

ORDINANCE NO. 8 , 2015

AN ORDINANCE TO ADOPT CHAPTER 44.1 OF THE CODIFIED ORDINANCES OF THE CITY OF MONTGOMERY REGARDING MUNICIPAL INCOME TAX

WHEREAS, the Home Rule Amendment of the Ohio Constitution, Article XVIII, Section 3, provides that “Municipalities shall have authority to exercise all powers of local self-government,” and the municipal taxing power is one of such powers of local self-government delegated by the people of the State to the people of municipalities; and

WHEREAS, Article XIII, Section 6 of the Ohio Constitution provides that the General Assembly may restrict a municipalities power of taxation to the extent necessary to prevent abuse of such power, and Article XVIII, Section 13 of the Ohio Constitution states that “laws may be passed to limit the powers of municipalities to levy taxes and incur debts for local purposes;” and

WHEREAS, the General Assembly has determined that it is necessary and appropriate to comprehensively review and amend Chapter 718 of the Ohio Revised Code, setting forth statutory requirements for municipal income tax codes in Ohio; and

WHEREAS, more specifically, the General Assembly enacted H. B. 5 in December 2014, and mandated that municipal income tax codes be amended by January 1, 2016 such that any income or withholding tax is “levied in accordance with the provisions and limitations specified in [Chapter 718];” and

WHEREAS, upon a detailed review of H. B. 5 and the Codified Ordinances of the City of Montgomery, this Ordinance is found and determined by this Council to enact the amendments required prior to the January 1, 2016 deadline to be in accord with the provisions and limitations specified in Chapter 718 of the Revised Code; and

WHEREAS, Council also finds and determines that the constitutionality of certain provisions of the state-mandated code may have been put in question by recent decisions of the Ohio Supreme Court regarding, among other things, taxation of professional athletes, but these provisions must be included if the municipal income tax code is to be “levied in accordance with the provisions and limitations specified in [Chapter 718]” and thus reluctantly are adopted by this Council but are disclaimed to the extent they are unlawful or unconstitutional;

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Montgomery, Hamilton County, Ohio, that:

SECTION 1. Chapter 44.1 of the Codified Ordinances (as Amended November 4, 2015) be enacted to read as set forth in the document entitled “Chapter 44.1, Municipal Income Tax” attached hereto as Exhibit A and incorporated herein by reference.

SECTION 2. This Ordinance shall take effect and be in force from and after January 1, 2016.

SECTION 3. The enactment of this Chapter 44.1 shall not repeal current Chapter 44 of the Code of Ordinances, which current Chapter 44 shall govern the application and enforcement of the Municipal Income Tax for all tax years preceding tax year 2016.

SECTION 4. All sections, subsections, parts and provisions of this Ordinance are hereby declared to be independent sections, subsections, parts and provisions, and the holding of any section, subsection, part or provision to be

unconstitutional, void or ineffective for any reason shall not affect or render invalid any other section, subsection, part or provision of this Ordinance.

SECTION 5. This Ordinance shall take effect the earliest opportunity as allowable by law.

PASSED: November 4, 2015

ATTEST: Connie M. Gaylor
Connie M. Gaylor, Clerk of Council

Todd A. Steinbrink
Todd A. Steinbrink, Mayor

APPROVED AS TO FORM:
Terrence M. Donnellon
Terrence M. Donnellon, Law Director