

RESOLUTION NO. \_\_\_\_\_ - 2021

A RESOLUTION ALLOWING DEDUCTIONS TAKEN IN ACCORDANCE WITH PUBLIC LAW NO. 116-260, SECTION 276, FOR THE PURPOSES OF CALCULATING A BUSINESS' NET PROFIT AS IT PERTAINS TO THE URBAN COUNTY'S OCCUPATIONAL LICENSE FEE FOR THE TAX YEAR 2020 IN ORDER TO PROVIDE FOR THE SAME TAX TREATMENT OF PAYCHECK PROTECTION PROGRAM LOANS AS THE FEDERAL GOVERNMENT.

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WHEREAS, the President of the United States and the Governor of the Commonwealth of Kentucky have both declared states of emergency in response to the novel coronavirus (COVID-19) pandemic; and

WHEREAS, Mayor Linda Gorton declared, in Executive Order 2020-01, that a state of emergency exists in Lexington-Fayette County; and

WHEREAS, more than three hundred eighty-three thousand (383,000) cases of COVID-19 have been confirmed in the Commonwealth of Kentucky, with more thirty thousand (30,000) in Lexington-Fayette County alone (as of February 10, 2021 and February 11, 2021, respectively); and

WHEREAS, the Federal Government has provided Paycheck Protection Program (PPP) loans, which may be forgivable if the borrower complies with certain conditions, to help small businesses affected by the COVID-19 pandemic keep workers employed; and

WHEREAS, the Federal Government allows PPP loan borrowers to deduct ordinary and necessary business expenses financed with exempt loan proceeds for federal tax purposes; and

WHEREAS, Kentucky House Bill 278, if passed, would allow PPP loan borrowers to deduct ordinary and necessary expenses financed with exempt loan proceeds for state tax purposes; and

WHEREAS, the Urban County Council recognizes the financial impact on local recipients of PPP loans if ordinary and necessary business expenses financed with exempt loan proceeds were not deductible from a business' net profits, at a time when businesses are struggling due to the public health emergency and efforts to stop the spread of COVID-19; and

WHEREAS, various regulations and ordinances currently prohibit businesses from taking deductions on an amount directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed, including forgiven or forgivable PPP loans.

WHEREAS, temporarily allowing business to deduct ordinary and necessary business expenses paid from PPP loans in Tax Year 2020 is necessary to help local businesses and to better align with federal law, while doing our part to safely revitalize a local economy devastated by the effects of COVID-19 and get Lexington back to work; and

WHEREAS, the Council has authority to temporarily allow this limited deduction; and

WHEREAS, the proposed changes are temporary in nature and narrowly tailored to address the negative impacts created by the COVID-19 crisis.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the above recitals are incorporated herein as if fully stated.

Section 2 – That in order to provide for the same tax treatment of Payroll Protection Program loans as the federal government, notwithstanding Section 13-4(44) of the Lexington-Fayette Urban County Code of Ordinances and the Division of Revenue's License Fee Regulations, the Division of Revenue shall allow those deductions taken in accordance with Pub L. No. 116-260, sec. 276, for the purposes of calculating a business' net profit as it pertains to Lexington-Fayette Urban County Government's occupational license fee.

Section 3 – That this deduction shall only be allowed for expenses paid from PPP loan proceeds in Tax Year 2020, unless otherwise extended.

Section 4 – That the Division of Revenue be and hereby is authorized to perform any action necessary to comply with this Resolution.

Section 5 – That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

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MAYOR

ATTEST:

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CLERK OF URBAN COUNTY COUNCIL

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