

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON**

ORDINANCE NO. 1293

Ordinance Repealing and Replacing Ordinance 1288 - Preschool for All Personal Income Tax.

The Multnomah County Board of Commissioners Finds:

1. On November 3, 2020, the voters of Multnomah County approved Ballot Measure 26-214, which authorizes the County to impose a personal income tax to fund universal, tuition free, voluntary, and high quality preschool education for every three and four year old residing within Multnomah County (the “Preschool for All Program”).
2. The Preschool for All Program personal income tax is effective January 1, 2021.
3. The language in the tax code included with Ballot Measure 26-214, and scope of issues addressed, is insufficient to allow the County to efficiently and effectively collect the personal income tax authorized by the voters to fund the Preschool for All Program and to otherwise administer the tax.
4. To reduce the cost of administering the Preschool for All Program personal income tax and to reduce the burden on taxfilers of complying with the tax’s requirements, the County has contracted with the City of Portland Bureau of Revenue and Financial Services to administer the Preschool for All Program personal income tax. The City of Portland also will be administering the Metro District Supportive Housing Services personal income tax.
5. To maintain tax code conformity with the Metro District Supportive Housing Services personal income tax and to facilitate tax administration and the tax filing process for taxfilers, the County must make additional changes to the Preschool for All Program personal income tax code in in Multnomah County Code (MCC) Chapter 11.
6. Having identified the above described issues raised by provisions in MCC Chapter 11, the Division of Finance and Risk management of the Department of County Management recommend the adoption of this ordinance to the Board of County Commissioners to amend certain portions of Chapter 11.
7. The County now wishes to amend certain portions of MCC §§ 11.500 to 11.560.

Multnomah County Ordains as Follows:

Section 1. Ordinance 1288 is repealed.

Section 2. MCC § 11.500 is added as follows:

§ 11.500 – TITLE.

The rules contained in this subchapter are to administer the Multnomah County Personal Income Tax, hereinafter referred to as the Preschool For All Personal Income Tax or the Personal Income Tax Law. This subchapter may be known and cited as the Preschool For All Personal Income Tax Code.

Section 3. MCC § 11.502 is added as follows:

§ 11.502 – EFFECTIVE DATE.

The Preschool For All Personal Income Tax shall be effective for tax years beginning on or after January 1, 2021.

Section 4. MCC § 11.504 is added as follows:

§ 11.504 – CONFORMITY TO STATE INCOME TAX LAW.

Multnomah County and the Preschool For All Personal Income Tax generally follows the state of Oregon laws and regulations relating to personal income tax. The Preschool For All Personal Income Tax will be construed in conformity with such laws and regulations imposing taxes on or measured by net income as those laws existed for that particular tax year.

(A) Should a question arise under the Preschool For All Personal Income Tax on which this subchapter is silent, the Administrator may look to the laws of the state of Oregon for guidance in resolving the question, provided that the determination under State law does not conflict with any provision of this subchapter or the state law is otherwise inapplicable.

(B) The Administrator has the authority by written policy to connect to or disconnect from any legislative enactment regarding income taxation or the definition of income.

Section 5. MCC § 11.506 is added as follows:

§ 11.506 – ADOPTION OF OREGON REVISED STATUTES AND OREGON ADMINISTRATIVE RULES BY REFERENCE.

The Administrator or the Board may adopt Oregon Revised Statutes (ORS) and Oregon Administrative Rules (OAR) by reference. To the extent necessary, references in an ORS or an OAR to the state of Oregon or its agencies will be deemed substituted references for Multnomah County and its agents.

Section 6. MCC § 11.508 is added as follows:

§ 11.508 – ADMINISTRATIVE AUTHORITY.

(A) The Administrator may implement procedures, forms, guides, administrative rules and written policies for administering the provisions of the Preschool For All Personal Income Tax.

(B) The Administrator may contract with public or private agencies, subject to state of Oregon and County procurement laws and rules, to implement the Preschool For All Personal Income Tax Law.

(C) The Administrator is authorized to request documents, information, books, papers or other records from a taxfiler or their legal representative to effectively administer the Preschool For All Personal Income Tax. Additionally, the Administrator is authorized to make settlement agreements, as consistent with law and deemed appropriate, to effectively administer the Preschool For All Personal Income Tax.

Section 7. MCC § 11.510 is added as follows:

§ 11.510 – DEFINITIONS.

For the purpose of this subchapter, the terms used in this subchapter shall be defined as provided in this subchapter, unless context requires a different meaning.

ADMINISTRATOR. The Multnomah County Chief Financial Officer or designee, including a third-party under contract with the County. Any designee of the Administrator shall act as the agent of the Administrator to enforce the Preschool For All Personal Income Tax and tax rules as contained in this subchapter.

BOARD. The Multnomah County Board of County Commissioners.

COMMITTEE. The Preschool For All Program Advisory Committee.

EXTENSION DATE. The latest date on which a taxfiler must file their Preschool For All Personal Income Tax return, as extended by the Administrator beyond the payment date.

NONRESIDENT. An individual who is not a resident within the Multnomah County jurisdictional boundary.

PAYMENT DATE. The date in a given tax year on which a taxfiler must (a) pay Preschool For All Personal Income Tax liability owed, and (b) file the associated tax return. Generally April 15 each year, the payment date is the date on which the Oregon personal income tax return must be filed, or the closest following business day.

PRESCHOOL FOR ALL PROGRAM or PROGRAM. The Multnomah County Preschool For All Program(s) provides tuition-free preschool for children that meet the criteria of the program(s).

PRESCHOOL FOR ALL PERSONAL INCOME TAX ADMINISTRATIVE CODE. The written administrative rules promulgated by the Administrator and related to matters within the scope of this subchapter to administer implementation of and compliance with the Preschool For All Personal Income Tax.

RESIDENT. A taxfiler within Multnomah County for any portion of the taxable year. ORS 316.027 and OAR 150-316-0025 are hereby adopted and shall control when residency questions arise.

TAXABLE INCOME. Taxable income under Oregon State law before any credits or exemptions.

TAXFILER. Any natural person or married couple filing a joint return whose income in whole or in part is subject to the Preschool For All Personal Income Tax.

TAX YEAR. The taxable year a taxfiler uses for federal and state income tax purposes.

Section 8. MCC § 11.512 is added as follows:

§ 11.512 – PERSONAL INCOME TAX IMPOSED.

(A) A tax of 1.5% is imposed on the entire Oregon taxable income over \$200,000 for joint filers and \$125,000 for single filers on every Multnomah County resident subject to tax under ORS Chapter 316, and upon that taxable income derived from sources within Multnomah County over \$200,000 if filing jointly and \$125,000 if filing singly of every nonresident that is subject to tax under ORS Chapter 316. On January 1, 2026, the tax imposed will be increased by 0.8%.

(B) An additional tax of 1.5% is imposed on the entire Oregon taxable income over \$400,000 if filing jointly and \$250,000 if filing singly on every Multnomah County resident subject to tax under ORS Chapter 316, and upon the taxable income derived from sources within Multnomah County over \$400,000 if filing jointly and \$250,000 if filing singly of every nonresident that is subject to tax under ORS Chapter 316.

(C) Taxfiler filing status must follow the filing status of the taxfiler's Oregon income tax return.

(1) Taxfilers using Oregon filing statuses married filing jointly, head of household, and qualifying widow(er) with dependent child must file a joint County return.

(2) Taxfilers using Oregon filing statuses single and married filing separately must file a single County return.

(D) As allowed by the Multnomah County Home Rule Charter, the Board may adjust the income tax rate to fully fund the Preschool For All Program. A technical team will be convened by the Chair's Office and will report to the Board before January 1, 2026, with a recommendation regarding the increase in subsection (A) and the future revenue requirements to ensure the Program is fully funded.

Section 9. MCC § 11.514 is added as follows:

§ 11.514 – PROGRAM ADMINISTRATION; USE OF REVENUES.

(A) The net revenues collected under the Preschool For All Personal Income Tax will be paid to the County and tracked in a separate fund, for distribution by the Board for Preschool For All Program services, such as:

- (1) Administration by the Department of County Human Services. The Department will oversee Preschool For All Program operations, ensure quality, provide operational support and oversight, and adopt administrative rules to implement the Program.
- (2) Programming for all children aged three or four years old by September 1 of the enrolling year with a parent or legal guardian residing in Multnomah County are eligible to enroll in the Preschool For All Program. Equitable access will be provided to people of color and other historically marginalized communities.
- (3) Providing up to six hours per day of high-quality, tuition-free, developmentally appropriate, early learning experiences reflecting best practices in a mixed-delivery model.
- (4) Offering options for the Preschool For All Program will include:
 - (a) Half-day, full-day, year-round, and school-year schedules;
 - (b) Culturally relevant, multigenerational learning programs as part of the mixed delivery system; and
 - (c) Up to four additional hours of before or aftercare per day for families with incomes under the Self-Sufficiency Standard for Multnomah County.
- (5) Requiring that Preschool For All Program teachers be paid on par with kindergarten teachers, and assistants will be paid a minimum of \$19.91 in 2022, with cost of living adjustments (COLA) based on the County's

Local 88 union-negotiated COLA rate or to bring wage to 135% of Portland's minimum wage, whichever is greater.

- (6) Establishing a compensation matrix that adjusts wages based on Preschool For All Program teachers or assistant credentialing, education, certification, licensure, ORO Steps, special skills (such as language), and experience, and by 2035 reflects a Program assistant teacher minimum wage not less than 75% of Program teacher minimum wage.
- (7) Establishing credentialing requirements for providers, including licensure and certification that builds over time, allowing for workforce development strategies and supports to be in place before credentialing requirements rise.
- (8) Multnomah County shall remain neutral with respect to representation and collective bargaining on matters concerning labor relations for any family childcare provider participating or applying to participate in the Preschool For All Program, as authorized by ORS 329A.430.

(B) Independent performance audits will be conducted on the use of funds generated by the Preschool For All Personal Income Tax.

Section 10. MCC § 11.516 is added as follows:

§ 11.516 – PRESCHOOL FOR ALL PROGRAM ADVISORY COMMITTEE.

(A) The Committee is created to review Preschool For All Program expenditures, provide Program oversight, review data, advise evaluation efforts, and make policy recommendations to the County.

(B) The Board Chair, with the approval of the Board, will appoint a minimum of 12, and a maximum of 15, Committee members that represent the County's diverse communities and geographies.

(C) Each Committee member is appointed for a two-year term. An appointment may be rescinded by Board vote. No member can serve more than two consecutive terms within any five year period.

Section 11. MCC § 11.518 is added as follows:

§ 11.518 – TAX EXEMPTIONS.

The Administrator may require the filings of tax returns or other relevant documentary verification of any exemption claimed under this section by any person(s) whom Multnomah County is prohibited from taxing under federal or state of Oregon tax law.

Oregon Public Employees Retirement System (PERS) payments (income) is exempt from Multnomah County Personal Income Tax, as consistent with Oregon law. Other public retirement programs that are not paid from the Oregon Public Employees Retirement Fund (OPERF) are not exempt.

Section 12. MCC § 11.520 is added as follows:

§ 11.520 – INDIVIDUALS REQUIRED TO FILE A TAX RETURN.

(A) A Multnomah County resident is required to file a Preschool For All Personal Income Tax return if they are required to file an Oregon income tax return for the tax year and report Oregon taxable income of over: (a) \$200,000 for taxfilers using the Oregon filing status married filing jointly, head of household, or qualifying widow(er); or (b) \$125,000 for taxfilers using the Oregon filing status single or married filing separately.

(B) A nonresident is required to file a Preschool For All Personal Income Tax return if they are required to file an Oregon income tax return for the tax year and have taxable income derived from or sourced to Multnomah County of over: (a) \$200,000 for taxfilers using the Oregon filing status married filing jointly, head of household, or qualifying widow(er); or (b) \$125,000 for taxfilers using the Oregon filing status single or married filing separately.

(C) Nothing contained in this section shall preclude the Administrator from requiring any individual to file a return when, in the judgment of the Administrator, a return should be filed.

(D) The Administrator will release the form(s) that taxfilers must file. The Administrator may accept substitute forms (such as created by tax software) provided the forms include identical information in comparable format as provided on the Preschool For All Personal Income Tax return form.

(E) A copy of the taxfiler's Oregon tax return is required to be filed with the Preschool For All Personal Income Tax return. If the personal income tax payments have been withheld from wages, a copy of Form W-2 is required to be filed with the Preschool For All Personal Income Tax return unless otherwise notified by the Administrator. The Administrator is authorized to require a taxfiler to submit additional information with the taxfiler's return if, in the Administrator's sole discretion, such information is necessary to effectively administer the tax imposed under this subchapter.

Section 13. MCC § 11.522 is added as follows:

§ 11.522 – TAXFILERS IDENTIFICATION NUMBER.

(A) A taxfiler must provide information on tax records as required on forms established by the Administrator. This includes tax returns, refund claims, applications,

registrations, records, requests for information, reports, and other items of a similar nature filed with the Administrator as required by the item being filed.

(B) The Administrator uses taxfiler identification numbers to administer the Preschool For All Personal Income Tax and ensure compliance with applicable laws. Taxfiler identification numbers allow the Administrator to issue tax refunds, allocate or apply tax payments, and complete other administrative matters of a similar nature. The Administrator may require a taxfiler to provide a copy of the taxfiler's Social Security card or other documentations of their Social Security number (SSN) or Taxpayer Identification number (TIN).

(C) A Social Security number or Tax Identification number used by the Administrator as a taxfiler identification number is confidential information. Disclosure of Social Security number or Tax Identification number that results in a breach of confidentiality will result in penalties pursuant to Preschool for All Personal Income Tax Administrative Code.

Section 14. MCC § 11.524 is added as follows:

§ 11.524 – DEDUCTION FOR PASS-THROUGH INCOME.

(A) A taxfiler is allowed a deduction from taxable income for pass-through income subject to tax under Multnomah County Code Chapter 12, Business Income Tax. Pass-through income comes from a business whose net income is taxed on the owners', members', or partners' personal tax return. This includes income earned by sole proprietors, partnerships, and S-corporations, and other legal entities.

(B) The deduction amount allowed in subsection (A) is the individual owners' or partners' distributive share of taxable income from the County's business income tax return, as calculated and reported by the business. If the County business income tax return has not been filed for the relevant tax year, then no deduction is allowed.

(C) If the taxable income per the County business income tax return is zero, the taxfiler is not allowed a deduction.

Section 15. MCC § 11.526 is added as follows:

§ 11.526 – PRORATION OF INCOME FOR PART-YEAR RESIDENTS.

If a taxfiler is a part-year resident of Multnomah County for the given tax year, the taxfiler's taxable income includes:

(A) For the portion of the year in which the taxfiler resided in Multnomah County, the taxfiler's taxable income sourced to Oregon;

(B) For the portion of the year in which the taxfiler was a nonresident, the taxfiler's taxable income sourced to Multnomah County.

Section 16. MCC § 11.528 is added as follows:

§ 11.528 – CREDIT FOR PERSONAL INCOME TAXES PAID BY RESIDENTS TO ANOTHER STATE JURISDICTION.

(A) A resident that pays personal income taxes based on or measured by net income to another state jurisdiction shall be allowed a credit against tax otherwise owed under this subchapter for the amount of income tax imposed on the taxfiler for the tax year by that other state jurisdiction on income derived from sources therein and that is also subject to the Preschool For All Personal Income Tax.

(B) The credit provided under this section shall not exceed the less of the proportion of the tax paid on the mutually taxed income that is otherwise due under this subchapter, or the tax that would be due under this subchapter on that income if it were derived from sources within Multnomah County.

(C) No credit shall be allowed under this section for income taxes paid to a state that allows a nonresident a credit against the income taxes imposed by that state for taxes paid or payable to the state of residence.

(D) The Administrator will establish by written policy the criteria and procedures for obtaining the credit, such as furnishing the County with proof of tax payment to another state jurisdiction, and examples when this credit is allowed. The Administrator may refer to ORS 316.082 to establish these policies.

Section 17. MCC § 11.530 is added as follows:

§ 11.530 – PAYMENT DATE; EXTENSIONS

(A) Tax returns must be on forms provided or approved by the Administrator. All tax returns must be filed together with payment of the specified tax by the payment date. If the payment date falls on a weekend or Federal or State holiday, the payment date is the first business day following the weekend or holiday. The due date for employers filing tax returns with the Administrator must conform to the due date under relevant Oregon tax law.

(B) The Administrator may, for good cause, grant to a taxfiler an extension date for filing their Preschool For All Personal Income Tax return if the taxfiler has filed an extension on their state of Oregon and federal personal income tax returns. The extension date may not be more than six-months after the payment date. The extension date does not extend the payment date for Preschool For All Personal Income Taxes owed. Payments made after payment date may be subject to interest and penalties as provided in this subchapter.

(C) The tax return must contain a written declaration, verified by the taxfiler, to the effect that the statements made therein are true.

(D) The Administrator will prepare blank tax returns and make them available upon request. Failure to receive a form does not relieve any person from the obligation to pay a tax under the Preschool For All Personal Income Tax Law.

(E) The Administrator is authorized to temporarily change the payment date if needed to ensure the effective administration of the tax.

Section 18. MCC § 11.532 is added as follows:

§ 11.532 – OVERPAYMENTS OF PERSONAL INCOME TAX.

The Administrator may apply overpayments in the following manner:

(A) Overpayments may first be applied against any outstanding balances due from prior tax years (with the net overpayment, if any, to be refunded).

(B) If the Administrator determines that returns for prior County tax years are due but have not yet been filed, overpayments may be transferred to those prior year(s) yet to be filed.

(C) If the Administrator determines that no outstanding balances are due and no prior returns are outstanding, all overpayments may be refunded or credited to the upcoming tax year.

Section 19. MCC § 11.534 is added as follows:

§ 11.534 – WITHHOLDING TAX ON WAGES.

(A) During tax year 2021, withholding will be voluntary. However, in that first tax year, an employer must offer in writing to its employees to withhold the County Preschool For All Personal Income Tax from their wages as soon as the employer's payroll system(s) can be configured to capture and remit the taxes withheld.

(B) Beginning with January 1, 2022, and each year thereafter, withholding is mandatory for all employees that work in Multnomah County and earn \$200,000 or more during the calendar year. This applies to resident and nonresident employees.

(C) An employee earning below the \$200,000 income threshold in subsection (B) may choose to "opt in" to withholding with the employer, based on their tax situation. An employee who meets the mandatory withholding criteria in subsection (B) may choose to "opt out" of withholding by the employer based on their tax situation. The Administrator will provide guidance to employers on the information required to be filed with the employer by the taxfiler (employee) to "opt in" or "opt out" of withholding. Once provided, the employer

will honor the withholding election of the employee until notified by the employee of a change.

(D) An employer must provide all “opt out” information to the Administrator on an annual basis in such form as the Administrator prescribes or upon a withholding audit by the Administrator.

(E) An employer who withholds Preschool For All Personal Income Tax from employees’ wages must remit the withheld amounts to the Administrator within the time that the employer is required to remit taxes withheld to the state of Oregon for any period, unless otherwise provided in the Preschool For All Personal Income Tax Administrative Code.

Withheld amounts remitted to the Administrator must be accounted for as part of the collections under this section. No employee has any right of action against an employer in respect of any money deducted from wages and remitted in compliance or intended compliance with this section.

(F) If an employer withholds amounts due under this subchapter from an employee’s wages, the employer must remit that withheld tax on the due date as set forth in subsection (E). This subchapter provides no extension of time to file or remit, nor can the Administrator grant such an extension. The employer holds the funds involved in trust for the County, and any use of the funds by the employer is an illegal conversion.

(1) If an employer fails to remit to the Administrator amounts that have been withheld under this section, any responsible officer, partner, or member of the employer is personally responsible for the amounts that were withheld but not remitted. This subsection specifically adopts the criteria set forth in OAR 150-316-0243(2) and (3) to determine whether an individual is an “employer.” A responsible officer, partner, or member are included in the definition of “employer.”

(2) The Administrator is authorized to collect from the employer, including any individuals who are included in the definition of employer, pursuant to subsection (a) above, or any combination thereof, up to 100% of the tax that was withheld but not remitted to the Administrator, in addition to any penalties and/or interest assessed and not waived.

(G) If the Preschool For All Personal Income Tax has been withheld by an employer and remitted and reported to the Administrator, a credit or refund will be made to those employees from whose wages the tax was withheld even though the employer has not paid the tax to the Administrator. When an employer has neither reported nor paid the tax required to be withheld from an employee’s wages but the employee submits evidence proving to the satisfaction of the Administrator that the employer actually did withhold the tax, the Administrator will allow the employee a credit or refund for the amount so proved. Ordinarily, minimum satisfactory evidence will consist of a pay statement from the employer

showing the amount of tax withheld and an affidavit of the employee as to the facts upon which the claim for credit or refund is based.

Section 20. MCC § 11.536 is added as follows:

§ 11.536 – WITHHOLDING RECONCILIATION BY EMPLOYER FOR PAYMENT OF WITHHELD TAX.

(A) On or before the last day of January following any calendar year in which payroll withholdings have been made, the employer must file with the Administrator a reconciliation of taxes withheld and taxes remitted.

(B) The Administrator will determine by written policy or published guidelines the required format and information necessary to comply with subsection (A).

Section 21. MCC § 11.538 is added as follows:

§ 11.538 – INTEREST.

(A) Interest will be collected on any unpaid tax at the rate of 10% simple interest per year, computed from the original due date of the tax to the 15th day of the month following the date of payment. The Administrator may adjust the interest rate by administrative rule to align with the state of Oregon Department of Revenue. The Administrator may not adjust the interest rate more than once in a calendar year. The adjusted rate applies to unpaid tax outstanding on or after the effective date of the adjusted interest rate.

(B) Interest at the rate established in subsection (A) shall be payable on any overpayments of Preschool for All Personal Income Taxes. Such interest shall be computed beginning four months after the later of:

(1) The payment date or extension date, as applicable;

(2) The date the tax return was filed or the refund was otherwise requested;
or

(3) The date the tax was paid.

(C) The Administrator may waive or reduce interest for good cause if specifically provided for by written policy. The Administrator may look to ORS 305.145 and OAR 150-305-0062 for guidance in the waiver of interest.

Section 22. MCC § 11.540 is added as follows:

§ 11.540 – PENALTIES.

(A) When an employer fails to remit in whole or in part any Preschool For All Personal Income Tax withheld at the time required, the Administrator will assess a late payment penalty. The late payment penalty is:

- (1) 5% of the balance of the unpaid tax if the failure to remit is for a period less than or equal to four months;
- (2) An additional 20% of the balance of the unpaid tax if the failure to remit is for a period greater than four months; and
- (3) An additional penalty of 100% of the balance of the unpaid tax of all years if the failure to remit is for three or more consecutive years.

The Administrator may waive all or any part of the penalty imposed under this subsection on a showing by the employer that there was reasonable cause for the failure to remit the withheld taxes or any portion of the withheld taxes and that the employer acted in good faith.

(B) When a taxfiler fails to file a return or fails to file an extension by the date on which the filing is due, and/or fails to pay a tax by the date on which the return or payment is due, the Administrator will assess a late penalty. Unpaid tax is the taxfiler's tax liability reduced by any payment of tax on or before the due date and any credit against tax that may be claimed on the return. The late payment penalty is:

- (1) 5% of the balance of the tax due or paid after the payment date, as applicable, if the failure to remit is for a period less than four months;
- (2) An additional 20% of the balance of the tax due or paid after the payment date, as applicable, if the failure to remit is for a period of four months or more; and
- (3) An additional penalty of 100% of the balance of the tax due or paid after the payment date, as applicable, of all tax years if the failure to remit is for three or more consecutive tax years.

The Administrator may waive all or any part of the penalty imposed under this subsection on a showing by the taxfiler that there was reasonable cause for the late filing or payment.

(C) A penalty will be assessed on taxfilers for underpayment of taxes due. The penalty will assessed if the taxfiler:

- (1) Fails to pay at least 90% of the total tax liability by the payment date, as applicable; or
- (2) Fails to pay at least 100% of the prior year's tax liability by the payment date, as applicable.

The penalty under subsection (C) is 5% of the tax underpayment, but not less than \$5.

(D) The Administrator may impose a civil penalty of up to \$500 for each of the following violations of this subchapter:

- (1) Failure to file any tax return within 60 days of the Administrator's original written notice to file;
- (2) Failure to pay any tax due within 60 days of the Administrator's original written notice for payment;
- (3) Failure to provide documents or information as required by this subchapter within 60 days of the Administrator's original written notice to provide documents or information;
- (4) Failure to fully complete any form required under the Preschool For All Personal Income Tax Code.

(E) The Administrator may impose a \$500 civil penalty if the Administrator determines that the taxfiler has taken a frivolous position in preparing the taxfiler's tax return. This penalty is in addition to any taxes due and penalty and interest assessments authorized in this subchapter.

(F) Additional civil penalties may be imposed for other violations of the Preschool For All Personal Income Tax Law by administrative rule.

Section 23. MCC § 11.542 is added as follows:

§ 11.542 – DEFICIENCIES AND REFUNDS.

(A) The Administrator may assess deficiencies and grant refunds any time within the periods set forth for deficiencies or refunds under ORS Chapter 314. The Administrator may by agreement with the taxfiler extend the time periods.

(B) When no tax return has been filed, there is no time limit for a notice of deficiency or the assessment of taxes, penalty, and interest due.

(C) Notwithstanding subsections (A) and (B), the Administrator is not required to accept any tax return for any tax period from a taxfiler if:

- (1) The Administrator obtains a money judgment against the taxfiler for failure to pay an unpaid account balance due;
- (2) The Administrator or its legal representative has lawfully served the taxfiler with the lawsuit pursuant to the Oregon Rules of Civil Procedure;
- (3) The tax return is for a taxable year that is the subject of the general money judgment; and
- (4) The Administrator gave written notice stating that the taxfiler had an outstanding balance due at least 30 days before the Administrator (or its legal representative) filed a lawsuit for those particular taxable years.

Section 24. MCC § 11.544 is added as follows:

§ 11.544 – PROTESTS AND APPEALS; PENALTY WAIVER.

(A) A taxfiler may protest any determination by the Administrator. The Administrator must receive written notice of the protest within 30 days after the Administrator mailed or delivered the notice of determination to the taxfiler. The protest must state the name and address of the taxfiler and an explanation of the general grounds for the protest. The Administrator must respond within 30 days after the protest is filed with either a revised determination or a final determination. The Administrator’s determination must include the reasons for the determination and state the time and manner for appealing the determination. The time to file a protest or the time for the Administrator’s response may be extended by the Administrator for good cause. Requests for extensions of time must be received before the original 30 day protest deadline expires. The Administrator will give written notice to the taxfiler if the Administrator’s deadline is extended.

(B) A taxfiler may appeal any final determination by the Administrator to the appeals board. The Administrator must receive written notice of the appeal within 30 days after the Administrator mailed or delivered the final determination to the appellant. The notice of appeal must state the name and address of the appellant and include a copy of the final determination.

(C) Within 90 days after the Administrator mails or delivers the final determination to the appellant, the appellant must file with the appeals board a written statement containing:

- (1) The reasons the Administrator’s determination is incorrect; and
- (2) What the correct determination should be.

Failure to file this a written statement within the time permitted is a waiver of any objections, and the appeal will be dismissed.

(D) Within 150 days after the Administrator mails or delivers the final determination to the appellant, the Administrator will file with the appeals board a written response to the appellant's statement. A copy of the Administrator's response must be mailed to the address provided by the appellant within ten days after the Administrator files it with the appeals board.

(E) The Administrator must provide the appellant written notice of the hearing date and location at least 14 days before the hearing. The appellant and the Administrator may present relevant testimony, evidence, and oral argument at the hearing. The appeals board may request additional written comment and documents as the appeals board deems appropriate.

(F) Decisions of the appeals board must be in writing, state the basis and legal authority for the decision and be signed by the appeals board chair.

(G) The decision of the appeals board is final as of the issue date and no further administrative appeal will be provided.

(H) The filing of an appeal with the appeals board temporarily suspends the obligation to pay any tax owed under the Preschool For All Personal Income Tax Law that is the subject of the appeal pending a final decision by the appeals board.

(I) Penalty waiver or reduction requests are not subject to the protest/appeal process or timeline outlined in this subsection. The taxfiler must file a written request with the Administrator detailing why a penalty should be waived within 30 days of receipt of a billing notice that assesses a penalty. The Administrator must respond to requests to reduce or waive penalties within 60 days from the date the written request is received. As provided in this subchapter and the Preschool For All Personal Income Tax Administrative Code, the Administrator may waive or reduce penalties in certain situations. If the taxfiler has requested that penalties be waived and the Administrator denies the taxfiler's request for this discretionary waiver of penalties, the taxfiler may request a conference with the Administrator within 30 days of the date of the Administrator's notice of denial. If the conference with the Administrator results in a denial of the penalty waiver request, that decision is final and may not be appealed to the appeals board.

Section 25. MCC § 11.546 is added as follows:

§ 11.546 – PAYMENT OF ESTIMATED TAX.

(A) Every taxfiler expecting to have a tax liability of \$1,000 or greater must estimate and pay the taxfiler's tax liability for the current tax year as follows:

(1) Quarterly payments as provided in § 11.548; or

(2) Employer provided withholding from taxfiler's wages as provided in § 11.534.

(B) If a taxfiler is required to remit estimated tax payments, such amounts remitted must total either the lesser of 90% of the taxfiler's current year tax liability or 100% of the taxfiler's reported prior year tax liability.

(C) The Administrator will not impose underpayment interest for failure to make quarterly estimated payments for tax year 2021 (tax year beginning on or after January 1, 2021). For tax years beginning on or after January 1, 2022, the Administrator will impose penalties and interest as provided in this subchapter.

Section 26. MCC § 11.548 is added as follows:

§ 11.548 – SCHEDULE FOR PAYMENT OF ESTIMATED TAX.

(A) A taxfiler required to make payments of estimated tax must make the payments in installments as follows:

- (1) One quarter or more of the estimated tax on or before the 15th day of the fourth month of the tax year;
- (2) One quarter or more of the estimated tax on or before the 15th day of the sixth month of the tax year;
- (3) One quarter or more of the estimated tax on or before the 15th day of the ninth month of the tax year; and
- (4) The balance of the estimated tax must be paid on or before the 15th day of the first month of the subsequent tax year.

(B) Any payment of the estimated tax received by the Administrator for which the taxfiler has made no designation of the quarterly installment to which the payment is to be applied, will first be applied to underpayments of estimated tax due for any prior quarter of the tax year. Any excess amount will be applied to the installment that next becomes due after the payment was received.

Section 27. MCC § 11.550 is added as follows:

§ 11.550 – FINAL TAX RETURN(S) OF DECEASED TAXFILERS.

The Administrator may grant a fiduciary's request or enter into settlement agreements as described in § 11.508 with respect to the estates of taxfiler descendants, where such agreements are consistent with ORS 316.387 and corresponding OARs.

Section 28. MCC § 11.552 is added as follows:

§ 11.552 – CONFIDENTIALITY.

(A) Unless otherwise provided by law, no Multnomah County elected official, employee, or agent, nor any person who has acquired information pursuant to the Preschool For All Personal Income Tax Law, may divulge, release, or make known in any manner any financial information, Social Security number or any other elements of a tax return or tax account, including fact of filing and collection activity submitted or disclosed to Multnomah County or the Administrator under the provisions of this subchapter and any applicable administrative rule, unless otherwise provided in this subchapter.

(B) Nothing in this section prohibits:

- (1) The disclosure of general statistics in a form that would prevent the identification of financial information or Social Security number regarding an individual taxfiler;
- (2) The filing of any legal action by or on behalf of the Administrator or Multnomah County to obtain payment on unpaid accounts or the disclosure of information necessary to do so; or
- (3) The assignment to an outside collection agency of any unpaid account receivable provided that the Administrator notifies the taxfiler of the unpaid balance at least 60 days before the assignment of the claim.

(C) Any person that violates this section may be subject to civil or criminal penalties as established by administrative rule.

Section 29. MCC § 11.554 is added as follows:

§ 11.554 – PERSONS TO WHOM INFORMATION MAY BE FURNISHED.

(A) The Administrator, or the County’s Chief Financial Officer if the administration of the Preschool For All Personal Income Tax Code has been contracted to a third-party, may disclose information and give access to information to an authorized representative of the US Internal Revenue Service, Department of Revenue, state of Oregon, or to any local government of the State imposing taxes upon or measured by gross receipts or net income, for the following purposes:

- (1) To inspect the tax return of any taxfiler;
- (2) To obtain an abstract or copy of the tax return;
- (3) To obtain information concerning any item contained in any return;

- (4) To obtain information of any financial audit of the tax returns of any taxfiler; or
- (5) To maintain compliance with State or Federal law (such as providing Social Security numbers to the Internal Revenue Service with 1099G filings for refunds issued).

Disclosure and access will be granted only if the laws, regulations, or practices of the other jurisdiction maintain the confidentiality of this information at least to the extent provided by Preschool For All Personal Income Tax Law, as applicable.

(B) Upon request of a taxfiler, or authorized representative, the Administrator will provide to the taxfiler or authorized representative copies of any tax return information filed by the taxfiler in the Administrator's possession.

(C) If a court of competent jurisdiction issues a court order requiring the disclosure of a taxfiler's tax return information, the Administrator will comply with the terms of that court order after providing written notice to the taxfiler at the taxfiler's last known address.

(D) The Administrator may also disclose and give access to information to:

- (1) The Multnomah County Attorney, the Attorney's assistants and employees, or other legal representatives of the County, to the extent disclosure or access is necessary for the performance of the duties of advising or representing the County.
- (2) The Administrator's attorney, the attorney's assistants and employees, or other legal representatives of the Administrator, to the extent the Administrator deems disclosure or access necessary for the performance of the duties of advising or representing the Administrator, including but not limited to instituting legal actions on unpaid accounts.
- (3) Other County employees and agents, to the extent disclosure or access is necessary for such employees or agents to perform their duties, including under contracts or agreements between Multnomah County and the Administrator.
- (4) The Administrator's employees, agents and officials, to the extent the Administrator deems disclosure or access necessary for such employees, agents, or officials to:
 - (a) Aid in any legal collection effort on unpaid accounts;
 - (b) Perform their duties under contracts or agreements between the Administrator and Multnomah County or between the Administrator and any other department, bureau, agency, or

subdivision of the Administrator relating to the administration of the Preschool for All Personal Income Tax Law; or

(c) Aid in determining whether a Preschool For All Personal Income Tax Law account is in compliance with all City of Portland, County, State and Federal laws or policies.

(E) All employees and agents specified above, prior to the performance of duties involving access to financial information submitted to Multnomah County or the Administrator under the terms of the Preschool For All Personal Income Tax Law, must be advised in writing of the confidentiality provisions of the law and the penalties for violation of the law.

(F) No person described in subsection (A) above may receive access to financial information under this section unless that person:

- (1) Is advised in writing of the penalties relating to the violation of confidentiality provisions of the Preschool For All Personal Income Tax; and
- (2) Executes a certificate in a form prescribed by the Chief Financial Officer or Administrator, stating these provisions of law have been reviewed and that person is aware of the penalties for violating confidentiality rules. The Chief Financial Officer's or Administrator's signature on the certificate, required by this subsection, constitutes consent to disclosure to the persons executing the certificate.

(G) Any person that violates this section may be subject to criminal and/or civil penalties as set forth in the Preschool For All Personal Income Tax Administrative Code.

Section 30. MCC § 11.556 is added as follows:

§ 11.556 – TAXFILER REPRESENTATION.

Third-parties, such as attorneys or certified public accountants, may represent taxfilers before the Administrator. The Administrator may establish procedures in the Preschool For All Personal Income Tax Administrative Code for taxfilers to authorize a third-party to represent the taxfiler, which may include a written authorization submitted to the Administrator. The Administrator is not required to recognize a third-party who claims to represent a taxfiler if that third-party does not comply with the established procedures.

Section 31. MCC § 11.558 is added as follows:

§ 11.558 – SUBPOENA POWERS.

(A) The Administrator may subpoena and examine witnesses, administer oaths, and require the production of any books, papers, records, documents and tangible things in whatever format or however stored that are in the possession, custody, or control of any person, company, or corporation, whenever necessary for the prosecution of any inquiries deemed necessary or proper.

(B) After issuance, the subpoena shall be served in the manner of service as prescribed by State law for delivery of a summons by civil process in a court of competent jurisdiction. A return of service shall be delivered to the authority who issued the subpoena within ten days after its delivery to the person for service, with proof of service of the subpoena or that the person cannot be found.

(C) It is unlawful for any person so subpoenaed and served to neglect or refuse to attend at the proper time and place and to bring the records mentioned in the subpoena, or, having done so, to refuse or neglect to answer such questions as may be applicable to the matter under investigation or to allow the records to be examined, unless the person has first sought and obtained an order quashing the subpoena from a court of competent jurisdiction, in the same manner as provided for in a civil case. Failure to seek and obtain such an order waives any objections or defenses the person may have against compliance with the subpoena, whether or not the person made any specific objection or raised that specific defense in seeking the order to quash.

(D) If any person fails to comply with any subpoena of the Administrator or refuses to testify when the Administrator requires that person to testify, the Administrator may apply to a court of competent jurisdiction for an order to the person to produce the books and papers or attend and testify, or otherwise comply with the demand of the Administrator.

(1) A witness shall not be required to answer any question or to act in violation of the witness's rights under the constitutions of the state of Oregon or of the United States.

(E) The Administrator's application to the court may seek an order requiring the person against whom the subpoena is directed to comply with the Administrator's request or demand within ten days after the service of the order, or within the additional time granted by the court, or to justify the failure within that time. The order will be served upon the person to whom it is directed in the manner required by the state of Oregon or other applicable jurisdiction for service of process, which is required to confer jurisdiction upon the court.

(F) Upon petition of the person subpoenaed, the court will make an order determining if the evidence sought by the subpoena is relevant to the pending proceeding and, if requested by the person subpoenaed, an order as required in the interests of justice

to protect the confidentiality of the information subpoenaed. Upon failure of the subpoenaed person to show cause for noncompliance, the court will make an order requiring the person to comply with the demand of the Administrator within such time as the court directs.

(G) Failure to obey any order issued by the court under this section is contempt of court. The remedy provided by this section is in addition to other remedies, civil or criminal, that may exist.

(H) The Administrator will designate the employees who have the power to administer oaths under this section.

Section 32. MCC § 11.560 is added as follows:

§ 11.560 – SEVERABILITY.

If a court of competent jurisdiction finds that any part, section or provision of this subchapter is unconstitutional, illegal or invalid, that finding affects only that part, subsection or provision of the subchapter and the remaining parts, sections or provisions remain in full force and effect.

FIRST READING: January 21st 2021

SECOND READING AND ADOPTION: January 28th 2021



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Deborah Kafoury, Chair

REVIEWED:
JENNY M. MADKOUR, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By _____
William Glasson, Senior Assistant County Attorney

SUBMITTED BY: Eric Arellano, Chief Financial Officer