

ORDINANCE NO. 1716

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON updating the City's Business and Occupation Tax Administrative Provisions and amending DMMC 3.85.210.

WHEREAS, the City of Des Moines, like other Optional Municipal Code cities governed by the provisions of RCW Title 35A, are authorized by the Washington State Legislature to impose taxes on business and occupation for the purpose of regulation or revenue, and

WHEREAS, RCW 35.102.040 requires all cities imposing a business and occupation tax ("B & O tax") to adopt mandatory provisions of a model ordinance developed by the Association of Washington Cities, and

WHEREAS, Cities imposing a B & O tax may, in adopting the model ordinance, deviate from the non-mandatory provisions of the model ordinance so long as the City makes a description of the deviations available to the public, and

WHEREAS, the City of Des Moines has imposed a B & O tax, adopting the current version of the model ordinance in Ordinance no. 1555, codified at chapter 3.84 DMMC and Ordinance 1556, codified at chapter 3.85 DMMC, and

WHEREAS, the City has compiled deviations from the model ordinance reflected in chapters 3.84 and 3.85 DMMC and made the list available to the public, and

WHEREAS, the City has adopted a non-mandatory provision of the model ordinance at 3.85.210, which addresses audits of taxpayers, and

WHEREAS, it is in the City's best interest is to obtain a contract auditor's expertise to conduct audits of taxpayers, and

WHEREAS, obtaining the best results in taxpayer audits may require contingent fee compensation when using a contract auditor, and

WHEREAS, the City Council finds that amending DMMC 3.85.210 is appropriate and necessary for the preservation of the public health, safety, and general welfare; now therefore,

THE CITY COUNCIL OF THE CITY OF DES MOINES ORDAINS AS FOLLOWS:

Sec. 1. DMMC 3.85.210 and section 21 of Ordinance No. 1556 are each amended to read as follows:

The director is authorized to enter into agreements with other Washington cities which impose an "eligible gross receipts tax":

(1) To conduct an audit or joint audit of a taxpayer by using an auditor employed by the city of Des Moines, another city, or a contract auditor;

(2) To allocate or apportion in a manner that fairly reflects the gross receipts earned from activities conducted within the respective cities the gross proceeds of sales, gross receipts, or gross income of the business, or taxes due from any person that is required to pay an eligible gross receipts tax to more than one Washington city.

(3) To apply the city's tax prospectively where a taxpayer has no office or place of business within the city and has paid tax on all gross income to another Washington city where the taxpayer is located; provided, that the other city maintains an eligible gross receipts tax, and the income was not derived from contracts with the city.

Sec. 2. Severability - Construction.

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

(2) If the provisions of this Ordinance are found to be inconsistent with other provisions of the Des Moines Municipal Code, this Ordinance is deemed to control.

Sec. 3. Effective date. This ordinance shall take effect and be in full force thirty (30) days after its passage and approval in accordance with law.

PASSED BY the City Council of the City of Des Moines this 11th day of April, 2019 and signed in authentication thereof this 12th day of April, 2019.



M A Y O R

APPROVED AS TO FORM:



City Attorney

ATTEST:



City Clerk

Published: April 17, 2019