

Council meeting agenda

Thursday, October 27, 2022

11:30 AM

<https://zoom.us/j/615079992> (Webinar ID: 615079992) or 929-205-6099 (toll free)

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- 1. Call to Order and Roll Call**
- 2. Public Communication**

Public comment may be submitted in writing and will also be heard by electronic communication (videoconference or telephone). Written comments should be submitted electronically by emailing legislativecoordinator@oregonmetro.gov. Written comments received by 4pm the day before the meeting will be provided to the council prior to the meeting.

Those wishing to testify orally are encouraged to sign up in advance by either: (a) contacting the legislative coordinator by phone at 503-797-1916 and providing your name and the agenda item on which you wish to testify; or (b) registering by email by sending your name and the agenda item on which you wish to testify to legislativecoordinator@oregonmetro.gov. Those requesting to comment during the meeting can do so by using the "Raise Hand" feature in Zoom or emailing the legislative coordinator at legislativecoordinator@oregonmetro.gov. Individuals will have three minutes to testify unless otherwise stated at the meeting.

- 3. Ordinances (Second Reading and Vote)**

- 3.1 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

[ORD 22-1484](#)

Presenter(s): Josh Harwood (he/him), Metro
Shane Abma (he/him), Metro

Attachments: [Ordinance No. 22-1484](#)
[Exhibit A](#)
[Staff Report](#)

- 3.2 Ordinance No. 22-1485, For the Purpose of Housekeeping Amendments to Metro Code Chapters 7.05 and 7.07 Related to Personal and Business Income Tax Administration

[ORD 22-1485](#)

Presenter(s): Josh Harwood (he/him), Metro
Shane Abma (he/him), Metro

Attachments: [Ordinance No. 22-1485](#)
[Exhibit A](#)
[Staff Report](#)

- 4. **Chief Operating Officer Communication**
- 5. **Councilor Communication**
- 6. **Adjourn**

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ការការពារសិទ្ធិពលរដ្ឋរបស់ ។ សំរាប់ព័ត៌មានអំពីកម្មវិធីសិទ្ធិពលរដ្ឋរបស់ Metro ឬដើម្បីទទួលបានការបណ្តឹងរើសអើងសូមទូរស័ព្ទសួរគេហទំព័រ www.oregonmetro.gov/civilrights។ បើលោកអ្នកត្រូវការអ្នកបកប្រែភាសានៅពេលអង្គប្រជុំសាធារណៈ សូមទូរស័ព្ទមកលេខ 503-797-1700 (ម៉ោង 8 ព្រឹកដល់ម៉ោង 5 ល្ងាច ថ្ងៃធ្វើការ) ប្រាំពីរថ្ងៃ ថ្ងៃធ្វើការ មុនថ្ងៃប្រជុំដើម្បីអាចឲ្យគេសម្រួលតាមសំណើរបស់លោកអ្នក ។

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**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**

Ordinances (Second Reading and Vote)

Metro Council Meeting
Thursday, October 27th, 2022

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO)	ORDINANCE NO. 22-1484
CODE CHAPTER 7.07 RELATED TO)	
APPORTIONMENT AND ALLOCATION OF)	Introduced by Chief Operating Officer
INCOME TO BETTER ALIGN WITH OREGON)	Marissa Madrigal in concurrence with
STATE INCOME TAX APPORTIONMENT LAW)	Council President Lynn Peterson
FOR CERTAIN BUSINESSES)	

WHEREAS, on May 19, 2020, the Metro area voters approved Metro’s Supportive Housing Services Ballot Measure (“Measure”); and

WHEREAS, on December 17, 2020, the Metro Council adopted Ordinance No. 20-1454, which established new Metro Code Chapters 7.05 (Income Tax Administration for Personal and Business Taxes") and 7.07 (“Business Income Tax”); and,

WHEREAS, the administration of income taxes often requires code and rule amendments to address issues such as federal and state law changes, as well as technology associated with tax filing and enforcement; and,

WHEREAS, as part of Ordinance No. 20-1454, the Metro Council required “an evaluation of the apportionment methodology for gross business income under Chapter 7.07 no later than December 1, 2022,” and Council further required that as part of that evaluation process Metro staff “coordinate with regional governmental partners and engage with stakeholders, including businesses and tax specialists”; and,

WHEREAS, in drafting these proposed Metro Code changes, Metro staff worked closely with both City of Portland and Multnomah County staff that oversee their respective business income tax codes; and

WHEREAS, these proposed Metro Code changes not only align with Oregon Tax Law, but they also align with changes recently adopted by the Portland City Council and the Multnomah County Board of Commissioners to their respective business income tax codes, thus making tax filings easier, less costly, and more efficient for businesses; and

WHEREAS, the proposed business income apportionment code changes for all three jurisdictions involved a public comment process, including involvement with businesses and tax specialists; and

WHEREAS, this update to Metro Code addresses concerns brought to Metro’s attention during the implementation of its business income tax and largely aligns with state tax law related to income apportionment for tax purposes for most businesses for which the provision applies; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Metro Code Sections 7.07.070 and 7.07.080 are amended, and Metro Code Sections 7.07.071 and 7.07.081 are added to Chapter 7.07 as set forth in Exhibit A. These changes take effect on January 1, 2023.

ADOPTED by the Metro Council this 27th day of October 2022.

Lynn Peterson, Council President

Attest:

Approved as to Form:

Connor Ayers, Recording Secretary

Carrie MacLaren, Metro Attorney

Chapter 7.07 Business Income Tax

New language for Chapter 7.07 is indicated by underlined text.

1. Amend the title of Section 7.07.070 “Income Determinations” as follows:

7.07.070 Income Determination for Tax Years Prior to January 1, 2023.

2. Amend Section 7.07.070 “Income Determinations” by inserting the following language as the new first paragraph:

This section applies to tax years beginning prior to January 1, 2023. For tax years beginning on or after January 1, 2023, see Section 7.07.071.

The remainder of Section 7.07.070 is unchanged.

3. Add a new Section 7.07.071 “Income Determinations for Tax Years on or after January 1, 2023” as follows:

7.07.071 Income Determinations for Tax Years on or after January 1, 2023

This section applies to tax years beginning on or after January 1, 2023.

The net income arising from any business, as reportable to the State of Oregon (State) for corporation, S-corporation, partnership, or trust excise or income tax purposes, before any allocation or apportionment for operation out of state, or deduction for a net operating loss carry-forward or carry-back is subject to the Metro Business Income Tax.

- (a) Partnerships, S-corporations, limited liability companies (excluding disregarded entities), limited partnerships, limited liability partnerships, family limited partnerships, estates, and trusts are liable for the business tax and not the individual partners, shareholders, members, beneficiaries, or owners. The income of these entities must include all income received by the entity including ordinary income, interest and dividend income, income from sales of business assets, and other income attributable to the entity.
- (b) If one or more persons are required or elect to report their income to the State for corporation excise or income tax purposes in a consolidated, combined, or joint return, a single return must be filed by the person filing such return. In such cases, net income means the net income of the consolidated, combined or joint group of taxfilers before any allocation or apportionment for operation out of the state, or deduction for a net operating loss carry-forward or carry-back.

- (c) The absence of reporting income to the Internal Revenue Service or the State of Oregon does not limit the ability of the Administrator to determine the correct income of the taxfiler through examination under Section 7.05.130.
- (d) Estates and trusts. In determining income for estates and trusts, income is measured after distribution of profits to beneficiaries. No additional deduction is allowed.
- (e) Certain Deductions Not Allowed. In determining income, no deduction is allowed for:
 - 1. Taxes based on or measured by net income;
 - 2. The federal built-in gains tax; or
 - 3. The City of Portland Clean Energy Surcharge.
- (f) Ordinary gain or loss. In determining income, gain or loss from the sale, exchange or involuntary conversion of real property or tangible and intangible personal property must be included as ordinary gain or loss.
- (g) Net operating loss. In determining income, a deduction is allowed equal to the aggregate of the net operating losses incurred in prior years, not to exceed 75% of the income determined for the current tax year before this deduction but after all other deductions from income allowed by this section and apportioned for business activity both within and without the District.
 - 1. When the operations of the taxfiler from doing business both within and without the District result in a net operating loss, such loss will be apportioned in the same manner as the net income under Section 7.07.080. A net operating loss may not be carried forward from any tax year during which the taxfiler conducted no business within the District or the taxfiler was otherwise exempt from payment of the Business Income Tax unless specifically provided for by administrative rule or written policy.
 - 2. In computing the net operating loss for any tax year, the net operating loss of a prior tax year is not allowed as a deduction.
 - 3. The net operating loss of the earliest tax year available must be exhausted before a net operating loss from a later tax year may be deducted.
 - 4. The net operating loss in any tax year is allowed as a deduction in any of the five succeeding license tax years until used or expired. Any partial tax year will be treated the same as a full tax year in determining the appropriate carry-forward period.

4. Amend the title of Section 7.07.080 “Apportionment of Income” as follows:

7.07.080 Apportionment of Income for Tax Years Prior to January 1, 2023

5. Amend Section 7.07.080 “Apportionment of Income” by inserting the following language as the new first paragraph:

This section applies to tax years beginning prior to January 1, 2023. For tax years beginning on or after January 1, 2023, see Section 7.07.081.

The remainder of Section 7.07.080 is unchanged.

6. Add a new Section 7.07.081 “Apportionment of Income for Tax Years Beginning on or after January 1, 2023” as follows:

7.07.081 Apportionment of Income for Tax Years Beginning on or after January 1, 2023

This section applies to tax years beginning on or after January 1, 2023.

- (a) “Jurisdiction to tax” occurs when a person engages in business activities in a jurisdiction that is not protected from taxation by Public Law 86-272 [15 U.S.C. Section 381-384]. The District’s standard for jurisdiction to tax, or nexus, is the same as the State of Oregon’s found in the Oregon Revised Statutes and Oregon Administrative Rules related to taxation. If a taxfiler’s business is based in the District, a taxfiler must have business activity outside the District that results in a jurisdiction to tax outside the District to apportion the income of the business. Without jurisdiction to tax outside the District, all income of a business is taxable by Metro.
- (b) “Business activity” means any of the elements of doing business. The income reportable as income earned from business activity within the District will include all business incomes from sources within the District that is taxable income under Oregon tax laws and regulations unless otherwise exempted or excluded in this chapter.
- (c) The District adopts the apportionment and allocation provisions found in the Oregon Revised Statutes, Chapters 314, 317, and 318 and related Oregon Administrative Rules unless otherwise provided in this chapter or by administrative rule. All references to Oregon or the state should be read as referring to the District. All business income must be apportioned to the District by multiplying business income by the sales factor only.
- (d) In determining the sales factor numerator under subsection (c): Sales of tangible personal property are deemed to take place in the District if the property is delivered or shipped to a purchaser within the District regardless of the f.o.b. point or other conditions of sale. If sales of tangible personal property are shipped from the District to

a purchaser located where the taxfiler is not taxable, those sales are not apportioned to the District.

- (e) Certain industries or incomes are subject to specific apportionment methodologies. These methodologies are described in administrative rules adopted in accordance with section 7.05.070 or Metro ordinance. Industry specific or income specific apportionment methodologies required by Oregon Revised Statutes and Oregon Administrative Rules for the sales factor, will be used in cases in which the Administrator has not adopted a rule regarding the apportionment of that industry or income. All apportionment methodologies directed under this subsection will be a single sales factor as directed under subsection 7.07.081 (c) and subsection 7.07.081 (d).

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

Date: October 3, 2022

Department: Finance & Regulatory
Services

Meeting Date: October 20, 2022

Prepared by: Josh Harwood

(503) 797-1626

Josh.Harwood@oregonmetro.gov

Presenter: Josh Harwood

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

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 businesses¹ would have on revenue collections, both in terms of the degree to which total

¹The 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.

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.

**Ordinance No. 22-1485, For the Purpose of
Housekeeping Amendments to Metro Code Chapters
7.05 and 7.07 Related to Personal and Business Income
Tax Administration**

Ordinances (Second Reading and Vote)

Metro Council Meeting
Thursday, October 27th, 2022

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF HOUSEKEEPING)	ORDINANCE NO. 22-1485
AMENDMENTS TO METRO CODE CHAPTERS)	
7.05 AND 7.07 RELATED TO PERSONAL AND)	Introduced by Chief Operating Officer
BUSINESS INCOME TAX ADMINISTRATION)	Marissa Madrigal in concurrence with
)	Council President Lynn Peterson

WHEREAS, on May 19, 2020, the Metro area voters approved Metro’s Supportive Housing Services Ballot Measure (“Measure”); and

WHEREAS, on December 17, 2020, the Metro Council adopted Ordinance No. 20-1452, which established a new Metro Code Chapter 11.01 (“Supportive Housing Services Program”) that codified the Measure’s programmatic sections with title, chapter and section numbers; and

WHEREAS, in ongoing efforts to efficiently administer the personal and business income taxes associated with Metro’s Supportive Housing Services Program, Metro staff consulted with stakeholders, Metro’s tax administrator, and tax experts to establish administrative rules to further implement the income taxes; and

WHEREAS, the administration of income taxes often requires code and rule amendments to address issues such as federal and state law changes, and technology associated with tax filing and enforcement; and

WHEREAS, during the first year of collections of these taxes, Metro staff, in conjunction with tax administration partners at the City of Portland and Multnomah County, determined that certain clarifications and housekeeping changes were needed to code chapters 7.05 and 7.07; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Metro Code Sections 7.05.020, 7.05.160, and 7.07.090 are amended as set forth in the attached Exhibit A. These changes take effect on January 1, 2023.

ADOPTED by the Metro Council this 27th day of October 2022.

Lynn Peterson, Council President

Attest:

Approved as to Form:

Connor Ayers, Recording Secretary

Carrie MacLaren, Metro Attorney

Chapter 7.05 Income Tax Administration for Personal and Business Taxes

New language for Chapter 7.05 is indicated by underlined text, and deleted language is indicated by ~~strikethrough~~ text.

1. Amend Section 7.05.020 "Definitions" to add two new definitions and revise an existing definition as follows:

Business Income has the same meaning as "apportionable income" defined in Oregon Revised Statutes 314.610.

Nonbusiness Income means income ~~not created in the course of a taxfiler's business activities~~ has the same meaning as "nonapportionable income" defined in Oregon Revised Statutes 314.610.

Notice means a written document mailed by first class by the Administrator or District to the last known address of a taxfiler as provided to the Administrator or District in the latest registration form or tax return on file with the Administrator. Alternatively, notice may be delivered in person, by facsimile, email, or other means with taxfiler consent.

2. Amend Section 7.05.160 "Protests and Appeals; Penalty Waiver" as follows:

(a) A taxfiler may protest any determination by the Administrator. The Administrator must receive written notice of the protest within 30 days after the Administrator mailed or delivered the initial notice of determination to the taxfiler. Failure to file such a written notice within the time permitted is deemed a waiver of any objections, and the Administrator will dismiss the appeal. The protest must state the name and address of the taxfiler and an explanation of the general grounds for the protest. The Administrator must respond within 30 days after the protest is filed with ~~either a revised determination or 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 before the original 30-day protest deadline expires. The Administrator will give written notice to the taxfiler if the Administrator's deadline is extended.

(b) A taxfiler may appeal any final determination by the Administrator to the appeals board. The Administrator must receive written notice of the appeal 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.

(c) 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 this a written statement within the time permitted is a waiver of any objections, and the appeal will be dismissed.

- (d) 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 after the Administrator files it with the appeals board.
- (e) The ~~Administrator~~ appeals board must provide the appellant written notice of the hearing date and location at least 14 days before the hearing. The appellant and the Administrator may present relevant testimony, evidence, and oral argument at the hearing. The appeals board may request additional written comment and documents as the board deems appropriate.
- (f) Decisions of the appeals board must be in writing, state the basis and legal authority for the decision and be signed by the appeals board chair.
- (g) The decision of the appeals board is final as of the issue date and no further administrative appeal will be provided.
- (h) 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.
- (i) Penalty waiver or reduction requests are not subject to the protest/appeal process or timeline outlined in subsections 7.05.160(a) through 160(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 or waive penalties within 60 days from the date the written request is received. As provided in subsections 7.05.260(f) and 7.05.270(e), 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.

Chapter 7.07 Business Income Tax

New language for Chapter 7.07 is indicated by underlined text, and deleted language is indicated by ~~strikethrough~~ text.

1. Amend Section 7.07.090 "Presumptive Tax" to remove the current subsection (c) as follows:

(a) If a person fails to file a return, a rebuttable presumption exists that the tax payable amounts to \$500 for every tax year for which a return has not been filed.

(b) Nothing in this section prevents the Administrator from assessing a tax due that is less than or greater than \$500 per tax year.

~~(c) If the taxfiler filed a tax return the previous tax year, then presumptive taxes assessed under this section will be considered a tax return. Presumptive taxes assessed under this section are considered filed documents and subject to the time limitations for deficiencies and refunds as described in Metro Code Section 7.05.150.~~

(c)~~(d)~~ Taxes determined under this section are subject to penalties and interest from the date the taxes should have been paid as provided in Section 7.05.170 in accordance with Sections 7.05.260 and 7.05.280. The Administrator will send notice of the determination and assessment to the taxfiler.

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 22-1485, FOR THE PURPOSE OF
HOUSEKEEPING AMENDMENTS TO METRO CODE CHAPTERS 7.05 AND 7.07
RELATED TO PERSONAL AND BUSINESS INCOME TAX ADMINISTRATION

Date: October 3, 2022
Department: Finance & Regulatory
Services
Meeting Date: October 20, 2022

Prepared by: Josh Harwood
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Presenter: Josh Harwood
Length: 15 minutes (in conjunction with
Ordinance No. 22-1484)

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 continued to work on implementation and ongoing administration of the tax collection system with our tax administrator, the City of Portland Revenue Division. Through these efforts, Metro will be required to occasionally amend code or administrative rules in order to maintain consistency with current practices and/or any related law changes that may happen at the state and/or federal level.

The proposed amendments do not change the intent of the code as adopted by Council, but make changes to support the collection of these taxes through the City of Portland’s Revenue Division.

ACTION REQUESTED

Staff requests adoption of Ordinance No. 22-1485.

IDENTIFIED POLICY OUTCOMES

The proposed amendments to Metro income tax codes clarify the code originally adopted in December 2020 in order to maintain consistency in administrative practices for tax collections done by the City of Portland, including Metro’s SHS taxes. These codes establish rules to ensure the taxes imposed by the measure are administered in an effective and efficient manner.

POLICY OPTIONS FOR COUNCIL TO CONSIDER

- *Adoption of this ordinance.* This results in more clarity in the income tax codes, 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.

STAFF RECOMMENDATIONS

Staff recommends that Metro Council adopt Ordinance No. 22-1485.

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.

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.

In the context of this ordinance, Metro is providing additional clarity and codifying actions taken by the City of Portland and Multnomah County, with whom Metro has agreed to partner with for purposes of income tax administration.

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.