

LANE COUNTY MASS TRANSIT DISTRICT

ORDINANCE NO. 13

An ordinance imposing an income tax and providing for administration, enforcement and collection of the tax.

The Board of Directors of Lane County Mass Transit District under the authority of ORS 267.010 to 267.390, both inclusive, does hereby ordain and decree the following ordinance:

Section 1. Adoption of state laws and rules.

1.01 The following enumerated statutes and administrative rules of the state of Oregon as heretofore amended, together with all other amendments thereto which are hereafter enacted, except as amended by this ordinance, are hereby adopted and incorporated herein by reference and made a part of this ordinance:

STATUTES:

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| 305.105 through 305.115 | 314.855 through 314.991 |
| 305.130 through 305.140 | 316.002 through 316.022 |
| 305.145(1) | 316.032 |
| 305.150 through 305.155 | 316.047 through 316.059 |
| 305.190 through 305.260 | 316.067 through 316.077 |
| 305.265 | 316.081 |
| 305.270 | 316.162 as amended by Laws 1977, Chapter 604 |
| 305.275 | 316.167(2) and (3) |
| 305.280 | 316.172 |
| 305.560 | 316.177 |
| 305.565 | 316.192(2) |
| 305.570 | 316.202(2) |
| 305.575 | 316.207(2) |
| 305.845 | 316.215 through 316.227 |
| 314.365 through 314.400 | 316.367 through 316.382(1) |
| 314.410 through 314.440 | 316.407(1) |
| 314.466 | 316.407(5) |
| 314.810 through 314.845 | 316.417 |
| | 316.802 |

ADMINISTRATIVE RULES:

The Oregon Administrative Rules relating to the above statutes and relating to all other statutes of the state of Oregon, adopted or incorporated by reference or referred to in any part of this ordinance.

1.02 Whenever any statute or administrative rule of the state of Oregon is adopted or incorporated by reference or is referred to in any part of this ordinance, it is intended that such a statute or administrative rule be adopted, incorporated herein, or referred to, as the case may be, as heretofore or hereafter amended, except as amended by this ordinance.

1.03 Whenever any statute of Oregon is referred to in any of the Oregon Revised Statutes adopted by reference by this ordinance, it shall be deemed to refer to the corresponding provision of this ordinance unless a different meaning is clearly required.

Section 2. Meaning of terms.

2.01 Any term used in this ordinance has the same meaning as when used in a comparable context in the laws of the state of Oregon relating to taxes on or measured by income unless a different meaning is clearly required or the term is specifically defined in this ordinance.

2.02 Whenever the term "State" or "Oregon" is used in the Oregon Revised Statutes adopted by reference by this ordinance, it shall be deemed changed so as to read "District" unless a different meaning is clearly required.

Section 3. Administrative provisions.

3.01 Department to administer ordinance. The Department of Revenue shall administer and enforce the tax imposed by this ordinance. Insofar

as is practicable in the administration and enforcement of this ordinance, the Department shall apply and follow the administrative and judicial interpretations of ORS Chapter 305, 314, and 316. In the administration and enforcement of this ordinance the Department shall have all the power and authority as is granted to the Department in said ORS Chapters 305, 314, and 316 for the administration and enforcement of the income and excise tax laws of the state of Oregon.

3.02 Rules and regulations. The Department is authorized from time to time to make such rules and regulations and prepare such forms and tables consistent with ORS Chapters 305, 314 and 316, and with the Department's rules and regulations relating thereto as it considers necessary to enforce this ordinance.

Section 4. Definitions.

As used in this ordinance, unless the context otherwise requires:

4.01 "District" means the Lane County Mass Transit District.

4.02 "Service area" means the area designated in Ordinance No. 8 of Lane County Mass Transit District entitled, "An Ordinance Classifying and Designating a Service Area", adopted October 22, 1974, as now constituted and on file and open for public inspection at the district office in Eugene, Oregon, and filed in the Lane County Clerk's office.

4.03 "Department" means the Department of Revenue, State of Oregon.

4.04 "Taxpayer" means any natural person subject to taxation under this ordinance.

4.05 "Resident" means

(1) An individual who is domiciled in the service area unless he (A) maintains no permanent place of abode in the service area and

(B) does maintain a permanent place of abode elsewhere and

(C) spends in the aggregate, not more than thirty days in the taxable year in the service area; or

(2) An individual who is not domiciled in the service area, but maintains a permanent place of abode in the service area and spends in the aggregate, more than 200 days of the taxable year in the service area, is presumed to be a resident unless he proves that he is in the service area only for a temporary or transitory purpose. For purposes of this subparagraph (2) a fraction of a calendar day shall be counted as a whole day.

4.06 "Taxable income of a resident" is the resident's entire taxable income subject to tax by the state of Oregon under ORS Chapter 316.

Section 5. Imposition and rate of tax.

5.01 Tax on residents. A tax is imposed at the rate of .44% for each taxable year on the taxable income of every resident.

Section 6. Credit for payroll tax.

6.01 A credit shall be allowed against the tax imposed pursuant to this ordinance in an amount equal to the employer's payroll tax paid to the district by the taxpayer, for the tax year for which credit is claimed; provided, however, that the credit shall not in any event exceed the amount of the income tax imposed by this ordinance and shall be a nonrefundable credit.

Section 7. Returns.

7.01 Taxpayers required to make returns. Every individual subject to tax under this ordinance required to make an income tax return to the Department under the provisions of ORS Chapter 314 or 316 shall make an income tax return to the Department with respect to the tax imposed by this ordinance.

7.02 Form of returns. Returns shall be in such form as the Department may, from time to time, prescribe. There shall be annexed to the return a statement verified by a written declaration of the taxpayer making the return to the effect that the statements contained therein are true.

7.03 Time for filing returns. Returns shall be filed by individuals at the same times as personal income tax returns to the state of Oregon are required to be filed with the Department under ORS 314.385 and 316.407(1), the provisions of which are incorporated herein by reference. The first return and first tax from each taxpayer under this ordinance shall be due within three months and fifteen days after the conclusion of the taxpayer's calendar or fiscal year which first ends after this ordinance takes effect and such return and tax shall be for the entire concluded tax year of such taxpayer, including any portions occurring before the effective date of this ordinance.

7.04 Joint returns; returns for minors, persons under disability and fiduciary returns. Joint returns by husband and wife, minors' returns, returns for individuals under disability and returns by fiduciaries shall be made and filed as provided by the statutes of the state of Oregon which are incorporated herein by reference in Section 1.01 of this ordinance.

7.05 Change of status from resident to nonresident. The taxable income of an individual who changes his status during his taxable year from resident to nonresident or from nonresident to resident shall be determined as provided under ORS Chapter 316 as if the individual's taxable year for federal income tax purposes were limited to the period of his resident status in the service area. For purposes of making the taxable income computation required by this subsection, the personal exemptions, the itemized deductions or standard deduction allowable on his federal tax return, all modified by ORS Chapter 316,

and the federal tax deducted shall be allowed in the proportion that federal adjusted gross income of the taxpayer during his period of resident status in the service area bears to total federal adjusted gross income for the entire tax year. If the numerator of the fraction is greater than the denominator, the proportion of 100% shall be used in the proration required by this subsection.

Section 8. Effect of subsequent repeal of ordinance.

8.01 In the event of repeal of this ordinance, unless otherwise specifically provided in the repeal, this ordinance shall remain in full force for the assessment, imposition and collection of tax and all interest, penalty or forfeitures which have accrued prior to the effective date of such repeal.

Section 9. Collection of tax at source of wages.

9.01 Definitions. Notwithstanding any definitions to the contrary in ORS 316.162 as amended by Laws of 1977, Chapter 604, "employee" shall only include those employees who are residents as defined in Section 4.05 of this ordinance, and "employers" includes all employers as defined in ORS 316.162 as amended by Chapter 604, Laws of 1977, having an office, store, plant, place of business or other place of employment in Lane County, Oregon.

9.02 Withholding of tax required. Every employer at the time of the payment of wages to any employee shall deduct and retain from such wages an amount determined, at the employer's election, either (a) by a "percentage method" withholding table or (b) by "wage bracket" withholding tables, prepared and furnished under the rules and regulations of the department.

9.03 Exemption certificate. An employer shall use the exemption certificate filed by the employee with the employer under the income tax withholding provisions of the Internal Revenue Code for determining the number of withholding exemptions to be used in computing the tax to be withheld under

this ordinance. However, the Department may require such exemption certificate to be filed on a form prescribed by the Department in any circumstance where the Department finds that the exemption certificate filed under the Internal Revenue Code does not properly reflect the number of withholding exemptions allowable under this chapter, except no exemption certificate need be procured from an employee whose wages consist of wages as defined in paragraph (e) of subsection (2) of ORS 316.162.

9.04 Amount withheld is in payment of employee's tax. The amounts deducted from the wages of an employee during any calendar year in accordance with this ordinance shall be considered to be in part payment of the tax on such employee's income for his taxable year which begins within such calendar year, and the return made by the employer pursuant to this ordinance shall be accepted by the Department as evidence in favor of the employee of the amounts so deducted from his wages.

9.05 Refunds to employees. If the total amount deducted under this ordinance exceeds the amount of the tax on the employee's entire income as computed under this chapter, or when his income is not taxable under this ordinance, the Department, after examining or auditing the annual return filed by the employee in accordance with this ordinance, shall refund the amount of the excess deducted, with interest thereon as provided by this ordinance. No refund shall be made to an employee who fails to file such return within two years after the due date of the return in respect of which the tax withheld might have been credited. If the excess tax deducted is less than \$1.00, no refund shall be made and in no event shall the excess be allowed as a credit against any tax accruing on a return filed for a year subsequent to the year during which such excess was withheld.

9.06 Payment to Department by employer. Each employer quarterly, on or before the last day of April, July, October and January, shall pay over to the Department the amount required by this ordinance to be deducted and retained from the wages paid to any employee during the preceding three months. The Department may permit an employer who has withheld taxes that do not exceed \$25.00 per quarter to pay over such withheld amounts and furnish reports less frequently than quarterly.

Every amount so paid over shall be accounted for as part of the collections under this ordinance. No employee has any right of action against his employer in respect of any moneys deducted from his wages and paid over in compliance or intended compliance with this section.

9.07 Reports by employer; effect of failure to report. With each payment made by him to the Department, every employer shall deliver to the Department, on a return in the form prescribed by the Department showing the total amount of wages, salaries, bonuses or other emoluments paid to his employees, the amount deducted therefrom in accordance with this ordinance and supply such other information as the Department may require. The employer is charged with the duty of advising the employee of the amount of moneys withheld, in accordance with such regulations as the Department may prescribe, using printed forms furnished or approved by the Department for such purposes.

9.08 Liability for tax; warrant for collection. Every employer who deducts and retains any amount under this ordinance shall hold the same in trust for the District and for the payment thereof to the Department in the manner and at the time provided in this ordinance.

9.09 Application of penalties, interest and jeopardy assessment; employer as taxpayer. The provisions of the income tax laws in ORS Chapter 305,

314 and 316 and this ordinance, relating to penalties, interest, misdemeanors and jeopardy assessments, apply to employers subject to the provisions of this ordinance and for those purposes any amount deducted or required to be deducted and remitted to the Department under this ordinance is considered the tax of the employer and with respect to such amount he is considered as a taxpayer.

9.10 Certificate of residence. An employer shall not withhold from an employee who resides outside the District's service area as defined in Section 4.02 of this ordinance. The employer may rely on a written certificate of residence furnished to the employer by the employee; provided, however, that if the certificate of residence conflicts with other information in the employer's files the employer shall act in reliance on the certificate of residence until otherwise directed by the Department, shall promptly notify the Department of such conflict and shall thenceforth act in compliance with the Department's instructions to the employer.

Section 10. Effective date.

This ordinance shall take effect on this first day of January, 1979; provided, however, that this ordinance shall not become operative unless it is approved by the qualified voters of the District within 65 days after the date that this ordinance is adopted.

Adopted this 21st day of March, 1978.

David M. Herbert
President

ATTEST:

Richard M. [Signature]
Secretary

Marie Skupward
Recording Secretary