

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

ORDINANCE NO. 1327

Amending MCC Chapter 12 – Business Income Tax to conform confidentiality provisions to State Law and to Reflect Certain Administrative Code Changes.

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

The Multnomah County Board of Commissioners Finds:

1. Under Multnomah County Code Chapter 12, the County collects a “Business Income Tax” (BIT) on a portion of a business’ income that results from conducting business in Multnomah County.
2. The City of Portland also collects a “Business License Tax” (BLT) tax on a portion of a business’ income that results from conducting business in the City of Portland. The City BLT is administered through City Code Chapter 7.02.
3. By agreement between the City and the County, the City of Portland collects and administers the County BIT. To simplify the administration of the two taxes the County and City maintain close tax code alignment.
4. During the 2024 Oregon Legislative Session, House Bill (HB) 4031 was passed and signed by the Governor. HB 4031 amended ORS 314.835 regarding confidentiality of tax return information. The changes became effective on March 28, 2024.
5. ORS 314.835 contains Oregon’s tax return confidentiality law which prohibits sharing any tax return information unless specifically provided in law. As amended by HB 4031, ORS 314.835 now applies in the same manner to local governments (including City, County, and Metro) for the tax returns of certain types of taxes. HB 4031 aims to align state and local government treatment of certain taxpayer information.
6. 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 12. The proposed amendment provides clear guidance to taxpayers, tax professionals, and certain County staff regarding tax return confidentiality (who tax information can be shared with, what types of tax return information can be shared, and the specific purpose for sharing any tax return information) and aligns MCC Chapter 12 with ORS 314.835 changes. The amendment also clarifies process for tax protests and appeals.
7. The County has worked closely with the City of Portland Revenue Division with the intent to implement this mandate uniformly between jurisdictions.
8. The County now wishes to amend the below described portion of MCC §§ 12.230, 12.240 and 12.290.

Multnomah County Ordains as Follows:

Section 1. MCC § 12.230 is amended as follows:

§ 12.230 – CONFIDENTIALITY.

~~Except as provided in this chapter or otherwise required by law, it is unlawful for any County employee, any agent, including without limitation the Administrator, or any elected official or for any person who has acquired information pursuant to § 12.240(A) or (C) to divulge, release, or make known in any manner any financial information submitted or disclosed to the county under the terms of the Business Income Tax Law. Additionally, it is unlawful to divulge, release or make known in any manner identifying information about any taxpayer applying for tax amnesty, including, but not limited to, the name and address of the taxpayer, unless otherwise required by law. Except as noted above, nothing in this section should be construed to prohibit:~~

~~(A) The disclosure of the names and addresses of any persons who have a tax account with the Administrator;~~

~~(B) The disclosure of general statistics in a form which would prevent the identification of financial information regarding an individual taxfiler;~~

~~(C) The filing of any legal action by or on behalf of the Division or Administrator to obtain payment on unpaid accounts or the disclosure of information necessary to do so; or~~

~~(D) The assignment to an outside collection agency of any unpaid account balance receivable provided that the Division or Administrator notifies the taxfiler of the unpaid balance at least 60 days prior to the assignment of the claim. Any assignment to an outside collection agency is subject to a reasonable collection fee, above and beyond any amount owed to the County.~~

(A) In accordance with ORS 314.835, except as otherwise specifically by provided by Oregon law or this chapter, it is unlawful for the Administrator or any County officer, employee or agent to divulge or make known in any manner the amount of income, expense, deduction, exclusion or credit or any particulars set forth or disclosed in any report or return required in the administration of any tax imposed under the Business Income Tax Law.

(B) It is unlawful for the Administrator or any County officer, employee or agent, or elected official, or for any person who has acquired information pursuant to § 12.240 (B) to divulge, release or make known in any manner any information submitted or disclosed to the Administrator or County under the terms of the Business Income Tax Law for any purpose other than that specified in the provisions of law authorizing the use or disclosure.

(C) No subpoena or judicial order shall be issued compelling the Administrator or any County officers, employee, or agent, or any person who has acquired information pursuant to § 12.240 (B) or any other provision of state or County law, to divulge or make known the amount of income, expense, deduction, exclusion or credit or any particulars set forth or disclosed in any report or return except where the taxfiler's liability for any tax imposed under the Business Income Tax Law is to be adjudicated by the court from which such process issues.

(D) As used in this section:

(1) "Officer," "employee" or "person" includes an authorized representative of the officer, employee or person, or any former officer, employee or person, or an authorized representative of such former officer, employee or person.

(2) "Particulars" includes, but is not limited to, a taxfiler's name, address, telephone number, Social Security number, employer identification number or other taxpayer identification number, the amount of refund claimed by or granted to a taxpayer, and whether a report or return has been filed.

* * *

Section 2. MCC § 12.240 is amended as follows:

§ 12.240 – PERSONS TO WHOM INFORMATION MAY BE FURNISHED

~~(A) In addition to the Administrator's obligation to provide access pursuant to § 12.225, the Director or Administrator may disclose and give access to information described in § 12.230 to an authorized representative of the Department of Revenue, State of Oregon, or of any local government of the state imposing taxes upon or measured by gross receipts or net income, for the following purposes:~~

~~(1) To inspect the tax return of any taxfiler;~~

~~(2) To obtain an abstract or copy of the tax return;~~

~~(3) To obtain information concerning any item contained in any return; or~~

~~(4) To obtain information of any financial audit of the tax returns of any taxfiler. Such disclosure and access will be granted only if the laws, regulations or practices of such other jurisdiction maintain the confidentiality of such information at least to the extent provided by the Business Income Tax Law.~~

~~(B) Upon request of a taxfiler, or authorized representative, the Administrator will provide copies of any tax return information filed by the taxfiler in the Administrator's possession.~~

~~(C) The Director or Administrator may also disclose and give access to information described in § 12.230 to:~~

~~(1) The County Attorney, their assistants and employees, or other legal representatives of the County, to the extent the Director deems disclosure or access necessary for the performance of the duties of advising or representing the Division or the County.~~

~~(2) The City Attorney, their assistants and employees, or other legal representatives of the City, to the extent the Administrator deems disclosure or access necessary for the performance of the duties of advising or representing the Administrator, including but not limited to instituting legal actions on unpaid accounts.~~

~~(3) Other county employees and agents, to the extent the Director deems disclosure or access necessary for such employees or agents to perform their duties regarding or under contracts or agreements between the County and the Administrator or between the Division and any other department, division, agency or subdivision of the county relating to the administration of the Business Income Tax Law.~~

~~(4) City of Portland employees, agents and officials of the City, to the extent the Administrator deems disclosure or access necessary for such employees, agents or officials to:~~

~~(a) Aid in any legal collection effort on unpaid accounts;~~

~~(b) Perform their duties under contracts or agreements between the Administrator and the County or between the Administrator and any other department, bureau, agency or subdivision of the City relating to the administration of the Business Income Tax Law; or~~

~~(c) Aid in determining whether a Business Income Tax account is in compliance with all City, County, State and Federal laws or policies.~~

~~(D) All employees and agents specified in § 12.240(C) above, prior to the performance of duties involving access to financial information submitted to the county or Administrator under the terms of the Business Income Tax Law, must be advised in writing of the provision of § 12.730 relating to penalties for the violation of §§ 12.230 and 12.255. Such employees and agents must execute a certificate in a form prescribed by the Division or Administrator, stating that the person has reviewed these provisions of law, has had them explained, and is aware of the penalties for the violation of §§ 12.230 and 12.255.~~

~~(E) Prior to any disclosures permitted by this section, all persons described in subsection (A), to whom disclosure or access to financial information is given, must:~~

~~(1) Be advised in writing of the provisions of § 12.730 relating to penalties for the violation of § 12.230; and~~

~~(2) Execute a certificate in a form prescribed by the Division or Administrator, stating these provisions of law have been reviewed and they are aware of the penalties for the violation of § 12.230.~~

~~(F) The Director's or Administrator's signature on the certificate, required by subsection (E)(2), will constitute consent to disclosure to the persons executing the certificate.~~

(A) The Administrator or the Director may:

(1) Furnish any taxfiler, representative authorized to represent the taxfiler under ORS 305.239 or person designated by the taxfiler under ORS 305.193, upon request of the taxfiler, representative or designee, with a copy of the taxfiler's tax return filed with the division for any year, or with a copy of any report filed by the taxfiler in connection with the return, or with any other information the division considers necessary.

(2) Publish lists of taxfilers who are entitled to unclaimed tax refunds.

(3) Publish statistics so classified as to prevent the identification of income or any particulars contained in any report or return.

(4) Disclose a taxfiler's name, address, telephone number, refund amount, amount due, Social Security number, employer identification number or other taxfiler identification number to the extent necessary in connection with collection activities or the processing and mailing of correspondence or of forms for any report or return required in the administration of any local tax.

(B) The Administrator or the Director also may disclose and give access to information described in § 12.230 to:

(1) The Commissioner of Internal Revenue or authorized representative, for tax administration and compliance purposes only.

(2) The Oregon Department of Revenue or authorized representative, for tax administration and compliance purposes only.

(3) For tax administration and compliance purposes, the proper officer or authorized representative of any of the following entities that has or is governed by a provision of law that meets the requirements of any applicable provision of the Internal Revenue Code as to confidentiality:

(a) A state;

(b) A city, county or other political subdivision of a state;

(c) The District of Columbia; or

(d) An association established exclusively to provide services to federal, state or local taxing authorities.

(4) The Multnomah County Attorney, the Attorney's assistants and employees, or other legal representatives of the County, to the extent the Administrator or Director deems disclosure or access necessary for the performance of the duties of advising or representing the Administrator or the Director, including but not limited to instituting legal actions on unpaid accounts.

(5) The Administrator's attorney, the attorney's assistants and employees, or other legal representatives of the Administrator, to the extent the Administrator deems disclosure or access necessary for the performance of the duties of advising or representing the Administrator, including but not limited to instituting legal actions on unpaid accounts.

(6) The proper officer or authorized representative of a city, county, or other subdivision of this state, to the extent the Administrator or Director deems disclosure or access necessary for purposes of mutual tax administration of city, county, or other subdivision taxes. Any disclosure under this paragraph may be made only pursuant to a written agreement between the division and the city, county, or other subdivision that ensures the confidentiality of the information disclosed.

(7) Other employees, agents and officials of the Administrator or the County, to the extent the Administrator or the Director deems disclosure or access necessary for such employees, agents or officials to:

(a) aid in any legal collection effort on unpaid accounts,

(b) perform their duties under contracts or agreements between the Administrator or the County and any other department, bureau, agency or subdivision of the Administrator or the County relating to the administration of the Business Income Tax Law, or

(c) aid in determining whether a taxfiler is in compliance with all County, City of Portland, Metro, State and Federal laws or policies.

(8) Other persons, partnerships, corporations and other legal entities, and their employees, to the extent the Administrator deems disclosure or access necessary for the performance of such others' duties under contracts or agreements between the Administrator and such legal entities, in the Administrator's administration of the tax laws.

(9) The Administrator's appeals board, per § 12.290, is authorized to receive relevant tax information for the purpose of considering and issuing decisions with respect to appeals of taxfilers to the Administrator's actions increasing tax due or reducing a refund of taxes paid. The appeals board is a public body subject to Oregon public meeting laws in ORS 192.610 to 192.705. ORS 192.660(2)(f) authorizes an executive session meeting to privately consider records or information that are exempt by law from public disclosure. Tax information is exempt from public disclosure.

(C) Each officer or employee of the Administrator or the County and each person described or referred to in subsection (B) (4) to (9) of this section to whom disclosure or access to the tax information is given under subsection (B) of this section or any other provision of law, prior to beginning employment or the performance of duties involving such disclosure or access, shall be advised in writing of the provisions of §§ 12.230, 12.255, and 12.730, relating to penalties for the violation of § 12.230, and shall as a condition of employment or performance of duties execute a certificate for the Administrator or the County, in a form prescribed by the Administrator or the County, stating in substance that the person has read these provisions of law, that the person has had them explained and that the person is aware of the penalties for the violation of § 12.230.

* * *

Section 3. MCC § 12.290 is amended as follows:

§ 12.290 – PROTESTS AND APPEALS

(A) Taxfiler may protest any determination by the Administrator. Written notice of the protest must be received by the Administrator within 30 days after the Administrator mailed or delivered the initial notice of determination to the taxfiler. ~~Failure to file such a written statement within the time permitted will be deemed a waiver of any objections, and the appeal will be dismissed.~~ The protest must state the name and address of the taxfiler and an explanation of the grounds for the protest. The time to file a protest may be extended by the Administrator for good cause. Requests for extensions of time must be received prior to the

expiration of the original 30-day protest deadline. Failure to file a written notice within the time permitted will be deemed a waiver of any objections and the appeal will be dismissed.

(B) The Administrator must respond within 180 days after the protest is filed with a final determination. The Administrator's final determination must include the reasons for the determination and state the time and manner for appealing the final determination. The time to file a protest or the time for the Administrator's response may be extended by the Administrator, for good cause. ~~Requests for extensions of time must be received prior to the expiration of the original 30-day protest deadline.~~ Written notice will be given to the taxfiler if the Administrator's deadline is extended. Failure to issue a final determination within the time permitted will not invalidate any deficiency but will invalidate the imposition of interest and penalties attributable to the deficiency.

(BC) Any final determination by the Administrator may be appealed by the taxfiler to the appeals board. Written notice of the appeal must be received by the Administrator within 30 days after the Administrator mailed or delivered the final determination to the appellant. The notice of appeal must state the name and address of the appellant and include a copy of the final determination.

(GD) Within 90 days after the Administrator mails or delivers the final determination to the appellant, the appellant must file with the appeals board a written statement containing:

- (1) The reasons the Administrator's determination is incorrect; and
- (2) What the correct determination should be.

Failure to file such a written statement within the time permitted will be deemed a waiver of any objections, and the appeal will be dismissed.

(DE) Within 150 days after the Administrator mails or delivers the final determination to the appellant, the Administrator will file with the appeals board a written response to the appellant's statement. A copy of the Administrator's response must be mailed to the address provided by the appellant within 10 days.

(EF) The appeals board must provide the appellant written notice of the hearing date and location at least 14 days prior to the hearing. The appellant and the Administrator may present relevant testimony and oral argument at the hearing. The appeals board may request such additional written comment and documents as it deems appropriate.

(FG) Decisions of the appeals board must be in writing, state the basis for the decision and be signed by the appeals board chair.

(GH) The decision of the appeals board is final as of the issue date and no further administrative appeal will be provided.

(HI) The filing of an appeal with the appeals board temporarily suspends the obligation to pay any tax that is the subject of the appeal pending a final decision by the appeals board.

(H) Penalty waiver and/or reduction requests are not subject to the protest/appeal process or timeline outlined in §§ 12.290(A) through 12.290(H). The taxfiler must file a written request with the Administrator detailing why a penalty should be waived within 30 days of receipt of a billing notice that assesses a penalty. The Administrator must respond to requests to reduce and/or waive penalties within ~~60~~ 180 days from the date the written request is received. As provided in § 12.700(G), the Administrator may waive or reduce penalties in certain situations. If the taxfiler has requested that penalties be waived and the Administrator denies the taxfiler's request for this discretionary waiver of penalties, the taxfiler may request a conference with the Administrator (or Administrator's designee) within 30 days of the date of the Administrator's notice of denial. If the conference with the Administrator results in a denial of the penalty waiver request, that decision is final and may not be appealed to the Appeals Board.

FIRST READING: 9/26/24

SECOND READING AND ADOPTION: 10/17/24



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Jessica Vega Peterson

Jessica Vega Peterson, Chair

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

By *[Signature]*

William Glasson, Senior County Attorney

SUBMITTED BY: Eric Arellano, CFO