



Text File

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Bill No: 2005-0987, Version: 1

Committee: Committee on Finance & Budget

Status: Passed Finally

Presented by Mr. Hertzberg

Ordinance supplementing the Pittsburgh Code, Title Two, Fiscal; Article VII, Business Related Taxes; Chapter 258, PAYROLL TAX, by changing Section 258.01 Definitions, subsection (k).

Be it resolved by the Council of the City of Pittsburgh as follows:

Section 1. Supplementing the Pittsburgh Code, Title Two, Fiscal; Article VII, Business Related Taxes; Chapter 258, PAYROLL TAX, by changing Section 258.01 Definitions, subsection (k).

Chapter 258 PAYROLL TAX.

Section 258.01 DEFINITIONS.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

(a) "Business" means any activity, enterprise, profession, trade or undertaking of any nature conducted or engaged in, or ordinarily conducted or engaged in, with the object of gain, benefit or advantages, whether direct or indirect, to the taxpayer or to another or others. The term shall include subsidiary or independent entities which conduct operations for the benefit of others and at no profit to themselves, nonprofit businesses, and trade associations. A person shall be deemed to be conducting business within the City who engages, hires, employs or contracts with one or more individuals as employees or is self-employed and, in addition, does at least one of the following: (1) maintains a fixed place of business within the City; (2) owns or leases real property within the City for purposes of such business; (3) maintains a stock of tangible, personal property in the City for sale in the ordinary course of business; (4) conducts continuous solicitation within the City related to such business; or (5) utilizes the streets of the City in connection with the operation of such business, other than for the mere transportation from a site outside the City, through the City, to a destination outside of the City. A person shall be deemed to be engaged in business who, in return for rental income, rents, leases or hires real or personal property to others. A person shall not be deemed to be engaged in business solely by reason of the receipt of income from passive investments for which no services were rendered.

(b) "Charity" means a charitable organization that qualifies for tax exemption pursuant to the act of November 26, 1997 (P.L. 508, No 55), known as the "Institutions of Purely Public Charity Act".

(c) "Compensation" means salaries, wages, commissions, bonuses, net earnings and incentive payments, whether based on profit or otherwise, fees, tips and any other form of remuneration earned for services rendered, whether paid directly or through an agent, and whether in cash or in property or the right to receive property.

(d) “Employee” means any individual in the service of an employer, under an appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed. In addition, for purposes of this tax, and irrespective of the common law tests for determining the existence of an independent contractor relationship, an individual performing work or service for compensation shall be deemed to be an employee of the person for whom the work or service is performed unless: (1) such individual has been and will continue to be free from control or direction over the performance of such work or service, both under his/her appointment or contract of hire or apprenticeship; (2) such work or service is either outside the usual course of the business of the person for which such service is performed; or, (3) such individual is customarily engaged in an independently established trade, occupation, business or profession.

(e) “Employer” means any person conducting business activity within the City, except for a governmental entity.

(f) “Internal Revenue Code” means the Internal Revenue Code of 1986 (Public Law 99-514), as amended.

(g) “Payroll Expense or Amounts” means all compensation earned by an employee or by a self-employed individual.

(h) “Person” means a corporation, partnership, business trust, other association, estate, trust, foundation or natural person.

(i) “Profits” means a share of net income earned for services rendered from a partnership, a limited liability company, a business trust or S corporation, after provision for all costs and expenses incurred in the conduct thereof, determined either on a cash or accrual basis in accordance with accepted accounting principles and practices, and including, but not limited to, any amount treated as net earnings from self-employment for services rendered.

(j) “Tax year” means a twelve-month period from January 1 to December 31.

(k) “Temporary seasonal or itinerant business” shall mean an employer whose presence in the City is of a duration of [seven (7) days] one hundred twenty (120) days or less.