

AN ORDINANCE AMENDING SECTIONS 891.03 AND 891.05 AND ADDING SECTION 891.27 OF THE CITY'S EARNED INCOME TAX REGULATIONS IN THE TAXATION CODE OF THE CODIFIED ORDINANCES OF THE CITY OF HUDSON; AND DECLARING AN EMERGENCY.

WHEREAS, through Ordinance No. 15-179, the City enacted new Chapter 891 "Earned Income Tax Regulations" ("Taxation Code") in accordance with amendments to Chapter 718 "Municipal Income Tax" of the Ohio Revised Code ("Revised Code"), pursuant to Ohio House Bill 5 enacted by the 130th General Assembly in December 2014;

WHEREAS, through Ordinance No. 18-3, the City adopted amendments to the City's Taxation Code;

WHEREAS, updates have been made to Chapter 718 of the Revised Code pursuant to Ohio House Bill 49 enacted by the 132nd General Assembly in June 2017;

WHEREAS, Ohio House Bill 49 changes certain requirements in Chapter 718 of the Revised Code and, at this time, this Council wishes to amend the City's Taxation Code to accommodate those changes; and

WHEREAS, the passage of this Ordinance does not waive any rights of the City of Hudson, including, but not limited to, the City reserving the right under its home rule powers to challenge Ohio House Bill 49, including the amendments to Chapter 718 of the Revised Code.

NOW, THEREFORE, BE IT ORDAINED by the Council of Hudson, Summit County, State of Ohio, that:

Section 1. Section 891.03, "Imposition of Tax," of the City's Taxation Code is amended as follows:

"891.03 IMPOSITION OF TAX.

* * *

Businesses.

- (f) (4) (A) Gross receipts from the sale of tangible personal property shall be situated to the municipal corporation ~~in which the sale originated. For the purposes of this division, a sale of property originates in the Municipality only~~ if, regardless of where title passes, the property meets any either of the following criteria:
1. The property is shipped to or delivered within the Municipality from a stock

of goods located within the Municipality.

2. The property is delivered within the Municipality from a location outside the Municipality, provided the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the Municipality and the sales result from such solicitation or promotion.
3. ~~The property is shipped from a place within the Municipality to purchasers outside the Municipality, provided that the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.~~

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Section 2. Subsection 891.05, “Annual return; filing”, of the City’s Taxation Code is amended as follows:

“891.05 ANNUAL RETURN; FILING.

* * *

Consolidated municipal income tax return

- (s) (1) For taxable years beginning on or after January 1, 2016, a taxpayer that is a member of an affiliated group of corporations may elect to file a consolidated Municipal income tax return for a taxable year if at least one (1) member of the affiliated group of corporations is subject to the Municipality's income tax in that taxable year, and if the affiliated group of corporations filed a consolidated Federal income tax return with respect to that taxable year. The election is binding for a five-year period beginning with the first taxable year of the initial election unless a change in the reporting method is required under Federal law. The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing consolidated Municipal income tax returns under division (s)(2) of this section or a taxpayer receives permission from the Tax Administrator. The Tax Administrator shall approve such a request for good cause shown.
- (2) An election to discontinue filing consolidated Municipal income tax returns under this section must be made in the first year following the last year of a five-year consolidated Municipal income tax return election period in effect under division (s)(1) of this section. The election to discontinue filing a consolidated Municipal income tax return is binding for a five-year period beginning with the first taxable year of the election.
- (3) An election made under division (s)(1) or (s)(2) of this section is binding on all members of the affiliated group of corporations subject to a Municipal income tax.

(4) When a taxpayer makes the election allowed under section 718.80 of the Revised Code, a valid election made by a taxpayer under division (s)(1) or (2) of this section is binding upon the tax commissioner for the remainder of the five-year period.

(5) When an election made under section 718.80 of the Revised Code is terminated, a valid election made under section 718.86 of the Revised Code is binding upon the tax administrator for the remainder of the five-year period.

Section 3. Section 891.27, “Election to be Subject to R.C. 718.80 to 718.95”, is added to the City’s Taxation Code to read as follows:

“891.27 ELECTION TO BE SUBJECT TO R.C. 718.80 TO 718.95

- (a) The Municipality hereby adopts and incorporates herein by reference sections 718.80 to 718.95 of the Revised Code for tax years beginning on or after January 1, 2018.
- (b) A taxpayer, as defined in division (C) of this section, may elect to be subject to sections 718.80 to 718.95 of the Revised Code in lieu of the provisions of this chapter.
- (c) “Taxpayer” has the same meaning as in section 718.01 of the Revised Code, except that “taxpayer” does not include natural persons or entities subject to the tax imposed under chapter 5745 of the Revised Code. “Taxpayer” may include receivers, assignees, or trustees in bankruptcy when such persons are required to assume the role of a taxpayer.

Section 4. Those provisions of sections 891.03, and 891.05 of the Codified Ordinances of the City that were in effect prior to the effective date of this Ordinance and that are in conflict with Sections 1 and 2 of this Ordinance are hereby repealed and shall no longer have any effect to the extent that they are inconsistent with the amendments adopted in Sections 1 and 2 of this Ordinance.

Section 5. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 6. This Ordinance is an emergency measure necessary for the immediate preservation of the general welfare of the City of Hudson and the clear, stable and efficient system of taxation in said City at this time and to clarify any confusion to taxpayers caused by the recent amendments to State law; and, therefore, this Ordinance shall take effect and be in force immediately upon its passage, provided it receives five (5) affirmative votes of members of Council, except that six (6) affirmative votes are required if all members are present; otherwise it shall be in full force and effect from and after the earliest period allowed by law.

PASSED:

David A. Basil, Mayor

ATTEST:

Elizabeth Slagle, Clerk of Council

I hereby certify that the foregoing Ordinance No. 18-45 was duly passed by the Council of said Municipality on _____, 2018.

Elizabeth Slagle, Clerk of Council