

ORDINANCE NO. 12-005

AN ORDINANCE RELATING TO THE IMPOSITION AND ADMINISTRATION OF AN OCCUPATIONAL LICENSE REQUIREMENT AND PAYMENT OF AN OCCUPATIONAL AND OTHER COMPENSATION AND NET PROFITS TAX BY PERSONS AND BUSINESS ENTITIES CONDUCTING BUSINESSES, OCCUPATIONS AND PROFESSIONS WITHIN CRITTENDEN COUNTY, KENTUCKY.

WHEREAS, the Crittenden County Fiscal Court, having seen the necessity for increased revenue for operations and maintenance of various services throughout the County such as EMS, health insurance for county employees services to senior citizens, park maintenance and improvement;

WHEREAS, the Crittenden County Fiscal Court, having determined that the most feasible method for obtaining the desired revenue for the County is by imposition of a tax;

WHEREAS, the Crittenden County Fiscal Court having determined that an annual occupational license fee tax shall be imposed on any wage, salary, business, trade, occupation or profession in Crittenden County, Kentucky;

WHEREAS, an Ordinance should be enacted to implement the above referenced annual fee;

NOW, THEREFORE, BE IT ORDAINED by the Crittenden County Fiscal Court as follows:

Crittenden Fiscal Court Ordinance No. 0-12-005 is hereby enacted and shall read in full as follows:

Sections:

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Section No. 1 – Definitions

As used in this Ordinance, the following terms and their derivatives shall have the following meanings unless the context clearly indicates that a different meaning is intended:

- (1) “Business entity” means each separate corporation, limited liability company, business development corporation, partnership, limited partnership, registered limited liability partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted;
- (2) “Business” means any enterprise, activity, trade, occupation, profession or undertaking of any nature conducted for gain or profit. “Business” shall not include a board of trade, chambers of commerce, trade associations, or unions, or other associations performing services usually performed by trade associations or unions as recognized by the Internal Revenue Service. “Business” shall not include funds, foundations, corporations, or associations organized and operated for the exclusive and sole purpose of religious, charitable, scientific, literary, educational, civic or fraternal purposes, where no part of the earnings, incomes or receipts of such unit, group, or association, inures to the benefit of any private shareholder or other person;
- (3) “County” means Crittenden County, Kentucky;
- (4) “Compensation” means wages, salaries, commissions, or any other form of remuneration paid or payable by an employer for services performed by an employee, which are required to be reported for federal income tax purposes and adjusted as follows:
 - (a) Include any amounts contributed by an employee to any retirement, profit sharing, or deferred compensation plan, which are deferred for federal income tax purposes under a salary reduction agreement or similar arrangement, including by not limited to salary reduction arrangements under Section 401 (a), 401 (k), 402 (e), 403 (a), 403 (b), 408, 414 (h), or 457 of the Internal Revenue Code; and
 - (b) Includes any amounts contributed by an employee to any welfare benefit, fringe benefit, or other benefit plan made by salary reduction or other payment method which permits employees to elect to reduce federal taxable compensation under the Internal Revenue Code;
- (5) “Conclusion of the federal audit” means the date that the adjustments made by the Internal Revenue Service to net income as reported on the business entity’s federal income tax return become final and unappealable;
- (6) “Final determination of the federal audit” means the revenue agent’s report or other documents reflecting the final and unappealable adjustments made by the Internal Revenue Service;

- (7) "Fiscal year" means fiscal year as defined in Section 7701 (a) (24) of the Internal Revenue Code;
- (8) "Employee" means any person who renders services to another person or any business entity for compensation, including an officer of a corporation and any officer, employee, or elected official of the United States, a state, or any political subdivision of a state, or any agency of instrumentality of any one (1) or more of the above. A person classified as an independent contractor under the Internal Revenue Code shall not be considered an employee;
- (9) "Employer" means employer as defined in Section 3401 (d) of the Internal Revenue Code – to-wit: "Employer" means the person for whom an individual performs or performed any service, of whatever nature, as the employee of such person, as set forth within except that:
- (a) If the person for whom the individual performs or performed the services does not have control of the payment of the wages for such services, the term "employer" means the person having control of the payment of such wages; and
- (b) In the case of a person paying wages on behalf of a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States, the term "employer" means such person;
- (10) "Internal Revenue Code" means the Internal Revenue Code as defined in KRS 67.750 (7);
- (11) "Net profit" means gross income as defined in Section 61 of the Internal Revenue Code minus all the deductions from gross income allowed by Chapter 1 of the Internal Revenue Code, and adjusted as follows:
- (a) Include any amount claimed as a deduction for state tax or local tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, local taxing authority in a state, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country or political subdivision thereof;
- (b) Include any amount claimed as a deduction that directly or indirectly is allocable to income which is either exempt from taxation or otherwise not taxed;
- (c) Include any amount claimed as a net operating loss carry back or carry forward allowed under Section 172 of the Internal Revenue Code;

- (d) Include any amount of income and expenses passed through separately as required by the Internal Revenue Code to an owner of a business entity that is a pass-through entity for federal tax purposes; and
- (e) Exclude any amount of income that is exempt from state taxation by the Kentucky Constitution, or the Constitution and statutory laws of the United States;
- (12) "Person" shall mean every natural person, whether a resident or nonresident of Crittenden County, Kentucky. Whenever the word "person" is used in a clause prescribing and imposing a penalty in the nature of a fine or imprisonment, the word, as applied to a partnership or other form of unincorporated enterprise, shall mean the partners or members thereof, and as applied to corporations, shall mean the officers and directors thereof;
- (13) "Return" or "Report" means any properly completed and, if required, signed form, statement, certification, declaration, or any other document permitted or required to be submitted or filed with the county;
- (14) "Sales revenue" means receipts from the sale, lease, or rental of goods, services, or property;
- (15) "Tax district" means any county or city with the authority to levy net profits or occupational license taxes;
- (16) "Taxable net profit" in case of a business entity having payroll or sales revenue only within Crittenden County, Kentucky means net profit as defined in subsection (11) of this section;
- (17) "Taxable net profit" in case of a business entity having payroll or sales revenue both within and without Crittenden County, Kentucky means net profit as defined in subsection (11) of this section, and as apportioned under Section (4) of this Ordinance; and
- (18) "Taxable year" means the calendar year or fiscal year ending during the calendar year, upon the basis of which net income is computed.
- (19) "Treasurer" means the duly appointed Treasurer of Crittenden County, Kentucky.

Section No. 2 – Occupational License Application Required

- (1) Every person or business entity engaged in any trade, occupation, or profession, or other activity for profit or anyone required to file a return under this Ordinance in Crittenden County, Kentucky shall be required to complete and execute an application for license with the office of the Treasurer within _____ days of enactment of this Ordinance, subsequent to the above date. Each person shall be required to complete a separate

application for each separate business before the commencement of business or in the event of a status change, other than change of address. Licensees are required to notify the Treasurer of changes of address, or the cessation of business activity, and of other changes which render inaccurate the information supplied in the completed application.

Section No. 3 – Occupational License Tax Payment Required

- (1) Except as provided in subsection (2) and subsection (5) of this section, every person or business entity engaged in any business for profit and any person or business entity that is required to make a filing with the Internal Revenue Service or the Kentucky Revenue Cabinet shall be required to file and pay to Crittenden County, Kentucky an occupational license tax for the privilege of engaging in such activities within Crittenden County, Kentucky. The occupational license tax shall be measured by ONE-HALF PERCENT (0.50%) of:
 - (a) All wages and compensation paid or payable in Crittenden County, Kentucky for work done or services performed or rendered in Crittenden County, Kentucky by every resident and nonresident who is an employee;
 - (b) The net profit from business conducted in Crittenden County, Kentucky by a resident or nonresident business entity.
- (2) All partnerships, S corporations, and all other entities where income is “passed through” to the owners are subject to this Ordinance. The occupational license tax imposed in this Ordinance is assessed against income before it is “passed through” these entities to the owners.
- (3) If any business entity dissolves, ceases to operate, or withdraws from Crittenden County, Kentucky during any taxable year, or if any business entity in any manner surrenders or loses its charter during any taxable year, the dissolution, cessation of business, withdrawal, or loss or surrender of charter shall not defeat the filing of returns and the assessment and collection of any occupational license tax for the period of that taxable year during which the business entity had business activity in Crittenden County, Kentucky.
- (4) If a business entity makes, or is required to make, a federal income tax return, the occupational license tax shall be computed for the purposes of this Ordinance on the basis of the same calendar or fiscal year required by the federal government and shall employ the same methods of accounting required for federal income tax purposes.
- (5) The occupational license tax imposed in this section shall not apply to the following persons or business entities:

- (a) Any bank, trust company, combined bank and trust company, combined trust, banking and title business organized and doing business in this state, any savings and loan associated whether state or federally chartered;
- (b) Any compensation received by members of the Kentucky National Guard for active duty training, unit training assemblies and annual field training;
- (c) Any compensation received by precinct workers for election training or work at election booths in state, Crittenden County, Kentucky and local primary, regular, or special elections;
- (d) Old age or retirement payments: Periodical payments, commonly recognized as old age or retirement pensions, made to persons retired from service after reaching a specified age or after a stated period of employment are not subject to the occupational tax;
- (e) Disability, sickness, accident benefits and unemployment compensation: Payments made to employees by an employer under a disability, sickness and accident plan, are not subject to the occupational tax. Unemployment compensation payments by the state or any other agent are not subject to the occupational tax;
- (f) Death benefits: Death benefits payable by an employer to the beneficiary of any employee or to his estate, whether payable in a single sum or otherwise, are not subject to the occupational tax;
- (g) Benefits arising under the Workmen's Compensation Act as compensation for disabilities sustained during the course of employment, together with any amount of damages received by suit or agreement on account of such disability, are not subject to this occupational tax;
- (h) Public Service Corporations that pay an ad valorem tax on property valued and assessed by the Kentucky Department of Revenue pursuant to the provisions of KRS 136.120. Licensees whose businesses are predominantly non-public service who are also engaged in public service activity are required to pay a license fee on their net profit derived from the non-public service activities apportioned to Crittenden County, Kentucky;
- (i) Insurance companies incorporated under the laws of and doing business in the Commonwealth of Kentucky except as provided in KRS 91A.080;
- (j) Any profits, earnings, distributions of an investment fund which would qualify under KRS 154.20-250 to 154.20-284 to the extent any profits, earnings, or distributions would not be taxable to an individual investor.

- (6) A minimum occupational license fee of twenty-five and/no dollars (\$25.00) shall be paid by all individuals and/or businesses required to file an occupational license tax return on their net profits. The minimum occupational license fee of twenty-five and/no dollars (\$25.00) shall be a credit on the occupational license fee otherwise required by this Ordinance.

Section No. 4 – Apportionment

- (1) Except as provided in subsection (4) of this section, net profit shall be apportioned as follows:
- (a) For business entities with both payroll and sales revenue in more than one (1) tax district, by multiplying the net profit by a fraction, the numerator of which is the payroll factor, described in subsection (2) of this section, plus the sales factor, described in subsection (3) of this section, and the denominator of which is two (2); and
 - (b) For business entities with sales revenue in more than one (1) tax district, by multiplying the net profit by the sales factor as set forth in subsection (3) of this section;
 - (c) For the purposes of subsections (1) through (4) of this section, the business entity shall file an apportionment form provided by the Occupational Tax Office.
- (2) The payroll factor is a fraction, the numerator of which is the total amount paid or payable in Crittenden County, Kentucky during the tax period by the business entity for compensation, and the denominator of which is the total compensation paid or payable by the business entity everywhere during the tax period. Compensation is paid or payable in Crittenden County, Kentucky based upon the time the individual's service is performed within said Crittenden County, Kentucky.
- (3) The sales factor is a fraction, the numerator of which is the total sales revenue of the business entity in Crittenden County, Kentucky during the tax period, and the denominator of which is the total sales revenue of the business entity everywhere during the tax period.
- (a) The sales, lease, or rental of tangible personal property is in Crittenden County, Kentucky if:
- 1. The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within Crittenden County, Kentucky regardless of the f.o.b. point or other conditions of the sale; or
 - 2. The property is shipped from an office, store, warehouse, factory, or other place of storage in Crittenden County, Kentucky and the purchaser is the United States government;

- (b) Sales revenues, other than revenue from the sale, lease or rental of tangible personal property or the lease or rental of real property, are apportioned to Crittenden County, Kentucky based upon a fraction, the numerator of which is the time spent in performing such income-producing activity within Crittenden County, Kentucky and the denominator of which is the total time spent performing that income-producing activity;
- (c) Sales revenue from the sale, lease, or rental of real property is allocated to the tax district where the property is located.
- (4) If the apportionment provisions of this section do not fairly represent the extent of the business entity's activity in Crittenden County, Kentucky the business entity may petition Crittenden County, Kentucky or Crittenden County, Kentucky may require, in respect to all or any part of the business entity's business activity, if reasonable:
 - (a) Separate accounting;
 - (b) The exclusion of any one (1) or more of the factors;
 - (c) The inclusion of one (1) or more additional factors which will fairly represent the business entity's business activity in Crittenden County, Kentucky; or
 - (d) The employment of any other method to effectuate an equitable allocation and apportionment of net profit.
- (5) When compensation is paid or payable for work done or services performed or rendered by an employee, both within and without Crittenden County, Kentucky, the license tax shall be measured by that part of the compensation paid or payable as a result of work done or service performed or rendered within Crittenden County, Kentucky. The license tax shall be computed by obtaining the percentage which the compensation for work performed or services rendered within Crittenden County, Kentucky bears to the total wages and compensation paid or payable. In order for Crittenden County, Kentucky to verify the accuracy of a taxpayer's reported percentages under this subsection, the taxpayer shall maintain adequate records.

Section No. 5 – Employers to Withhold

- (1) Every employer making payment of compensation to an employee shall deduct and withhold upon the payment of the compensation any tax imposed against the compensation by Crittenden County, Kentucky. Amounts withheld shall be paid to Crittenden County, Kentucky in accordance with Section (No. 3) of this Ordinance.
- (2) Every employer required to deduct and withhold tax under this section shall, for the quarter ending after January 1 and for each quarter ending thereafter, on or before the end of the month following the close of each quarter, make a return and report to Crittenden

County, Kentucky and pay to Crittenden County, Kentucky the tax required to be withheld under this section, unless the employer is permitted or required to report within a reasonable time after some other period as determined by Crittenden County, Kentucky.

- (3) Every employer who fails to withhold or pay to Crittenden County, Kentucky any sums required by this Ordinance to be withheld and paid shall be personally and individually liable to Crittenden County, Kentucky for any sum or sums withheld or required to be withheld in accordance with the provisions of this section.
- (4) Crittenden County, Kentucky shall have a lien upon all the property of any employer who fails to withhold or pay over to Crittenden County, Kentucky the sums required to be withheld under this section. If the employer withholds, but fails to pay the amounts withheld to Crittenden County, Kentucky, the lien shall commence as of the date the amounts withheld were required to be paid to Crittenden County, Kentucky. If the employer fails to withhold, the lien shall commence at the time the liability of the employer is assessed by Crittenden County, Kentucky.
- (5) Every employer required to deduct and withhold tax under this section shall annually on or before February 28 of each year complete and file on a form furnished or approved by Crittenden County, Kentucky a reconciliation of the occupational license tax withheld where compensation is paid or payable to employees. Either copies of federal forms W-2 and W-3, transmittal of wage and tax statements, or a detailed employee listing with the required equivalent information, as determined by Crittenden County, Kentucky, shall be submitted.
- (6) Every employer shall furnish each employee a statement on or before January 31 of each year showing the amount of compensation and occupational license tax deducted by the employer from the compensation paid to the employee for payment to Crittenden County, Kentucky during the preceding calendar year.
- (7) An employer shall be liable for the payment of the tax required to be deducted and withheld under this section.
- (8) The president, vice president, secretary, treasurer or any other person holding an equivalent corporate office of any business entity subject to this Ordinance shall be personally and individually liable, both jointly and severally, for any tax required to be withheld from compensation paid to one or more employees of any business entity, and neither the corporate dissolution or withdrawal of the business entity from Crittenden County, Kentucky, nor the cessation of holding any corporate office, shall discharge that liability of any person; provided that the personal and individual liability shall apply to each or every person holding the corporate office at the time the tax becomes or became obligated. No person shall be personally and individually liable under this subsection who had no authority to collect, truthfully account for, or pay over any tax imposed by

this Ordinance at the time that the taxes imposed by this Ordinance become or became due.

- (9) Every employee receiving compensation in the County subject to the tax imposed under Section (No. 3) of this Ordinance shall be personally liable for the tax notwithstanding the provisions of subsections (7) and (8) of this section. In all cases where the employer does not withhold the tax levied under this Ordinance from the employee, such employee or employees shall be responsible for filing with Crittenden County, Kentucky each quarter in the same manner as if they were the employer. If an employer fails to or is not required to withhold, report, or pay the License Fee it shall become the duty of the employee to file with Crittenden County, Kentucky. The only employer that is not required to withhold, report, and pay the occupational license tax is the Federal Government including the United States Postal Service. The payment required to be made by an employee, can be made quarterly, for the periods ending March 31st, June 30th, September 30th, and December 31st of each year, or at any time the employee wishes to make an estimated payment for the year in which wages are earned. All license fees must be received by February 28th for the preceding calendar year, together with a copy of the employee's W-2 form. Employers not required to withhold, report, or pay the license fee must annually during the month of January of each year, make a return to the Treasurer, in which is set forth the name and social security number of each employee of the employer during the preceding year by each such employee. This list shall include all current full time employees, part time employees, temporary employees, and terminated employees whether it be voluntary or involuntary.

Section No. 6 – Returns Required

- (1) All business entity returns for the preceding taxable year shall be made by April 15 of each year, except returns made on the basis of a fiscal year, which shall be made by the fifteenth day of the fourth month following the close of the fiscal year. Blank forms for returns shall be supplied by Crittenden County, Kentucky.
- (2) As part of said return, every person, individual or entity set forth in above shall attach a copy of his or its federal income schedule used in completing his or its federal income tax return, the same described as follows:
1. Individual Proprietorship, Form 1040 Schedule C.
 2. Estates and Trusts, Form 1041, page 1.
 3. Partnerships, Form 1065, page 1.
 4. Corporations, Form 1120, page 1.
 5. Subchapter S corporations, Form 1120-S, page 1.

Crittenden County, Kentucky may also require copies of reports of adjustments made by the federal government.

- (3) Every business entity subject to an occupational license tax governed by the provisions of this Ordinance shall keep records, render under oath statements, make returns, and comply with rules as Crittenden County, Kentucky from time to time may prescribe. Whenever Crittenden County, Kentucky deems it necessary, Crittenden County, Kentucky may require a business entity, by notice served to the business entity, to make a return render statements under oath, or keep records, as Crittenden County, Kentucky deems sufficient to determine the tax liability of the business entity.
- (4) Crittenden County, Kentucky may require, for the purpose of ascertaining the correctness of any return or for the purposes of making an estimate of the taxable income of any business entity, the attendance of a representative of the business entity or of any other person having knowledge of the business entity operations.
- (5) The full amount of the unpaid tax payable by any business entity, as appears from the face of the return, shall be paid to Crittenden County, Kentucky at the time prescribed for filing the occupational license tax return, determined without regard to any extension of time for filing the return.
- (6) It shall be the responsibility of persons who make Federal Form 1099 "non-employee compensation" payments to natural persons other than employees for services performed within Crittenden County, Kentucky, to maintain records of such payments and to report such payments to Crittenden County, Kentucky. Said payments must be reported on by remitting Federal Form 1099 by February 28 of the year following the close of the calendar year in which the non-employee compensation was paid. If a business entity or person is not required to remit Federal Form 1099 to the IRS, including but not limited to payments less than \$600, they are not liable to remit the equivalent information to Crittenden County, Kentucky.

Section No. 7 – Extensions

- (1) Crittenden County, Kentucky may grant any business entity an extension of not more than six (6) months, unless a longer extension has been granted by the Internal Revenue Service or is agreed to by Crittenden County, Kentucky and the business entity, for filing its return, if the business entity, on or before the date prescribed for payment of the occupational license tax, requests the extension and pays the amount properly estimated as its tax.
- (2) If the time for filing a return is extended, the business entity shall pay, as part of the tax, an amount equal to twelve percent (12%) per annum simple interest on the tax shown due on the return, but not been previously paid, from the time the tax was due until the return

is actually filed and the tax paid to the County. A fraction of a month is counted as an entire month.

Section No. 8 – Refunds

- (1) Where there has been an overpayment of tax under Section (No. 5) of this Ordinance, a refund or credit shall be made to the employer only to the extent that the amount of the overpayment was not deducted and withheld under Section (No. 5) by the employer;
- (2) Unless written application for refund or credit is received by Crittenden County, Kentucky from the employer within two (2) years from the date the overpayment was made, no refund or credit shall be allowed;
- (3) An employee who has compensation attributable to activities performed outside Crittenden County, Kentucky, based on time spent outside Crittenden County, Kentucky, whose employer has withheld and remitted to Crittenden County, Kentucky, the occupational license tax on the compensation attributable to activities performed outside of the date prescribed by law for the filing of a refund Crittenden County, Kentucky, may file a refund within two (2) years. The employee shall provide a schedule and computation sufficient to verify the refund claim and Crittenden County, Kentucky may confirm with the employer the percentage of time spent outside Crittenden County, Kentucky and the amount of compensation attributable to activities performed outside Crittenden County, Kentucky prior to approval of the refund.

Section No. 9 – Federal Audit Provisions

- (1) As soon as practicable after each return is received, Crittenden County, Kentucky may examine and audit the return. If the amount of tax computed by Crittenden County, Kentucky is greater than the amount returned by the business entity, the additional tax shall be assessed and a notice of assessment mailed to the business entity by Crittenden County, Kentucky within five (5) years from the date the return was filed, except as otherwise provided in this subsection.
 - (a) In the case of a failure to file a return or of a fraudulent return the additional tax may be assessed at any time;
 - (b) In the case of a return where a business entity understates net profit, or omits an amount properly includable in net profits, or both, which understatement or omission, or both, is in excess of twenty-five percent (25%) of the amount of net profit stated in the return, the additional tax may be assessed at any time within six (6) years after the return was filed;
 - (c) In the case of an assessment of additional tax relating directly to adjustments resulting from a final determination of a federal audit, the additional tax may be assessed

before the expiration of the times provided in this subsection, or six (6) months from the date Crittenden County, Kentucky receives the final determination of the federal audit from the business entity, whichever is later. The times provided in this subsection may be extended by agreement between the business entity and Crittenden County, Kentucky. For the purpose of this subsection, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day. Any extension granted for filing the return shall also be considered as extending the last day prescribed by law for filing the return.

- (2) Every business entity shall submit a copy of the final determination of the federal audit within thirty (30) days of the conclusion of the federal audit.
- (3) Crittenden County, Kentucky may initiate a civil action for the collection of any additional tax within the times prescribed in subsection (1) of this section.

Section No. 10 – Administration Provisions

- (1) No suit shall be maintained in any court to restrain or delay the collection or payment of the tax levied by this Ordinance.
- (2) Any tax collected pursuant to the provisions of this Ordinance may be refunded or credited within two (2) years of the date prescribed by law for the filing of a return or the date the money was paid to Crittenden County, Kentucky, whichever is the later, except that:
 - (a) In any case where the assessment period contained in Section (No. 9) of this Ordinance has been extended by an agreement between the business entity and Crittenden County, Kentucky, the limitation contained in this subsection shall be extended accordingly.
 - (b) If the claim for refund or credit relates directly to adjustments resulting from a federal audit, the business entity shall file a claim for refund or credit within the time provided for in this subsection or six (6) months from the conclusion of the federal audit, whichever is later.

For the purposes of this subsection and subsection (3) of this section, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day.

- (3) The authority to refund or credit overpayments of taxes collected pursuant to this Ordinance is vested exclusively in Crittenden County, Kentucky.

Section No. 11 – Information to Remain Confidential

- (1) No present or former employee of Crittenden County, Kentucky shall intentionally and without authorization inspect or divulge any information acquired by him or her of the affairs of any person, or information regarding the tax schedules, returns, or reports required to be filed with Crittenden County, Kentucky or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business. This prohibition does not extend to information required in prosecutions for making false reports or returns for taxation, or any other infraction of the tax laws, or in any way made a matter of public record, nor does it preclude furnishing any taxpayer or the taxpayer's properly authorized agent with information respecting his or her own return.

Further, this prohibition does not preclude any employee of Crittenden County, Kentucky from testifying in any court, or from introducing as evidence returns or reports filed with Crittenden County, Kentucky in an action for violation of Crittenden County, Kentucky tax laws or in any action challenging the Crittenden County, Kentucky laws.

- (2) Crittenden County, Kentucky reserves the right to disclose to the Commissioner of Revenue of the Commonwealth of Kentucky or his or her duly authorized agent all such information and rights to inspect any of the books and records of Crittenden County, Kentucky if the Commissioner of Revenue of the Commonwealth of Kentucky grants to Crittenden County, Kentucky the reciprocal right to obtain information from the files and records of the Kentucky Department of Revenue and maintains the privileged character of the information so furnished. Provided, further, that Crittenden County, Kentucky may publish statistics based on such information in such a manner as not to reveal data respecting net profits or compensation of any person or business entity.
- (3) In addition, Crittenden County, Kentucky is empowered to execute similar reciprocity agreements as described in subsection (2) of this section with any other taxing entity, should there be a need for exchange of information in order to effect diligent enforcement of this Ordinance.
- (4) Nothing contained within this Ordinance prevents the Treasurers from discussing any issues regarding the administration of this Ordinance with the Crittenden County Judge Executive and/or Crittenden County Attorney necessary for the performance of her duties. However, all discussion shall be subject to the confidentiality requirements within this Ordinance.

Section No. 12 – Penalties

- (1) A business entity subject to tax on net profits may be subject to a penalty equal to five percent (5%) of the tax due for each calendar month or fraction thereof if the business entity:
 - (a) Fails to file any return or report on or before the due date prescribed for filing or as extended by Crittenden County, Kentucky; or
 - (b) Fails to pay the tax computed on the return or report on or before the due date prescribed for payment. The total penalty levied pursuant to this subsection shall not exceed twenty-five percent (25%) of the total tax due; however, the penalty shall not be less than twenty-five dollars (\$25.00).
- (2) Every employer who fails to file a return or pay the tax on or before the date prescribed under Section (No. 5) of this Ordinance may be subject to a penalty in an amount equal to five percent (5%) of the tax due for each calendar month or fraction thereof. The total penalty levied pursuant to this subsection shall not exceed twenty-five percent (25%) of the total tax due; however, the penalty shall not be less than twenty-five dollars (\$25.00).
- (3) In addition to the penalties prescribed in this section, any business entity or employer shall pay, as part of the tax, an amount equal to twelve percent (12%) per annum simple interest on the tax shown due, but not previously paid, from the time the tax was due until the tax is paid to Crittenden County, Kentucky. A fraction of a month is counted as an entire month.
- (4) Every tax imposed by this Ordinance, and all increases, interest, and penalties thereon, shall become, from the time the tax is due and payable, a personal debt of the taxpayer to Crittenden County, Kentucky.
- (5) Crittenden County, Kentucky may enforce the collection of the occupational tax due under Section (No. 3) of this Ordinance and any fees, penalties, and interest as provided in subsections (1), (2), (3), and (4) of this section by civil action in a court of appropriate jurisdiction. To the extent authorized by law, Crittenden County, Kentucky shall be entitled to recover all court costs and reasonable attorney fees incurred by it in enforcing any provision of this Ordinance. Civil legal actions for the collection of the tax, penalties, interest, costs, attorney fees and other damages, if any, shall be commenced only with the express authority of the Crittenden Fiscal Court. Information may be divulged unto the Crittenden Fiscal Court, its members, agents or other appropriate representatives, necessary for the commencement of legal action, if any, as is allowable by the Ordinance.
- (6) In addition to the penalties prescribed in this section, any person, business entity or employer who willfully fails to make a return, willfully makes a false return, or who

willfully fails to pay taxes owing or collected, with the intent to evade payment of the tax or amount collected, or any part thereof, shall be guilty of a Class A Misdemeanor.

- (7) Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with, any matter arising under this Ordinance of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present the return, affidavit, claim, or document, shall be guilty of a Class A Misdemeanor.
- (8) A return for the purpose of this section shall mean and include any return, declaration, or form prescribed by Crittenden County, Kentucky and required to be filed with Crittenden County, Kentucky by the provisions of this Ordinance, or by the rules of Crittenden County, Kentucky or by written request for information to the business entity by Crittenden County, Kentucky.
- (9) Any person violating the provisions of Section (No. 11) of this Ordinance by intentionally inspecting confidential taxpayer information without authorization, shall be fined not more than five hundred dollars (\$500.00) or imprisoned for not longer than six (6) months, or both fine and imprisonment.
- (10) Any person violating the provisions of Section (No. 11) of this Ordinance by divulging confidential taxpayer information shall be fined not more than one thousand (\$1000.00) or imprisoned for not more than one (1) year, or both fine and imprisonment.
- (11) Any person who violates any provisions of this Ordinance and for which a specific penalty is not otherwise prescribed herein shall be guilty of a Class A Misdemeanor.

Section No. 13 – Use of Occupational License Tax Proceeds

All monies derived from the occupational license fee tax pursuant to the provisions of this Ordinance shall be paid to the Crittenden County Treasurer and placed to the credit of the general revenue fund of Crittenden County, Kentucky. It is the purpose of this Ordinance to provide revenue for the general fund of Crittenden County, Kentucky to improve and maintain services to the people of Crittenden County including but not limited to EMS, services to Senior citizens, health insurance to county employees, and park maintenance. It is not the intention of Crittenden County, Kentucky or this Ordinance to impose and require an occupational license fee prohibited by law.

Section No. 14 – Officials to Collect and Keep Records

It shall be the duty of the Treasurer to collect and receive the occupational taxes imposed by this Ordinance. The Tax Administrator and Treasurer shall keep records showing the amount received by him/her from each licensee and employer and the date of such receipt.

Section No. 15 – Severability

Each section and each provision of each section of this Ordinance are severable, and if any provision, section, paragraph, sentence or part thereof, or the application thereof to any person, licensee, class or group, is held by a court of law to be unconstitutional or invalid for any reason, such holding shall not affect or impair the remainder of this ordinance, it being the legislative intent to ordain and enact each provision, section, paragraph, sentence and part thereof, separately and independently of the rest.

Section No. 16 – Effective Date

- (1) This Ordinance shall take effect and be in full force immediately upon adoption and all Ordinances or parts of other Ordinances conflicting with this Ordinance are hereby amended and/or repealed, as applicable, as so allowable by applicable law. Any Ordinance or parts thereof not in conflict with the foregoing remain valid and in full force and effect.
- (2) All provisions of Kentucky Revised Statute Chapter 67 are incorporated herein by reference not inconsistent with the foregoing Ordinance.

April 27, 2012	FIRST READING
May 14, 2012	PUBLIC HEARING
May 15, 2012	SECOND READING OF ORDINANCE AS AMENDED


At a special called meeting of the Fiscal Court of the County of Crittenden, Commonwealth of Kentucky held on April 27, 2012, the foregoing first reading of Ordinance was adopted after full discussion by the following vote:

<u>Yes</u>	Magistrate Ellis
<u>No</u>	Magistrate Underdown
<u>Yes</u>	Magistrate Buntin
<u>Yes</u>	Magistrate Wood
<u>Yes</u>	Magistrate Cook
<u>Yes</u>	Magistrate Travis
<u>Yes</u>	Judge Executive-Newcom

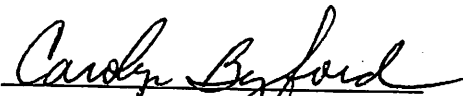
At a meeting of the Fiscal Court of the County of Crittenden, Commonwealth of Kentucky held on May 15, 2012, the foregoing second reading with amendments of the Ordinance was adopted after full discussion by the following vote:

<u>Yes</u>	Magistrate Ellis
<u>Yes</u>	Magistrate Underdown
<u>Yes</u>	Magistrate Buntin
<u>Yes</u>	Magistrate Wood
<u>Yes</u>	Magistrate Cook
<u>Yes</u>	Magistrate Travis
<u>Yes</u>	Judge Executive Newcom


APPROVED:


**PERRY NEWCOM, CRITTENDEN
COUNTY JUDGE EXECUTIVE**

ATTEST:


**CAROLYN BYFORD
COUNTY CLERK**

READ AND APPROVED AS TO FORM AND LEGALITY


**REBECCA J. JOHNSON
CRITTENDEN COUNTY ATTORNEY**