

**ORDINANCE RELATED TO THE AMENDMENT OF § 115.12
OF THE CODE OF ORDINANCE TO CLARIFY WHEN
PENALTIES SHALL BE DUE FOR FAILING TO FILE OR
PAY TAXES DUE UNDER THE ORDINANCE**

ORDINANCE NO. 0-2009-27

NOW, THEREFORE, BE IT ORDAINED by the City of Pikeville that § 115.12 – Penalties is amended as follows:

§ 115.12 - 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 original due date prescribed for payment, §115.06(1).
 - (c) 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).
- (2) Every employer who fails to file a return or pay the tax on or before the time prescribed under Section (5) of this ordinance may be subject to a penalty in 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).
- (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 originally 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 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 business entity or employer who willfully fails to make a return or 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 dollars (\$1000) or imprisoned for not more than one (1) year, or both.

An emergency is declared to exist with regard to the adoption of the ordinance. Said emergency being that the City of Pikeville desires to clarify its occupation tax ordinance prior to the mailing of Tax Returns to taxpayers on or before December 30, 2009 and will be unable to meet said deadline if two readings of the ordinance are required.

The amended ordinance shall be in full force and effect after it is passed and published as required by law. The above ordinance was read and passed by 2/3 majority this 14th day of December 2009.

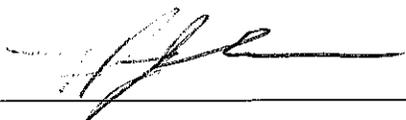
Commissioner Chaney moved for the adoption of the forgoing ordinance.

Commissioner Layne seconded the motion.

Upon roll call, the votes were as follows:

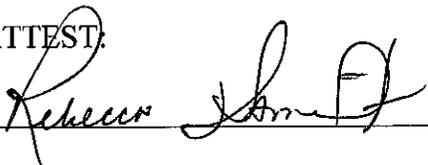
	Yes	No
FRANK JUSTICE, MAYOR	<u>X</u>	_____
GENE DAVIS, COMMISSIONER	<u>X</u>	_____
DALLAS LAYNE, COMMISSIONER	<u>X</u>	_____
JIMMY CARTER, COMMISSIONER	<u>X</u>	_____
BARRY CHANEY, COMMISSIONER	<u>X</u>	_____

The Mayor declared the within ordinance adopted.



FRANKLIN D. JUSTICE. II MAYOR

ATTEST:



REBECCA HAMILTON, CITY CLERK