

ORDINANCE NO. 17- 107

AN ORDINANCE AMENDING THE MUNICIPAL INCOME TAX ORDINANCE NO. 15-119 AS IT RELATES TO PENALTIES FOR CERTAIN TAX VIOLATIONS, AND DECLARING AN EMERGENCY

WHEREAS, Council for the City made effective Tax Ordinance No. 15-119 on January 1, 2016; and

WHEREAS, Council for the City amended Section 99 of said Ordinance on August 1, 2017 (Ordinance No. 17-91) as it relates to penalties for certain tax violations; and

WHEREAS, Council for the City again desires to amend Section 99 of the Said Ordinance as the amended language passed on August 1, 2017 does not effectively allow for appropriate punishments for certain violations of the City of Greenville Tax Ordinance; and

WHEREAS, this is an emergency measure as the language to be adopted must be made effective immediately in order to apply these penalties to certain violations of the Ordinance;

THEREFORE, BE IT ORDAINED by the Council of the City of Greenville, Darke County, and State of Ohio as follows:

SECTION ONE: Effective immediately, Council amends the language of Section 99 of Greenville City Tax Ordinance to be in accordance with the attached **Exhibit "A"**.

SECTION TWO: For the reasons stated in the preamble, this Ordinance shall take effect upon its passage.

SECTION THREE: All other portions of Ordinance No. 15-119 as well as any subsequent amendments, not specifically amended as provided herein, are hereby ratified and continued in full force and effect.

PASSED this 5th day of September, 2017.

John R. Beal, President of Council

ATTEST:

Betsy J. Smith, Clerk Pro Tem

APPROVED by the Mayor this 5th day of September, 2017

Stephen M. Williams, Mayor

EXHIBIT A

(D) ~~Except as otherwise provided in division (E) of this section, Whoever violates any provision of this Ordinance for which violation no penalty is otherwise provided, is guilty of an unclassified misdemeanor punishable by a fine up to five hundred dollars minor misdemeanor on a first offense; and on a second offense within one three years after the first offense, the person is guilty of a unclassified misdemeanor punishable by a fine up to one thousand dollars. ~~misdemeanor of the fourth (4th) degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of a third (3rd) degree.~~ By way of an illustrative enumeration, violations of this Ordinance shall include but not be limited to the following acts, conduct, and/or omissions:~~

- (1) Fail, neglect or refuse to make any return or declaration required by this Ordinance; or
- (2) Knowingly make any incomplete return; or
- (3) Willfully fail, neglect, or refuse to pay the tax, penalties, and interest, or any combination thereof, imposed by this Ordinance; or
- (4) Cause to not be remitted the city income tax withheld from qualifying wages of employees to the municipal corporation as required by Section 5.1; or
- (5) Neglect or refuse to withhold or remit municipal income tax from employees; or
- (6) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his or her books, records, papers, federal and state income tax returns, or any documentation relating to the income or net profits of a taxpayer; or
- (7) Fail to appear before the Tax Administrator and to produce his or her books, records, papers, federal and state income tax returns, or any documentation relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator; or
- (8) Refuse to disclose to the Tax Administrator any information with respect to such person's income or net profits, or in the case of a person responsible for maintaining information relating to his or her employers' income or net profits, such person's employer's income or net profits; or
- (9) Fail to comply with the provisions of this Ordinance or any order or subpoena of the Tax Administrator; or
- (10) To avoid imposition or collection of municipal income tax, willfully give to an employer or prospective employer false information as to his or her true name, correct social security number and residence address, or willfully fail to promptly notify an employer or a prospective employer of any change in residence address and date thereof; or
- (11) Fail, as an employer, agent of an employer, or other payer, to maintain proper records of employees residence addresses, total qualifying wages paid and municipal tax withheld, or to knowingly give the Tax Administrator false information; or
- (12) Willfully fail, neglect, or refuse to make any payment of estimated municipal income tax for any taxable year or any part of any taxable year in

accordance with this Ordinance; or

(13) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this Ordinance.

(14) For purposes of this Section, any violation that does not specify a culpable mental state or intent, shall be one of strict liability and no culpable mental state or intent shall be required for a person to be guilty of that violation.

(15) For purposes of this Section, the term "person" shall, in addition to the meaning prescribed in Section 3, include in the case of a corporation, association, pass-through entity or unincorporated business entity not having any resident owner or officer within the city, any employee or agent of such corporation, association, pass-through entity or unincorporated business entity who has control or supervision over or is charged with the responsibility of filing the municipal income tax returns and making the payments of the municipal income tax as required by this Ordinance.

(E) If, within three years of the offense, the offender previously was convicted of or pleaded guilty to two or more violations of any provision of this Ordinance for which violation no penalty is otherwise provided, the offense is a misdemeanor of the fourth degree.