

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON**

ORDINANCE NO. 1321

Amending MCC Chapter 11.500 – Preschool For All Personal Income Tax to Reflect Certain Administrative Code Changes.

(Language ~~stricken~~ is deleted; double underlined language is new.)

The Multnomah County Board of Commissioners Finds:

1. On November 3, 2020, the voters of Multnomah County approved Ballot Measure 26-214, which authorizes the County to impose a personal income tax to fund universal, tuition free, voluntary, and high quality preschool education for every three and four year olds residing within Multnomah County (the “Preschool for All Program”).
2. The Preschool for All Program personal income tax is effective January 1, 2021.
3. On January 28, 2021, Ordinance 1293 was approved establishing sections §§ 11.500-11.560 of County Code Chapter 11, tax code for the Preschool For All Program.
4. The County now wishes to amend certain sections of MCC Chapter §§ 11.500 (§§ 11.520, 11.524, 11.536, and 11.540) The proposed amendments will allow the tax administrator by administrative rule to mandate to returns to file electronically, enhance language regarding the Deduction of Pass-Through Income to add clarity for tax filers, and add a penalty for employers who fails to file correct and accurate W-2s that support amounts reported on annual withholding reconciliations.
5. The Division of Finance and Risk Management of the Department of County Management recommends the adoption of this ordinance to the Board of County Commissioners to amend certain portions of MCC Chapter §§ 11.500. The County has worked closely with the City of Portland Revenue Division and Metro with the intent to implement these amendments uniformly between jurisdictions.
6. The County intends to maintain tax code conformity with the Metro District Supportive Housing Services personal income tax to facilitate tax administration and the tax filing process. The amendment being proposed aligns Multnomah County Preschool For All Program tax code.

Multnomah County Ordains as Follows:

§ 11.520 – INDIVIDUALS REQUIRED TO FILE TAX RETURNS AS FOLLOWS.

(F) Authority to require filing of returns by electronic means.

(1) As used in this section:

- a) “Electronic means” includes computer-generated electronic or magnetic media, Internet-based applications or similar computer-based methods or applications.
 - b) “Paid tax preparer” means a person who prepares a tax return for another or advises or assists in the preparation of a tax return for another, or who employs or authorizes another to do the same, for valuable consideration.
 - c) “Tax return” means a return filed under the Preschool for All Personal Income Tax Law.
- (2) The Administrator may by rule require a paid tax preparer to file tax returns by electronic means if the paid tax preparer is required to file federal tax returns by electronic means.
 - (3) The Administrator may by rule establish exceptions to the electronic filing requirements of this section.

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§ 11.524 – DEDUCTION FOR PASS-THROUGH INCOME.

- (B) The deduction amount allowed in subsection (A) is the individual owners’ or partners’ distributive share of taxable income apportionable to from the County’s on the pass-through entity’s business income tax return, as calculated and reported to the owner or partner by the business. The administrator will provide guidance in calculating this amount including adjustments related to the owners compensation deduction. If the County business income tax return has not been filed for the relevant tax year, then no deduction is allowed.
- (C) If the taxable income per the County business income tax is zero or a net operating loss, the taxfiler is not allowed a deduction under subsection (A). The amount of the deduction cannot exceed the amount determined under subsection (B).
- (D) A taxfiler is allowed a deduction for a pass-through net operating loss from a business subject to tax under Multnomah County Code Chapter 12, Business Income Tax.
- (E) The deduction amount allowed in subsection (D) is limited to the current year’s pass-through net operating loss including in Oregon taxable income for a resident or Multnomah County sourced income for a nonresident. This net operating loss can only be used in the current year and cannot be carried to any other year to be used as a deduction. Any carryover deduction of this net operating loss included in federal or Oregon taxable income in another tax year must be added back to the extent it is included in federal or Oregon taxable income.
- (F) No deduction is allowed under Subsection (D) for net operating losses or net operating loss deductions from a business subject to tax under Multnomah County Code Chapter 12, Business Income Tax originating in tax years beginning prior to January 1, 2021.
- (G) A taxfiler is allowed a deduction for a pass-through net operating loss or net operating loss deductions from businesses not subject to tax under Multnomah County Code Chapter 12, Business Income Tax.
- (H) The deduction amount allowed in subsection (G) is limited to the pass-through net operating loss or net operating loss deduction included in Oregon taxable income for a resident or Multnomah County sourced income for a nonresident.
- (I) Passive activity losses that are not from a pass-through entity will be treated similarly to Oregon for personal income tax purposes to the extent they are included in Oregon taxable income or, for a nonresident, included in County sourced income.

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§ 11.536 – WITHHOLDING RECONCILIATION BY EMPLOYER FOR PAYMENT OF WITHHELD TAXES.

(B) The Administrator will determine by administrative rule, written policy, or published guidelines the required format and information necessary to comply with subsection (A).

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§ 11.540 – PENALTIES.

(B) When an employer fails to file a correct W-2 that, along with any other W-2 that must be filed, supports amounts reported on the annual withholding reconciliation return, or amended annual withholding reconciliation return, as required by code, administrative rule, written policy, or form instructions by the date specified, the Administrator will assess a penalty of \$50 for each missing or incomplete W-2.

The Administrator may waive all or any part of the penalty imposed under this subsection on a showing by the employer that there was reasonable cause for the failure to remit the withheld taxes or any portion of the withheld taxes and that the employer acted in good faith.

(BC) When a Taxfiler fails to file a return or fails to file an extension by the date on which the filing is due, and/or fails to pay a tax by the date on which the return or payment is due, the Administrator will assess a late penalty. Unpaid tax is the Taxfiler's tax liability reduced by any payment of tax on or before the due date and any credit against tax that may be claimed on the return. The late payment penalty is:

(1) 5% of the balance of the tax due or paid after the Payment Date, as applicable, if the failure to remit is for a period less than four months;

(2) An additional penalty of 100% of the balance of the tax due or paid after the Payment Date, as applicable, of all Tax Years if the failure to remit is for three or more consecutive Tax Years.

The Administrator may waive all or any part of the penalty imposed under this subsection on a showing by the Taxfiler that there was reasonable cause for the late filing or payment.

(GD) A penalty will be assessed on Taxfilers for underpayment of taxes due. The penalty will be assessed if the Taxfiler:

(1) Fails to pay at least 90% of the total tax liability by the Payment Date, as applicable; or

(2) Fails to pay at least 100% of the prior year's tax liability by the Payment Date, as applicable.

The penalty under subsection (C) is 5% of the tax underpayment, but not less than \$5.

(DE) The Administrator may impose a civil penalty of up to \$500 for each of the following violations of this subchapter:

- (1) Failure to file any tax return within 60 days of the Administrator’s original Notice to file;
- (2) Failure to pay any tax due within 60 days of the Administrator’s original Notice for payment;
- (3) Failure to provide documents or information as required by this subchapter within 60 days of the Administrator’s original Notice to provide documents or information;
- (4) Failure to fully complete any form required under the Preschool For All Personal Income Tax Code.

(EE) The Administrator may impose a \$500 civil penalty if the Administrator determines that the Taxfiler has taken a frivolous position in preparing the Taxfiler’s tax return. This penalty is in addition to any taxes due and penalty and interest assessments authorized in this subchapter.

(FG) Additional civil penalties may be imposed for other violations of the Preschool For All Personal Income Tax Law by administrative rule

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FIRST READING: 1/11/24

SECOND READING AND ADOPTION: 1/18/24

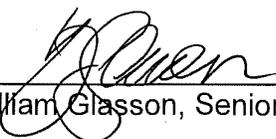
BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON



Jessica Vega Peterson, Chair



REVIEWED:
JENNY M. MADKOUR, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By  _____
William Glasson, Senior County Attorney