

## **STAFF REPORT**

IN CONSIDERATION OF ORDINANCE NO. 22-1484, FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 7.07 RELATED TO APPORTIONMENT AND ALLOCATION OF INCOME TO BETTER ALIGN WITH OREGON STATE INCOME TAX APPORTIONMENT LAW FOR CERTAIN BUSINESSES

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Length: 15 minutes (in conjunction with Ordinance No. 22-1485)

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### **ISSUE STATEMENT**

In December 2020, the Metro Council adopted Metro Code Chapters 7.05, “Income Tax Administration for Personal and Business Taxes”, 7.06 “Personal Income Tax”, and 7.07 “Business Income Tax”. These chapters codified certain provisions of the Supportive Housing Services Measure approved by the voters, and established code to implement the taxes imposed by the measure in an effective and efficient manner.

After adoption of the income tax code, Metro has worked with the City of Portland and Multnomah County, which share tax collection administration functions housed at the City of Portland Revenue Division, to study and ultimately propose making changes to the formula that some companies are required to use in determining the amount of taxable income that it owes to different levels of government.

In order to determine how much tax a business owes, a business that delivers products and/or services in multiple countries and/or states must apportion income for state and local tax purposes to calculate the portion of a business’s overall income that is taxable within the state or locale of interest. During code development, Metro agreed to further study what impacts changing to a market-based income apportionment system for some businesses<sup>1</sup> would have on revenue collections, both in terms of the degree to which total

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<sup>1</sup>The current method required by the City of Portland’s Revenue Division and Metro code use a “Cost of Performance” methodology that apportions income based on where services are generated, whereas the proposed change to a market-based methodology would apportion income based on where the services are delivered. According to the data provided by the City of Portland, firms in the professional business services sector are most likely to be impacted. A variety of services are delivered by these firms, but among the most common are accounting and law services, and as a group, this sector represents a relatively small proportion of all taxpayers.

revenue could be impacted, as well as evaluating the relative ease of administration for taxpayers and local government administrators. The State of Oregon made similar changes in 2018.

Following extensive study of available data and reviews of many prior similar actions by other states/regions, Metro staff and partners at the City of Portland and Multnomah County have agreed to propose this change.

### **ACTION REQUESTED**

Staff requests adoption of Ordinance No. 22-1484.

### **IDENTIFIED POLICY OUTCOMES**

The proposed amendments to Metro income tax codes clarify the code originally adopted in December 2020. These codes establish rules to administer the taxes imposed by the measure in an effective and efficient manner. This particular amendment addresses concerns brought to Metro's attention during the drafting of the original code.

The amendment impacts a set of companies that are required to apportion income based on a concept called "Cost of Performance," and will now use a different formula known as market-based sourcing. What this means, generally, is that some local companies will pay less in taxes, while some non-local businesses that have revenue originating from the Metro region will pay more. Overall, based on all available data and prior studies from similar actions in other jurisdictions, staff have concluded that total revenue will not be materially impacted by making this change, and that any difference that could occur in a specific-year would be negligible in the context of the regular volatility seen in these revenue streams.

Furthermore, the amendments proposed follow analogous actions already taken by the City of Portland and Multnomah County. Based on all available information, staff agree that this action will not materially impact total tax revenues and that it will ease compliance for taxpayers that also pay other state and federal income taxes.

### **POLICY OPTIONS FOR COUNCIL TO CONSIDER**

- *Adoption of this ordinance.* This results in more clarity in the income tax codes and eases the burden on local taxpayers, while reinforcing actions already completed by the City of Portland and Multnomah County, which guide the tax collection system for all three entities.
- *Adoption of this ordinance with revisions or modifications as described by Council.* This may require additional action to ensure that changes do not conflict with other local government income tax codes.
- *Rejection of this ordinance with other direction to staff.* The existing income tax

code would remain in place, but proposed amendments would not be made. This may require additional action to ensure that changes do not conflict with other local government income tax codes, as well as creating an uncertain tax environment for some businesses.

## **STAFF RECOMMENDATIONS**

Staff recommends that Metro Council adopt Ordinance No. 22-1484.

## **STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION**

Metro staff formed a tax implementation advisory table in June 2020 to advise on technical aspects of tax implementation, technical issues, and provide recommendations to ensure a smooth, legal and easy tax collection process. Members included experts in taxation, tax policy, tax implementation and business stakeholders. The table met with staff multiple times and provided input on development of the tax codes.

In the context of this ordinance, Metro is more closely aligning its code to that of the state and our local government tax collection partners at the City of Portland and Multnomah County. It addresses concerns brought to Metro by certain stakeholders to ease the administrative burden of tax compliance, while potentially serving to ease the financial impacts of these taxes on some local businesses.

## **BACKGROUND**

In May 2020 Metro voters approved a measure to raise money for supportive housing services for people experiencing homelessness or at risk of experiencing homelessness. Multnomah County, in November 2020, subsequently passed a personal income tax to fund early childhood education. The tax is similar – though with a slightly different structure – to the personal income tax component of Metro’s SHS taxes and is also now administered by the City of Portland’s Revenue Division.

The program is funded by two separate taxes: a 1% personal income tax on taxable income above \$125,000 for individuals and \$200,000 for those filing jointly, and a 1% business income tax on net income for businesses with gross receipts above \$5 million. Other Metro programs and projects are funded through bond measures or property tax levies. This is the first program at Metro that uses personal and business income taxes, and it is the first local personal income tax in the region since Multnomah County’s personal income tax ended in 2006.

Council provided direction on code development at a November 2020 work session, and three Council meetings in December 2020. The code was adopted on December 17, 2020. Tax collection began in April 2021. Collections began slowly, as is normal for a new income tax. However, by the end of FY 2021-22, the taxes collected nearly \$240 million in revenue and over \$200 million was distributed to our local implementation partners.

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