

ORDINANCE NO. 46

AN ORDINANCE REGARDING THE EXCISE TAX ON SELF-EMPLOYED PERSONS, AND AMENDING AND RESTATING ORDINANCE NO. 38, ORDINANCE NO. 39, ORDINANCE NO. 40, AND ORDINANCE NO. 41

WHEREAS following a recent review of its ordinances, Lane Transit District determined that its ordinances should be better organized so as to make them more accessible to the public; and

WHEREAS the District wishes to better organize and streamline its ordinances without making any substantive changes to the ordinances:

BE IT ENACTED BY LANE TRANSIT DISTRICT:

Lane Transit District Ordinance No. 38, Ordinance No. 39, Ordinance No. 40, and Ordinance No. 41 are amended and restated in their entirety to read as follows:

THE BOARD OF DIRECTORS OF LANE TRANSIT DISTRICT OF OREGON, pursuant to ORS 267.380 and 267.385, does hereby ordain and decree the following ordinance:

Section 1 – Adoption of Self-Employment Tax

1.01 Definitions. As used in this Chapter, unless the context requires otherwise:

A. “Department” means the Department of Revenue, State of Oregon.

B. “District” means the Lane Transit District of Oregon, encompassing all of the territory described in Lane Transit District Ordinance No. 42.

C. “Net Earnings from Self-Employment” has the same meaning as the term “net earnings from self-employment” in Section 1402 of the Internal Revenue Code of 1986 (the “IRC”), as that section was in effect and operative on December 31, 1988. In applying IRC Section 1402 for purposes of this Ordinance, the words “gross income,” “deductions,” and “distributive share,” and any other words used in IRC Section 1402 to define “net earnings from self-employment,” shall have the same meaning that those words had for purposes of IRC Section 1402 under federal income tax laws in effect and operative on October 8, 2010, provided, however, that the phrase “deductions allowed by [the] subtitle which are attributable to such trade or business” shall not include the deduction contained in IRC Section 199 (allowing a deduction for income attributable to domestic production activities). The purpose of these definitions is to incorporate any relevant changes in the IRC of 1986 made and in effect on or before October 8, 2010, except for changes in IRC Section 1402 made after December 31, 1988. For purposes of this Section, the term “net earnings from self-employment” is not limited in any way by IRC Section 1402(b).

Notwithstanding the foregoing, “Net Earnings from Self-Employment” does not include income which would be wages under IRC Section 3121, as amended and in effect on December 31, 1990, but for the provisions of IRC Section 3121(b)(8)(A).

D. "Taxable Year" means the period corresponding to the Taxpayer's taxable year for federal income tax purposes.

E. "Taxpayer" means a natural person subject to tax under this ordinance.

1.02 Imposition of Tax

A. Tax Imposed. A tax is hereby imposed on every natural person in the amount set forth in Section B, below.

B. Rate. For Taxable Years which start on or after January 1, 2006, the rate on such person's Net Earnings from Self-Employment during the Taxable Year in excess of \$400 from activities within the District shall increase to the rate specified opposite each such Tax Year in the table below:

Tax Period	Rate
Calendar Year 2007	0.0062
Calendar Year 2008	0.0064
Calendar Year 2009	0.0065
Calendar Year 2010	0.0066
Calendar Year 2011	0.0067
Calendar Year 2012	0.0068
Calendar Year 2013	0.0069
Calendar Year 2014 and Thereafter	0.0070

By way of example, during the Taxable Year 2007, the rate on Net Earnings from Self-Employment in excess of \$400 shall be sixty-two hundredths of one percent (.0062).

C. Apportionment. Any Taxpayer having Net Earnings from Self-Employment from an activity both within and without the District shall allocate and apportion such Net Earnings in a manner consistent with that required for allocation and apportionment of income under ORS 314.280 and 314.605 to 314.675 and the Department's regulations adopted pursuant thereto. Regarding such allocation and apportionment, the Taxpayer shall follow the instructions and forms published by the Department.

Any Taxpayer may elect to apportion Net Earnings from Self-Employment, to the extent that apportionment rather than allocation is appropriate, based upon a single factor. In the case of an activity conducted by a partnership, the partnership may elect to have each of its partners use a single factor for the apportionment of its earnings. The single factor for apportionment shall be a sales factor, computed in a manner consistent with ORS 314.665 and the Department's Regulations adopted pursuant thereto. Regarding such apportionment, the Taxpayer (or the partnership of which the Taxpayer is a member) shall follow the forms and instructions published by the Department. The election by a Taxpayer (or by a partnership of which the Taxpayer is a member) to use single-factor apportionment shall be made on a form furnished by the Department. An election shall be binding for both the current and all future years, unless revoked with the written consent of the Department.

1.03 Department the Tax Agent of District. The tax imposed by this Ordinance shall be paid to the Department, as agent for the District. The Department is hereby designated the agent of the District for purposes of administering the tax imposed by this Section. The Department may exercise all supervisory and administrative powers with regard to the enforcement, collection, and administration of this tax as the Department is authorized to exercise pursuant to ORS 305.620 (as amended from time to time), including, but not limited to, entering closing agreements and waiving interest and penalties.

1.04 Tax and Return Due Dates.

A. General. Every Taxpayer annually, on or before the 15th day of the fourth month after the end of the Taxpayer's Taxable Year, shall pay over to the Department the amount imposed by this Ordinance. Every Taxpayer shall, with each payment made to the Department, deliver to the Department on a return prescribed by the Department a statement of the total amount of Net Earnings from Self-Employment during the Taxable Year and such other information as the Department requires.

B. Optional Rule for Partnerships.

(1) A partnership is not a Taxpayer under this Chapter. However, a partnership may choose to pay taxes due under this Chapter from its partners with respect to the partnership's earnings. If a partnership so chooses, the partnership shall pay the taxes due and shall file a return and all information prescribed by the Department. In such a case, individual partners need not file any returns under this Chapter, unless they have Net Earnings from Self-Employment from sources other than such partnership. Any partner who files a personal return shall not be entitled to exclude from tax \$400 of Net Earnings from Self-Employment (as otherwise specified in Section 1.10 A) to the extent that such amount is excluded by a partnership. Any partner who is a member of more than one partnership shall ensure that no more than \$400 of Net Earnings from Self-Employment in the aggregate for any Taxable Year is excluded on account of such partner.

(2) If a partnership chooses to pay the taxes due from its partners, the partnership must file a return and pay the taxes due on or before the 15th day of the fourth month following the end of the calendar year. The partnership's return and payment shall be based upon the Net Earnings from Self-Employment of the individual partners from the partnership for their Taxable Years ending with or within the calendar year immediately after which the return is due.

Example 1: If a partnership has a taxable year ending December 31, 1993, and its partners use calendar Taxable Years, the partnership must pay, on or before April 16, 1994, the amount due from the partners with respect to their Net Earnings from Self-Employment from the partnership for its taxable year ending December 31, 1993.

Example 2: Assume the same facts as in Example 1, except that one partner uses a Taxable Year ending on September 30, 1993. The partnership must pay on or before April 16, 1994, (a) the amount due from the calendar year partners

with respect to their Net Earnings from Self-Employment from the partnership for its taxable year ending December 31, 1993, and (b) the amount due from the fiscal year partner with respect to his or her Net Earnings from Self-Employment from the partnership for its taxable year ending December 31, 1992.

Example 3: If a partnership has a taxable year ending August 31, 1993, and its partners use calendar Taxable Years, the partnership must pay, on or before April 16, 1994, the amount due from the partners with respect to their Net Earnings from Self-Employment from the partnership for its taxable year ending August 31, 1993.

Example 4: Assume the same facts as in Example 3, except that one partner uses a Taxable Year ending on June 30, 1993. The partnership must pay on or before April 16, 1994, (a) the amount due from the calendar year partners with respect to their Net Earnings from Self-Employment from the partnership for its taxable year ending August 31, 1993, and (b) the amount due from the fiscal year partner with respect to his or her Net Earnings from Self-Employment from the partnership for its taxable year ending August 31, 1992.

(3) In no event shall the filing of a return by a partnership under this Section 1.04 B reduce the tax due from a Taxpayer under this Section.

1.05 Procedural Matters. The provisions of ORS Chapters 305 and 314 (as amended from time to time), as to the audit and examination of reports and returns, determination of deficiencies, interest, penalties, assessments, claims for refund, conferences, appeals to the Director of the Department and the appeals to the Oregon Tax Court, and the procedures relating thereto, shall apply to the determination of taxes, penalties, and interest under this Section, except where the context requires otherwise. A Taxpayer may utilize the procedure respecting appeals to the Magistrate Division of the Oregon Tax Court as provided in ORS 305.501 to 305.525.

ADOPTED this 17th day of April, 2013.

President and Presiding Officer

ATTEST:

Secretary

Recording Secretary