
- (6) All natural persons aged 65 and older shall be exempt from the provisions of the Occupational License Fee as to the first two thousand (\$2,000.00) dollars of salaries, wages, commissions, or other compensation earned by such persons in the City of Campbellsville for work done or services performed or rendered in the City of Campbellsville, or exempt as to the first two thousand (\$2,000) dollars of net profits of

any business, trade occupation or profession conducted in the City of Campbellsville. It shall be the duty of all employers to withhold an all wages. Each individual person entitled to this refund must file FORM-ERC65 provided by or obtainable from the Occupational Tax Office. A W-2 and proof of age must be provided to receive said refund. No more than one exemption will be allowed per person or business. This said exemption may be used on either personal wages or net profits.

- (7) A person engaged in agriculture business (raising crops and livestock) who employs less than five (5) employees on a regular time basis, (four hundred fifty [450] hours during a quarter), may file a return and pay the withholding tax at the end of the taxable year.
- (8) Compensation received for domestic services rendered by those persons classified as domestic servants by Section One (1).
- (9) Those persons qualifying under KRS 68.197 (2).

§ 4 - Apportionment

- (1) Except as provided in subsection (4) of this section, net profit shall be apportioned as follows:
 - (a) For business entities with both payroll and sales revenue in more than one (1) tax district, by multiplying the net profit by a fraction, the numerator of which is the payroll factor, described in subsection (2) of this section, plus the sales factor, described in subsection (3) of this section, and the denominator of which is two (2); and
 - (b) For business entities with sales revenue in more than one (1) tax district, by multiplying the net profit by the sales factor as set forth in subsection (3) of this section.
 - (c) For the purposes of subsections (1) thru (4) of this section, the business entity shall file an apportionment form provided by the Occupational Tax Office.
- (2) The payroll factor is a fraction, the numerator of which is the total amount paid or payable in the CITY during the tax period by the business entity for compensation, and the denominator of which is the total compensation paid or payable by the business entity everywhere during the tax period. Compensation is paid or payable in the CITY based on the time the individual's service is performed within the CITY.
- (3) The sales factor is a fraction, the numerator of which is the total sales revenue of the business entity in the CITY during the tax period, and the denominator of which is the total sales revenue of the business entity everywhere during the tax period.
 - (a) The sales, lease, or rental of tangible personal property is in the CITY if:

1. The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within the CITY regardless of the f.o.b. point or other conditions of the sale; or
 2. The property is shipped from an office, store, warehouse, factory, or other place of storage in the CITY and the purchaser is the United States government.
- (b) Sales revenues, other than revenue from the sale, lease or rental of tangible personal property or the lease or rental of real property, are apportioned to the CITY based upon a fraction, the numerator of which is the time spent in performing such income-producing activity within the CITY and the denominator of which is the total time spent performing that income-producing activity.
- (c.) Sales revenue from the sale, lease, or rental of real property is allocated to the tax district where the property is located.
- (4) If the apportionment provisions of this section do not fairly represent the extent of the business entity's activity in the CITY, the business entity may petition the CITY or the CITY may require, in respect to all or any part of the business entity's business activity, if reasonable:
- (a) Separate accounting;
 - (b) The exclusion of any one (1) or more of the factors;
 - (c.) The inclusion of one (1) or more additional factors which will fairly represent the business entity's business activity in the CITY; or
 - (d) The employment of any other method to effectuate an equitable allocation and apportionment of net profit.
- (5) When compensation is paid or payable for work done or services performed or rendered by an employee, both within and without the CITY, the license tax shall be measured by that part of the compensation paid or payable as a result of work done or service performed or rendered within the CITY. The license tax shall be computed by obtaining the percentage which the compensation for work performed or services rendered within the CITY bears to the total wages and compensation paid or payable. In order for the CITY to verify the accuracy of a taxpayer's reported percentages under this subsection, the taxpayer shall maintain adequate records.

§ 5 - Employers to Withhold

- (1) Every employer making payment of compensation to an employee shall deduct and withhold upon the payment of the compensation any tax imposed against the compensation by the City. Amounts withheld shall be paid to the CITY in accordance with this ordinance.
- (2) Every employer required to deduct and withhold tax under this section shall, for the quarter

ending after January 1 and for each quarter ending thereafter, on or before the end of the month following the close of each quarter, make a return and report to the City, and pay to the City, the tax required to be withheld under this section, unless the employer is permitted or required to report within a reasonable time after some other period as determined by the City.

- (3) Every employer who fails to withhold or pay to the CITY any sums required by this ordinance to be withheld and paid shall be personally and individually liable to the CITY for any sum or sums withheld or required to be withheld in accordance with the provisions of this section.
- (4) The City shall have a lien upon all the property of any employer who fails to withhold or pay over to the City sums required to be withheld under this section. If the employer withholds, but fails to pay the amounts withheld to the CITY, the lien shall commence as of the date the amounts withheld were required to be paid to the City. If the employer fails to withhold, the lien shall commence at the time the liability of the employer is assessed by the City.
- (5) Every employer required to deduct and withhold tax under this section shall annually on or before February 28 of each year complete and file on a form furnished or approved by the City a reconciliation of the occupational license tax withheld where compensation is paid or payable to employees. Either copies of federal forms W-2 and W-3, transmittal of wage and tax statements, or a detailed employee listing with the required equivalent information, as determined by the City, shall be submitted.
- (6) Every employer shall furnish each employee a statement on or before January 31 of each year showing the amount of compensation and occupational license tax deducted by the employer from the compensation paid to the employee for payment to the City during the preceding calendar year.
- (7) An employer shall be liable for the payment of the tax required to be deducted and withheld under this section.
- (8) The president, vice president, secretary, treasurer or any other person holding an equivalent corporate office of any business entity subject to this ordinance shall be personally and individually liable, both jointly and severally, for any tax required to be withheld 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 City, nor the cessation of holding any corporate office, shall discharge that 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. No person shall be personally and individually liable under this subsection who had no authority to collect, truthfully account for, or pay over any tax imposed by this ordinance at the time that the taxes imposed by this ordinance become or became due.
- (9) Every employee receiving compensation in the City subject to the tax imposed under this

ordinance shall be personally liable for the tax notwithstanding the provisions of this section. In all cases where the employer does not withhold the tax levied under this ordinance from the employee, such employee or employees shall be responsible for filing with the City each quarter in the same manner as if they were the employer. If an employer fails to or is not required to withhold, report, or pay the License Fee it shall become the duty of the employee to file with the City. The only employer that is not required to withhold, report, and pay the occupational license tax is the Federal Government including the United States Postal Service. The payment required to be made by an employee, can be made quarterly, for the periods ending March 31st, June 30th, September 30th, and December 31st of each year, or at any time the employee wishes to make an estimated payment for the year in which wages are earned. All license fees must be received by February 28th for the preceding calendar year, together with a copy of the employee's W-2 form. Employers not required to withhold, report, or pay the license fee must annually during the month of January of each year, make a return to the Occupational Tax Administrator, in which is set forth the name and social security number of each employee of the employer during the preceding calendar year, giving the amount of salaries, wages, commissions or other compensation earned during such preceding year by each such employee. This list shall include all current full time employees, part time employees, temporary employees, and terminated employees whether it be voluntary or involuntary.

§ 6 - Returns Required

- (1) All business entity returns for the preceding taxable year shall be made by April 15 of each year, except returns made on the basis of a fiscal year, which shall be made by the fifteenth day of the fourth month following the close of the fiscal year. Blank forms for returns shall be supplied by the CITY.
- (2) Every business entity shall submit a copy of its federal income tax return and all supporting statements and schedules at the time of filing its occupational license tax return with the City. Whenever, in the opinion of the City, it is necessary to examine the federal income tax return of any business entity in order to audit the return, the City may compel the business entity to produce for inspection a copy of any statements and schedules in support thereof that have not been previously filed. The City may also require copies of reports of adjustments made by the federal government.
- (3) Every business entity subject to an occupational license tax governed by the provisions of this ordinance shall keep records, render under oath statements, make returns, and comply with rules as the City from time to time may prescribe. Whenever the CITY deems it necessary, the City may require a business entity, by notice served to the business entity, to make a return, render statements under oath, or keep records, as the City deems sufficient to determine the tax liability the business entity.
- (4) The City may require, for the purpose of ascertaining the correctness of any return or for the purposes of making an estimate of the taxable income of any business entity, the attendance of a representative of the business entity or of any other person having knowledge in the

premises.

- (5) The full amount of the unpaid tax payable by any business entity, as appears from the face of the return, shall be paid to the City at the time prescribed for filing the occupational license tax return, determined without regard to any extension of time for filing the return.
- (6) It shall be the responsibility of persons who make Federal Form 1099 "non-employee compensation" payments to natural persons other than employees for services performed within the City, to maintain records of such payments and to report such payments to the City. Said payments must be reported on by remitting Federal Form 1099 by February 28 of the year following the close of the calendar year in which the non employee compensation was paid. If a business entity or person is not required to remit Federal Form 1099 to the IRS, including but not limited to payments less than \$600, they are still liable to remit the equivalent information to the CITY. The information required to be reported by said licensee shall include:
 - (a) Payer's name, address, social security and/or Federal identification number.
 - (b) Recipient's name and address.
 - (c.) Recipient's social security and/or Federal identification number.
 - (d) Amount of non employee compensation paid in the calendar year.
 - (e) Amount of non employee compensation earned in the CITY for the calendar year.
- (7) Fractional part of a dollar - Licenses are permitted to report items on all returns and accompanying schedules in whole dollar amounts. To do so, licensees should drop any amount less than fifty (50) cents and increase any amount from fifty (50) cents to ninety-nine (99) cents to the next highest dollar.
- (8) Automatic Extension if due date falls on Saturday, Sunday or CITY 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 Occupational Tax Office 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 Occupational Tax Office on the next day which is not a Saturday, Sunday or a CITY legal holiday.
- (9) Limitations on credit, refund - Any request for a refund, or for credit for an overpayment of any occupational license fee paid to the Tax Administrator, unless paid under protest, must be filed within one year from the date of the filing of the completed return, if timely filed. In a case where the return involved was not a timely filed, the request for the refund must be made within one year from the original due date of the return. For the purpose of this regulation, a return shall be considered as timely filed if it is received at the Occupational Tax Office, or postmarked, by the due date specified in any duly approved extension of time for filing granted upon the request of the licensee.

§ 7 - Extensions

- (1) The CITY may grant any business entity an extension of not more than six (6) months, unless a longer extension has been granted by the Internal Revenue Service or is agreed to by the CITY and the business entity, for filing its return, if the business entity, on or before the date prescribed for payment of the occupational license tax, requests the extension and pays the amount properly estimated as its tax.
- (2) If the time for filing a return is extended, the business entity shall pay, as part of the tax, an amount equal to twelve percent (12%) per annum simple interest on the tax shown due on the return, but not been previously paid, from the time the tax was due until the return is actually filed and the tax paid to the CITY. A fraction of a month is counted as an entire month.

§ 8 - Refunds

- (1) Where there has been an overpayment of tax under Section (5) of this ordinance, a refund or credit shall be made to the employer only to the extent that the amount of the overpayment was not deducted and withheld under Section (5) by the employer;
- (2) Unless written application for refund or credit is received by the CITY from the employer within two (2) years from the date the overpayment was made, no refund or credit shall be allowed;
- (3) An employee who has compensation attributable to activities performed outside the CITY, based on time spent outside the CITY, whose employer has withheld and remitted to this CITY, the occupational license tax on the compensation attributable to activities performed outside the CITY, may file for a refund within two (2) years of the date prescribed by law for the filing of a return. The employee shall provide a schedule and computation sufficient to verify the refund claim and the CITY may confirm with the employer the percentage of time spent outside the CITY and the amount of compensation attributable to activities performed outside the CITY prior to approval of the refund.

§ 9 - Federal Audit Provisions

- (1) As soon as practicable after each return is received, the CITY may examine and audit the return. If the amount of tax computed by the CITY is greater than the amount returned by the business entity, the additional tax shall be assessed and a notice of assessment mailed to the business entity by the CITY within five (5) years from the date the return was filed, except as otherwise provided in this subsection.
 - (a) In the case of a failure to file a return or of a fraudulent return the additional tax may be assessed at any time.
 - (b) In the case of a return where a business entity understates net profit, or omits an

amount properly includable in net profits, or both, which understatement or omission, or both, is in excess of twenty-five percent (25%) of the amount of net profit stated in the return, the additional tax may be assessed at any time within six (6) years after the return was filed.

- (c.) In the case of an assessment of additional tax relating directly to adjustments resulting from a final determination of a federal audit, the additional tax may be assessed before the expiration of the times provided in this subsection, or six (6) months from the date the CITY receives the final determination of the federal audit from the business entity, whichever is later.

The times provided in this subsection may be extended by agreement between the business entity and the CITY. For the purposes of this subsection, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day. Any extension granted for filing the return shall also be considered as extending the last day prescribed by law for filing the return.

- (2) Every business entity shall submit a copy of the final determination of the federal audit within thirty (30) days of the conclusion of the federal audit.
- (3) The CITY may initiate a civil action for the collection of any additional tax within the times prescribed herein.

§ 10 - Administrative Provisions

- (1) No suit shall be maintained in any court to restrain or delay the collection or payment of the tax levied by this ordinance.
- (2) Any tax collected pursuant to the provisions of this ordinance may be refunded or credited within two (2) years of the date prescribed by law for the filing of a return or the date the money was paid to the CITY, whichever is the later, except that:
 - (a) In any case where the assessment period contained in this ordinance has been extended by an agreement between the business entity and the CITY, the limitation contained in this subsection shall be extended accordingly.
 - (b) If the claim for refund or credit relates directly to adjustments resulting from a federal 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.

For the purposes herein, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day.

- (3) The authority to refund or credit overpayments of taxes collected pursuant to this ordinance

is vested exclusively in the CITY.

- (4) The Occupational Tax Administrator is hereby charged with the enforcement of the provisions of this chapter, and is hereby 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 this chapter, including, but not limited to, provisions for the re-examination and correction of returns as to which an overpayment or underpayment is claimed or found to have been made, and the rules and regulations relating promulgated by her shall be binding upon the licensee and the employers.
- (5) The Occupational Tax Administrator, or any agent or employee designated in writing by her, is hereby authorized to examine the books, papers, and records of any employer or supposed employer or any licensee or supposed licensee in order to determine the accuracy of any return made, or, if no return was made, ascertain the amount of license fee imposed by the terms of this chapter. Each such employer or supposed employer or licensee or supposed licensee is hereby directed and required to give to the Occupational Tax Administrator or her duly authorized agent or employee the means, facilities and opportunity for such examination and investigation as are hereby authorized. The Occupational Tax Administrator is hereby authorized to examine any person under oath concerning any wages, salaries, commissions or other compensation or net profits which were or should have been returned and to this end she may compel the production of books, papers, records and the attendance of all persons before her, whether as parties or witnesses, whom she believes to have knowledge of such wages, salaries, commissions or other compensations or net profits, to the extent that any officer empowered to administer oaths in this Commonwealth is permitted to so order. If as a result of an investigation conducted by the Occupational Tax Administrator a return is found to be incorrect, the Occupational Tax Administrator is authorized to assess and collect any underpayment of employee license fee withheld at the source or any underpayment of Occupational or Net Profit License Fee due by any licensee. If no return has been filed and an Occupational License Fee is found to be due, the license fee actually due may be assessed and collected and penalties and interest added thereto.
- (6) It is not the intention of the CITY by this chapter to impose and require an occupational license fee prohibited by law.

§ 11 - Information to Remain Confidential

- (1) No present or former employee of the CITY shall intentionally and without authorization inspect or divulge any information acquired by him or her of the affairs of any person, or information regarding the tax schedules, returns, or reports required to be filed with the CITY or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business. This prohibition does not extend to information required in prosecutions for making false reports or returns for taxation, or any other infraction of the tax laws, or in any way made a matter of public record, nor does it preclude furnishing any taxpayer or the taxpayer's properly authorized agent with information respecting his or her own return. Further, this prohibition

does not preclude any employee of the CITY from testifying in any court, or from introducing as evidence returns or reports filed with the CITY, in an action for violation of a the CITY tax laws or in any action challenging the CITY laws.

- (2) 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 to 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. Provided, further, that the CITY may publish statistics based on such information in such a manner as not to reveal data respecting net profits or compensation of any person or business entity.
- (3) In addition, the CITY is empowered to execute similar reciprocity agreements as described in subsection (2) of this section with any other taxing entity, should there be a need for exchange of information in order to effect diligent enforcement of this ordinance.

§ 12 - Penalties

- (1) A business entity subject to tax on net profits may be subject to a penalty equal to five percent (5%) of the tax due for each calendar month or fraction thereof if the business entity:
 - (a) Fails to file any return or report on or before the due date prescribed for filing or as extended by the CITY; or
 - (b) Fails to pay the tax computed on the return or report on or before the due date prescribed for payment.

The total penalty levied pursuant to this subsection shall not exceed twenty- five percent (25%) of the total tax due; however, the penalty shall not be less than twenty-five dollars (\$25.00).

- (2) Every employer who fails to file a return or pay the tax on or before the date prescribed under Section (5) of this ordinance may be subject to a penalty in an amount equal to five percent (5%) of the tax due for each calendar month or fraction thereof. The total penalty levied pursuant to this subsection shall not exceed twenty-five percent (25%) of the total tax due; however, the penalty shall not be less than twenty-five dollars (\$25.00).
- (3) In addition to the penalties prescribed in this section, any business entity or employer shall pay, as part of the tax, an amount equal to twelve percent (12%) per annum simple interest on the tax shown due, but not previously paid, from the time the tax was due until the tax is paid to the CITY. A fraction of a month is counted as an entire month.
- (4) Every tax imposed by this ordinance, and all increases, interest, and penalties thereon, shall become, from the time the tax is due and payable, a personal debt of the taxpayer to the

CITY.

- (5) The CITY may enforce the collection of the occupational tax due under section (3) of this ordinance and any fees, penalties, and interest as provided in subsections (1), (2), (3), and (4) of this section, or any other provision of this Ordinance, by civil action in a court of appropriate jurisdiction. To the extent authorized by law, the CITY shall be entitled to recover all court costs and reasonable attorney fees incurred by it in enforcing any provision of this ordinance.
- (6) In addition to the penalties prescribed in this section, any person, business entity or employer who willfully fails to make a return, willfully makes a false return, or who willfully fails to pay taxes owing or collected, with the intent to evade payment of the tax or amount collected, or any part thereof, shall be guilty of a Class A misdemeanor.
- (7) Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with, any matter arising under this ordinance of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present the return, affidavit, claim, or document, shall be guilty of a Class A misdemeanor.
- (8) A return for the purpose of this section shall mean and include any return, declaration, or form prescribed by the CITY and required to be filed with the CITY by the provisions of this ordinance, or by the rules of the CITY or by written request for information to the business entity by the CITY.
- (9) Any person violating the provisions of section (11) of this ordinance by intentionally inspecting confidential taxpayer information without authorization, shall be fined not more than five hundred dollars (\$500) or imprisoned for not longer than six (6) months, or both
- (10) Any person violating the provisions of section (11) of this ordinance by divulging confidential taxpayer information shall be fined not more than one thousand (\$1,000.00) or imprisoned for not more than one (1) year, or both.

§ 13 – Collection and Use of Tax - Records

It shall be the duty of the Occupational Tax Administrator to collect and account for all license fees imposed by this chapter and dispose the same in the Occupational Tax Fund of CITY. These monies and all interest earned on these monies being held on deposit by the CITY are to be disbursed as follows:

- (1) All expenses, including salaries, incurred in the operation of the Occupational Tax Administrator's Office.
- (2) The administration of the Occupational Tax Administrator's office shall be based upon a

calendar year.

§ 14 - Severability

Each section and each provision of each section of this ordinance are severable, and if any provision, section, paragraph, sentence or part thereof, or the application thereof to any person licensee, class or group, is held by a court of law to be unconstitutional or invalid for any reason, such holding shall not affect or impair the remainder of this ordinance, it being the legislative intent to ordain and enact each provision, section, paragraph, sentence and part thereof, separately and independently of the rest.

§ 15 - Minimum and Maximum Liability

A tax district may impose minimum and maximum tax liabilities for the tax on net profits.

This Ordinance shall be effective: July 1st, 2009.

This Ordinance was properly sponsored.

Intent is for Ordinance to exist consistently with regard to method of computation, apportionment, administration, etc, with the Occupational Tax Ordinance currently enacted by the Taylor Fiscal Court.

Introduced for the first reading for passage on the ____ day of _____, 2009.

Introduced for the second reading and passage by a majority of vote of Campbellsville City Council in duly assembled session on the ____ day of _____, 2009.

BRENDA ALLEN, MAYOR

ATTEST:

CARY COLVIN, CITY CLERK

CITY OF CAMPBELLSVILLE, TAYLOR COUNTY, KY

203 N. COURT ST., SUITE 10

CAMPBELLSVILLE KY 42718

(270) 465-9760 FAX 270-465-0380

tcocctax@windstream.net

THE CITY OF CAMPBELLSVILLE, TAYLOR COUNTY, KY COMPLIES WITH THE REQUIREMENTS OF KRS 92.281, 67.750B TO 67.790 AND SECTION 181 OF THE KY CONSTITUTION. WHEREBY EVERY PERSON OR BUSINESS ENGAGED IN ANY TRADE, OCCUPATION, OR PROFESSION, OR OTHER ACTIVITY OR ANYONE REQUIRED TO FILE A RETURN UNDER THIS ORDINANCE WITHIN THE CITY OF CAMPBELLSVILLE, TAYLOR COUNTY, KY SHALL BE REQUIRED TO COMPLETE AND EXECUTE THIS QUESTIONNAIRE PRESCRIBED BY THE OCCUPATIONAL TAX OFFICE. EACH PERSON SHALL BE REQUIRED TO COMPLETE A SEPARATE QUESTIONNAIRE FOR EACH SEPARATE BUSINESS.

BUSINESS ACTIVITY INCLUDES BUT NOT LIMITED TO SCHEDULE F's FARMING ACTIVITY, RENTAL OR LEASING OF PERSONAL PROPERTY, **INCLUDES** FARM LAND/EQUIPMENT RENTAL, REAL ESTATE, **INCLUDES ALL** RESIDENTIAL, INDUSTRIAL/COMMERCIAL REAL ESTATE, PERSONS, ASSOCIATIONS, PARTNERSHIPS, CORPORATIONS, JOINT VENTURES, OR ANY ENTITY FILING A FEDERAL SCHEDULE E, SOLE PROPRIETORS FILING A FEDERAL FORM SCHEDULE C, OR ANY PERSON PRACTICING A BUSINESS, PROFESSION, TRADE OR OCCUPATION WITHIN THE CITY OF CAMPBELLSVILLE, TAYLOR COUNTY, KY.

QUESTIONNAIRE

Non-profit organizations will not be required to file the Netprofit License Fee Return provided a copy of an Internal Revenue Service (IRS) letter of exemption is submitted to support the non-profit status. Wages and salaries earned while working for a non-profit organization are not exempt from the occupational license fee and must be forwarded on a quarterly basis.

1. Business or Trade Name _____

2. Local Business Address _____
(No P.O. Boxes) _____

3. Forms Mailing Address _____
(If different from #2) _____

4. Business Telephone No. _____ Fax _____ E-Mail _____
Ownership: _____ Sole Proprietorship _____ Partnership _____
_____ C Corp. _____ S Corp _____ Non Profit _____

5. Email Address _____

6. Owners/Partners Names _____
Corp. Officers & Titles _____

COMPLETE BOTH SIDES BEFORE RETURNING

7. Owner Soc. Sec. Number - - Federal TIN -

8. Nature of Business _____

9. Date Business Started / /
(In Taylor County)

10. Number of Employees _____

11. IRS Accounting period:
_____ Calendar Year Ends 12/31 _____ Fiscal Year Ends /

12. List any other business entities in Taylor County

13. Federal Employees or Individuals complete below INCLUDES US POST OFFICE, CORP, SSA, ETC

Name _____ SSN - -

City, State, & Zip _____

Business Phone () _____ - _____ Home Phone () _____ - _____

Business & Address of employee _____

14. **ATTENTION CONTRACTORS:** You must provide a list of sub-contractors, including addresses

ATTENTION PARTNERSHIPS: You must provide a list of Partners, including addresses, use a separate sheet paper if necessary _____

UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE EXAMINED THIS APPLICATION, AND TO THE BEST OF MY KNOWLEDGE AND BELIEF, IT IS TRUE, CORRECT AND COMPLETE.

SIGNATURE _____ DATE _____