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FINANCE DEPARTMENT

November 21, 2024

Dear Tax Preparer:

With the tax filing season once again upon us, the City of Bowling Green would like to provide you with the following information on inquiries most often received from the public and from tax preparers. The areas addressed in this correspondence are: Business Registrations, Employee Wage Withholding Returns, Annual Reconciliations Net Profit License Fee Returns, Extension Requests, and changes to the City Code of Ordinances Chapter 18 revising the occupational tax rate from 1.85% to 2%. We hope this information is of assistance to you in the preparation of your clients' returns for the City of Bowling Green.

Occupational Tax Rate Change

To maintain the existing level of services provided by the City and adjust for the continuous growth for such services an amendment to the City Code of Ordinances, Chapter 18 was approved May 2, 2023 changing the Occupational Tax rate from 1.85% to 2%. This Ordinance was in effect January 1, 2024 which included net profit license fees and withholding license fees. The first Employee Wage Withholding Tax return at the 2% rate was for the period beginning January 1, 2024. **The 2% tax rate on Net Profit License Fee returns will be on fiscal years beginning on or after January 1, 2024.**

Cash Bond Refund

The Cash Bond is required of any business that doesn't meet the definition of a local business to ensure that the City Employee Withholding taxes and Net Profit License Fee returns are filed and paid timely. Effective September 1, 2020 the City Code of Ordinances, Chapter 18, Section 18-2.10c. was amended regarding the procedure for requesting a refund of their Cash Bond. The ordinance states that any person or business entity required to file a \$275 cash bond shall have **a minimum of one (1) year and a maximum of two (2) years from the date of bond payment to request a refund of the bond.** Requests may be submitted directly online at <https://www.bgky.org/finance/license/cash-bond-refund> by a business representative authorized to submit the form. **It is the responsibility of the business to ensure that all Occupational Tax obligations have been met with the City to be eligible for the refund.**

Annual Tax Preparer Letter (Cont.)

Business Registration

The City Business Registration fee is required of any entity conducting business within the corporate City Limits. The one-time registration fee is not transferable and is required of a newly formed entity or an existing entity undergoing a change that requires a new Federal Identification Number. Any single entity conducting more than one type of business activity within the City Limits is required to register each business activity but is only required to pay one registration fee.

A business that has regular activity within the City Limits but does not own their business site or have a valid lease for their business site in the City Limits for a period over six (6) uninterrupted months may be required to post a \$275 deposit/bond that will be forfeited if at any time the account becomes delinquent per updated language mentioned above.

All LLC's and LLP's must register with the City and pay the one-time registration fee.

If the LLC is a single member disregarded entity and the filing entity for the LLC is a schedule C individual already registered with a city account, the individual account can be updated one time to reflect this change without a registration fee. Future entity changes or additional LLCs would require a separate registration and registration fee.

Employee Wage Withholding Returns

The City occupational withholding tax rate on employees' wages is 2%. The new 2% tax rate was in effect on wages and withholding taxes beginning January 1st, 2024. Please include the City account number on all tax forms submitted to insure accuracy of your clients' filings.

The City Employee Wage Withholding Tax must be withheld by the employer from every employee's complete gross wages. All tax-deferred contributions such as 401K, Cafeteria Plans, and Thrift Plans are subject to the City tax. All individuals, regardless of where they live, are subject to this tax if they work inside the City Limits.

An employer must follow the IRS guidelines in determining if an individual is an employee or an independent contractor. Misclassification could result in fines or possible tax audit. Employee Wage Withholding Returns are generally due to the City on a quarterly basis. An employer may be required to file on a monthly basis if a tax payment on any quarter exceeds \$2,500. If this occurs, the employer will be notified well in advance of the required conversion date. Quarterly returns are due by the last day of the month following the period end while monthly returns are due by the fifteenth day of the month following the period end.

The following address is the mailing address for filing the City Employee Wage Withholding Returns:

City of Bowling Green KY, P O Box 643791, Cincinnati OH 45264-3791.

Net Profit License Fee Returns and Annual Reconciliations should not be sent to this address.

During the month of December the City mails an Annual Reconciliation form to be completed and filed with the City on or before February 28th of each year. **Copies of the following must be submitted with the Annual Reconciliation: the employer's W-2 forms, the totals page from a Payroll Register or a listing that contains all the gross wages, salaries and/or compensation that would be any pre-tax contributions to retirement, pre-tax deductions for insurance, and cafeteria plans.**

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Any person, employer, employee or licensee that has made or has generated an overpayment of their liability for any Occupational License fee may apply for a refund within two (2) years of the date the overpayment is made or the date the fee is due, whichever occurs first. A refund form provided by the City or an amended Employee Wage Withholding Return with a detailed explanation must be submitted. The amended employee withholding form can be found on the city website.

Under City Code of Ordinances, whenever the City deems it necessary, the City by notice served to the business entity require persons who make, Federal Form 1099, “non-employee compensation” payments to persons other than employees for services performed within the City Limits to maintain records of such payments and report such payments to the City. If a business is not required to remit Federal 1099s to the IRS, including but not limited to payments less than \$600, they are still liable to remit the equivalent information to the City upon request.

Net Profit License Fee Returns

The City net profit fee rate is 2%. The new 2% tax rate was in effect on fiscal years beginning on or after January 1st, 2024. Please include your updated City account number on all tax forms submitted to insure accuracy of your clients’ filings. If this is a first time filing for the business and that business has not yet registered and received a city account number, please complete a business registration form at www.bgky.org. Submit the completed **registration form and fee along with the net profit filing**. Upon receipt of the net profit and application, a business registration will be issued and a filing account number will be assigned. This will assist in faster and accurate processing of the return.

The \$30 minimum fee is for the activity within the year being reported on the Net Profit License Fee Return. This minimum fee is due even if the business closed during the year or reported a loss for the year. If a business has ceased activity in the City Limits the date should be reported on the return. An individual must send written notification and explanation in order to close their City Business Registration account. A form for this purpose is available on the City’s website: www.bgky.org under Business Forms & Applications.

Income on rentals and sales of personal property and real estate by brokers and persons conducting such business within the City Limits are subject to the net profit license fee. An individual/sole proprietorship is deemed to be in rental property business by the City if it receives rental income from more than two residential units or it has any commercial rental property. If the individual that owns the rental property establishes a business entity, regardless of number of units, they are deemed a business and must register as such and file an annual net profit license fee return.

A business entity reporting activity both within the City Limits and outside the City Limits must keep detailed records of their activity in order to substantiate the percentage factor allocated to the City on the Net Profit License Fee Return.

LLCs must file the annual Net Profit License Fee Return by the due date to avoid late fees. However, if the LLC is reporting the income under a separate City account number, that account number must be inserted in the space provided on the return. If that account number is provided with the LLC’s Net Profit License Fee Return the minimum license fee will be waived on the disregarded LLC’s return. Once that information has been provided and verified the LLC will no longer be required to file a separate net profit return. However, it is the responsibility of the tax filer to notify the City prior to the tax filing year end if a change in that filing structure occurs. Failure to do so could result in penalties.

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Interest will accrue at 1% per month, or portion of month, on any unpaid balances from the time the tax was due until the tax is paid and will be in addition to the penalty.

Penalty for late filing will be 5% per month or portion of month to a maximum of 25% **but not less than \$25**. These penalties will apply if 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 of Bowling Green: or
- b. Fails to pay the tax computed on the return or report on or before the due date prescribed for payment.

If an extension of time for filing is necessary, a copy of your client's Federal Extension Request must be submitted on or before the due date of the return. The Extension must be accompanied by payment equivalent to **90%** of the amount due or an amount equal to 100% of the total liability for the most recent year. The amount paid with the Extension Request cannot be less than the minimum fee of \$30. All net profit license fees unpaid after the due date will be subject to an interest charge of 1% per month or fraction of a month from the original due date. If the Extension Request has not been filed on or before the due date, penalty and interest will apply when the Net Profit License Fee Return is filed and paid. **LLCs** filing as a disregarded entity under another City account number must submit an Extension Request form for the LLC referencing the City account number where the taxes will be reported. An estimated payment is not required with an Extension Request for a disregarded LLC. *Please direct all City Extension Requests to the attention of: **Charlotte Duvall**.* Extension Request forms are available on the City's website: www.bgky.org under Business and Forms & Applications.

When a City Net Profit License Fee Return is filed, if an overpayment of Occupational License Fees by an Estimated Payment or Extension Payment exists on the year, **the overpayment shall be refunded to the tax filer**. If a deficiency or nonpayment of fees or taxes exists for a previous year, the overpayment may be applied as a payment to the balance due or any applicable penalty or interest before a refund shall be approved.

The following are items you may want to be aware of to assist your clients when either registering them or filing the returns. These are not all inclusive so please refer to Chapter 18 of the City Code of Ordinances for more detailed information if needed.

18-1 Definitions.

18-1.01

- **“Business”** shall mean any enterprise, activity, trade, occupation, profession or undertaking of any nature conducted for gain or profit. “Business” shall not include the usual activities of board of trade, chambers of commerce, trade associations or unions, or other associations performing services usually performed by trade associations or unions. *“Business” shall not include non-profit organizations, except to the extent that there is unrelated business income from a trade or business regularly carried on that is not substantially related to the charitable, education or other purpose that is the basis of the organization's exemption.*

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- **“Business of Renting or Leasing Real Estate”** shall mean any person or business entity owning or leasing any commercial, industrial, residential, agricultural or other property in the City, whether or not the property is currently leased or occupied.

(e) Include contributions to KEOGH (HR-10) Retirement Plans, Simplified Employee Pension (SEP) Plans, medical insurance premiums whether paid on behalf of partners, shareholders or individual owners, and any other deductions that benefit non-employee individuals.

- **“Net Profit”** shall mean gross income as defined in Section 61 of the Internal Revenue Code minus all the deductions from gross income allowed by Chapter 1 of the Internal Revenue Code, and adjusted as follows:

(g) Exclude the amount of foreign dividend gross-up under Section 78 of the Internal Revenue Code.

(h) Exclude the amount of Subpart F income included under Section 951 of the Internal Revenue Code but not actually received.

18-2.03 Income subject to Occupational License Fees.

18-2.03 a.

1. Income of the sales of stocks, bonds and other securities or any interest therein by brokers, *business entities and persons engaged in conducting such business as investment firms, lending institutions and similar such businesses;*
3. *A trust estate engaged in business which produces income. In the case of a real estate investment trust (REIT), the total deduction for dividends paid and the Internal Revenue Code (I.R.C.) Section 857 (b) (2) (E) of the IRS deduction are included when determining the investment trusts taxable income.*

18-2.04 Income Excluded from Occupational License Fees.

18-2.04 a.

12. Entities, such as Self-Directed Roth IRA or other similar retirement programs, filing a Federal Exempt Organization Business Income Tax Return as a tax exempt organization shall be required to file with the City a net profit license fee return, but the City’s occupational license fees shall be waived only where no part of the unrelated trade or business income inures to the benefit of any private person. However, if the net income on the Federal return exceeds an amount whereby the net profit license fee would be greater than the net profit minimum fee, the net profit return shall be required with the full amount of fees due.

Annual Tax Preparer Letter (Cont.)

18-6 Transient Room Tax

Changes on the Transient Room Tax imposed and levied on other types of rentals such as cabins, lodging, campsites or other accommodations rented. See Chapter 18 for more detailed information.

An update was also made to the Kentucky KRS that might apply to individuals you are assisting to apply for a refund of occupational taxes.

KRS 67.791 Sharing of refund application and related information. Notwithstanding any legal restrictions or limitations to the contrary, a tax district as defined in KRS 67.750(10) may share a refund application and any related information that is submitted to it by an employee seeking a refund of any amount of tax withheld and paid by his or her employer to the tax district under KRS 67.750 to 67.795 with any other tax district that is referenced in the refund application or related information. Effective: June 29, 2021 History: Created 2021 Ky. Acts Ch. 156, sec. 14, effective June 29, 2021

We sincerely hope this information has been of benefit to you. If you have any questions regarding any of these areas addressed, please contact the Office of Occupational License by phoning 270.393.3000. As a reminder, all of our City Office of Occupational License forms can be printed from the City's website: www.bgky.org under Business Forms & Applications. Please feel free to provide a copy of this letter to your clients on our behalf.

Sincerely,

Katie Schaller-Ward

Katie Schaller-Ward
Assistant City Manager/CFO

David L. Lyne

David L. Lyne
Occupational License Manager