

**AN ORDINANCE AMENDING CHAPTERS
115.07 AND 115.12 OF THE OCCUPATIONAL LICENSE
FEES ORDINANCE RELATING TO PENALTIES FOR
UNDERESTIMATING TAX WHEN AN
EXTENSION TO FILE IS GRANTED**

ORDINANCE NO. 0-2011-004

WHEREAS, the Commission desires to further define/explain the taxpayers that are subject to penalty for failing to properly estimate tax due while filing a Application for Extension of Time to file net profits license tax returns.

NOW, THEREFORE, BE IT ORDAINED THAT Chapter 115.07 “EXTENSIONS” is amended to read as follows:

§ 115.07 EXTENSIONS.

(A) The city, or its authorized agent, 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.

(B) If the time for filing a return is extended, the business 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. (Ord. 0-2008-002, passed 1-14-08) Penalty, see § 115.12 and 115.99

(C) The Penalty assessed a taxpayer under **§ 115.12** shall not be assessed on the difference between the tax due and ~~properly estimated tax paid by the taxpayer upon granting of an Extension~~ payment made with a properly filed “Application for Extension of Time to File Net Profits License Tax Return” under paragraph (A) **if the properly estimated tax is 75% or greater than the tax due.**

§ 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 due date prescribed for payment or fails to pay 75% or greater of the tax due on the return as a estimated tax pursuant to § 115.07(A). For underestimated taxes paid for an Extension, the penalty will be assessed upon the difference of the estimated tax paid and the tax computed on the return. .

(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 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

