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By Hudson
Introduction 1/18/23
P.H. 2/8/23


COUNCIL ADMINISTRATOR TREASURER

23-00104

ORDINANCE 18732

REPEALING AND REPLACING SALES AND USE TAX ORDINANCE 9537, ADOPTED NOVEMBER 25, 1992, SO AS TO INCORPORATE THE STATUTORY AUTHORIZATIONS BY REFERENCE INTO THE ORDINANCE AND TO PROVIDE GUIDANCE FOR ADMINISTRATION OF OCCUPATIONAL LICENSE TAX COLLECTION IN EAST BATON ROUGE PARISH, INCLUDING UPDATING THE LEVY OF INTEREST ON DELINQUENT OCCUPATIONAL LICENSE TAX PAYMENTS PER ACT 87 OF THE 2022 LEGISLATIVE SESSION.

BE IT ORDAINED by the Metropolitan Council of the Parish of East Baton Rouge and City of Baton Rouge that:

Section 1. LEVY

There is hereby levied an occupational license tax for the year 2023 and for each subsequent year, upon each person who may be subject to such license tax under the Constitution and laws of Louisiana, pursuing and conducting any business within the corporate limits of the City of Baton Rouge or within the Parish of East Baton Rouge, exclusive of the municipal areas.

Section 2. MAXIMUM AMOUNT ALLOWED BY LAW

- (A) The amount of the license tax levied herein in each case is hereby fixed, determined and ordained to be the same as the maximum allowed to be fixed, levied and collected by local governing authorities, and shall be graded in accordance with, the provisions of Louisiana Revised Statutes, Title 47, Chapter 3, both inclusive, as amended, and all other applicable laws of Louisiana, all of which for all purposes of this ordinance are made a part hereof by reference as if written herein in extenso.
- (B) It is hereby declared to be the express intention of the Metropolitan Council of the City of Baton Rouge and Parish of East Baton Rouge to levy and collect hereunder the maximum occupational license taxes for parochial purposes, both as to amount and graduation, as are allowed under the laws of the state of Louisiana, and except as otherwise expressly provided in this ordinance.

Section 3. GENERAL DEFINITIONS

As used in this ordinance, the following words, terms and phrases shall have the meaning ascribed to each in this Section unless the context clearly indicates a different meaning. Other

words, terms and phrases used herein, but not defined in this section, shall have the meaning ascribed by Louisiana Revised Statute 47:342 as applicable.

- (A) "Collector": The Collector is the Director of Finance ("Director"), for the City of Baton Rouge, Parish of East Baton Rouge or his authorized designee or employee.
- (B) "City" means the City of Baton Rouge.
- (C) "Parish" means the Parish of East Baton Rouge.

Section 4. PAYMENT OF TAX

The guidelines for payment of occupational license tax are included in Louisiana Revised Statute 47:343. All taxes imposed by this ordinance shall be levied in accordance with the terms of that statute, as amended.

Section 5. GENERAL GUIDELINES OF LICENSING

The guidelines for application for an occupational license, payment of occupational license tax, determination of proper licensing, confidentiality of records, and recordkeeping are included in the Louisiana Revised Statutes as follows:

- a. New Business: License Due Upon Commencement - Louisiana Revised Statute 47:344
- b. Change of Ownership or Lessee - Louisiana Revised Statute 47:345
- c. Separate License Required for Each Business Location - Louisiana Revised Statute 47:346
- d. Class of Business Determination - Louisiana Revised Statute 47:347
- e. Period Used Where Gross Receipts are the Measure of the License - Louisiana Revised Statute 47:348
- f. Taxpayer Record Keeping Requirements / Confidentiality - Louisiana Revised Statutes 47:349 and 47:1508
- g. Application for Licenses - Louisiana Revised Statute 47:350
- h. Legal Remedies for Collection of Unpaid Taxes - Louisiana Revised Statutes 47:351 and 47:337.45
- i. Occupational License Tax Refunds - Louisiana Revised Statute 47:351.1
- j. Collector Authorization to Make Rules and Regulations - Louisiana Revised Statute 47:352
- k. Collector Record Keeping Requirements - Louisiana Revised Statute 47:353

All taxes imposed by this ordinance shall be administered in accordance with the terms of these statutes, as amended.

Section 6. BUSINESS CLASS AND LICENSE CALCULATION

The license calculation for each business class is defined in the Louisiana Revised Statutes as follows:

- a. Retail Dealers in Merchandise, Services and Rentals - Louisiana Revised Statute 47:354
- b. Retail Dealers in Gasoline and Motor Fuel - Louisiana Revised Statute 47:354.1
- c. Wholesale Dealers in Merchandise, Service and Rentals, Retail Dealers to Institutional Consumers, Shipbuilders, and Contractors - Louisiana Revised Statute 47:355
- d. Business of Lending or of Dealing of Notes Secured by Chattel Mortgages or Other Liens - Louisiana Revised Statute 47:356
- e. Brokerage and Commission Agents - Louisiana Revised Statute 47:357
- f. Public Utilities - Louisiana Revised Statute 47:358
- g. Businesses Where Licenses are Based on Flat Fees - Louisiana Revised Statute 47:359

All taxes imposed by this ordinance shall be levied in accordance with the terms of these statutes, as amended.

Section 7. DELINQUENT INTEREST AND PENALTIES

Under the authorization of Louisiana Revised Statute 47:343(B)(2), all licenses unpaid after the last day of February of the calendar year for which they are due or, in the case of a new business, unpaid on the date such business is commenced shall be deemed delinquent and subject to the payment of delinquent interest and penalty.

- a. If the amount of tax due by the dealer is delinquent under the guidelines of Section 7, interest upon said delinquent amount will be due as follows:
 - i. For taxes which become due before January 1, 2023, interest will be due at the rate of fifteen (15%) percent per annum, calculated daily from March first of the calendar year for which they are due until the date of payment.
 - ii. For taxes which become due on or after January 1, 2023, interest will be due at the rate of twelve (12%) percent per annum, calculated daily from March first of the calendar year for which they are due until the date of payment.
- b. If the amount of tax due by the dealer is delinquent under the guidelines of Section 7, penalty upon said delinquent amount will be due at a rate not to exceed twenty-five (25%) percent, calculated at five (5%) percent of the tax owed for each and every thirty-day period after the return

was required to be filed or the tax was required to be remitted.

- c. All penalties and interest imposed by this ordinance shall be payable to and recoverable by the taxing jurisdiction in the same manner as if they were part of the tax imposed. If the failure to pay such tax when due is explained to the satisfaction of the Collector, he may remit or waive payment of the whole, or any part of any penalty.

Section 8. DISPLAY OF LICENSE REQUIRED

Every person required to obtain any license hereunder shall keep the license required hereunder posted in a conspicuous place in his principal place of business, except as otherwise provided in this ordinance.

Section 9. EXEMPTIONS

For the purposes of this Ordinance, unless otherwise stated in specific portions of the Ordinance, the exemptions stated under Louisiana Revised Statute 47:360, as amended, as well as the exemptions stated below, shall apply to the tax imposed by this Ordinance.

- (A) License taxes levied by this Ordinance shall not apply to exhibitors for trade shows when the promoter has paid the tax provided for in Louisiana Revised Statute 47:359(H).
- (B) Businesses engaged in renting, leasing, or licensing of immovable property shall not be subject to the taxes imposed under Louisiana Revised Statute 47:355.

Section 10. DEDUCTIONS

For the purposes of this Ordinance, unless otherwise stated in specific portions of the Ordinance, the deductions stated under Louisiana Revised Statute 47:361, as amended, as well as the deductions stated below, shall apply to the tax imposed by this Ordinance.

- (A) For all businesses classified under Louisiana Revised Statute 47:359(J), any fees paid for like professional services rendered by persons not employed by the taxpayer and not a member of the taxpayer firm shall be excluded from the annual gross receipts for professional fees for services rendered. This deduction is only applicable when the tax levied under this ordinance is

paid by the separate firm, partnership or corporation of which the person is an employee or member.

- (B) In determining the amount of gross sales and receipts to be subject to the tax for retail dealers holding a valid Class A or Class B permit for the sale of wine and/or liquor, each such retail dealer shall be entitled to a deduction of twenty percent (20%) of actual gross sales and receipts in determining the amount of gross sales and receipts upon which the tax under this ordinance shall be calculated.

Section 11. SPECIAL PROVISIONS

For the purposes of this Ordinance, unless otherwise stated in specific portions of the Ordinance, the special provisions stated under Louisiana Revised Statute 47:362, as amended, shall apply to the tax imposed by this Ordinance.

Section 12. EFFECTIVE DATE

The provisions of this ordinance shall become effective January 1, 2023.

Section 13. SEVERABILITY

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the ordinance which can be given effect without the invalid provisions or applications of the ordinance which can be given effect and to this end the provision of this ordinance are severable.

Section 14. WHOLE DOLLAR ROUNDING

The Collector may revise, publish, and adopt tax reporting forms, systems, and procedures which require the reporting of summary tax amounts which have been rounded off to the nearest whole dollar. The whole dollar rounding off shall only be employed in reporting periodic summary tax amounts as directed by the Collector and shall not be applied to individual transactions or tax applications.

In accordance with Section 2.15 of Chapter of the Plan Of Government, I certify this to be the original ordinance adopted by the Metropolitan Council at a Regular meeting on February 8, 2022
Council Administrator.

APPROVED:

SMB

Mayor - President

DISAPPROVED:

Mayor - President

Received from the Mayor - President on the 13th day of February, 2023

Abdoly Bul
Council Administrator.