

City of Willoughby Hills

ORDINANCE NO. 2018-17

AN ORDINANCE AMENDING CHAPTER 186 – INCOME TAX EFFECTIVE FOR TAX YEARS BEGINNING JANUARY 1, 2016 TO CORRESPOND WITH CHAPTER 718 OF THE OHIO REVISED CODE, REPEALING CERTAIN ORDINANCES, AND DECLARING AN EMERGENCY.

WHEREAS, this Council has previously revised and adopted a new income tax code for the City of Willoughby Hills, in order to make the City's ordinances consistent with state law; and

WHEREAS, House Bill 49, effective on September 29, 2017, changed certain requirements in Chapter 718 of the Revised Code, and the Council finds and determines that amending the tax code for Willoughby Hills to be consistent with the Ohio Revised Code is in the best interests of the City; and

WHEREAS, certain municipalities in Ohio have filed the case of *Elyria v. State of Ohio*, Franklin County Common Pleas Court Case No. 18 CV001591, and are seeking to challenge the constitutionality of certain provisions of House Bill 49 that the municipalities believe are unconstitutional, including the "net profits opt-in" provision, which strips the municipalities of their authority to collect a lawfully levied tax; and

WHEREAS, the trial court in the *Elyria* case has ruled against the plaintiffs' position, and that case is now on appeal; and

WHEREAS, this ordinance is enacted in order to avoid the risk of having a taxpayer challenge the validity of the City's income tax code based upon state law provisions that require compliance with the state's take-over of the collection of the net profits tax, but in the event that the offending provisions of Ohio House Bill 49 are ruled unconstitutional, the City intends to continue to collect its own income tax pursuant to the authority granted to it by the Ohio Constitution.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WILLOUGHBY HILLS, COUNTY OF LAKE, STATE OF OHIO THAT:

SECTION 1. Existing Chapter 186, Income Tax Effective for Tax Years Beginning January 1, 2016, of the Codified Ordinances is hereby amended by the addition of a new section 186.27, as follows:

"186.27 NET PROFITS OPT-IN.

(a) The Municipality hereby adopts and incorporates Sections 718.80 to 718.95 of the Ohio Revised Code for tax years beginning on or after January 1, 2018.

(b) A taxpayer, as defined in division (c) of this section, may elect to be subject to Sections 718.80 to 718.95 of the Revised Code in lieu of the provisions of this Chapter.

(c) 'Taxpayer' has the same meaning as in Section 718.01 of the Revised Code, except that 'taxpayer' does not include natural persons or entities subject to the tax imposed under Chapter 5745 of the Revised Code. 'Taxpayer' may include, receivers, assignees, or trustees in bankruptcy when such person are required to assume the role of a taxpayer."

SECTION 2. The actions of this Council concerning and relating to the passage of this legislation were conducted in lawful meetings of this Council and that all deliberations of this Council and any of its committees that resulted in such formal action were in compliance with all legal requirements including Chapter 107 of the Codified Ordinances of the City of Willoughby Hills.

SECTION 3. This Ordinance constitutes an emergency measure in that the same provides for the immediate preservation of the public peace, health, safety and welfare of the inhabitants of the City of Willoughby Hills insofar as it provides for the immediate preservation of the fair, stable, and efficient system of taxation in the City of Willoughby Hills and to comport the City's ordinances with the Ohio Revised Code; wherefore this Ordinance shall be in full force and take effect from and after its adoption and approval by the Mayor.

PASSED: March 22, 2018

Nancy E. Fellows
Nancy E. Fellows
President of Council

Submitted to the Mayor for his approval
on this 23 day of March, 2018

Approved by the Mayor

March 26, 2018

ATTEST:

Victoria Ann Savage
Victoria Ann Savage, CMC
Clerk of Council

Robert M. Weger
Robert M. Weger
Mayor