

2010 CHANGES TO THE CENTERVILLE TAX ORDINANCE

Several changes were made recently to the Tax Ordinance. Listed below is the current wording of the affected sections of the Ordinance, followed by a brief explanation of the changes made. All changes are effective for tax years beginning on or after January 1, 2010.

1. If an individual is engaged in two or more taxable business activities to be included on the same return, the net loss of one unincorporated business activity may be used to offset the profits of another (except any portion of a loss or profit separately reportable for municipal tax purposes to another taxing entity) for purposes of arriving at overall net operating profit or net operating loss.

Losses from other sources, including net operating losses and passive activity losses reported for federal income tax purposes, may not be combined with qualifying wages.

In the past, taxpayers could offset losses from Schedule C, Schedule E and K1's from partnerships, with Centerville wages or a Centerville tax liability. This Ordinance change allows schedule losses to offset schedule income to arrive at a net taxable profit (or loss), but it does not allow schedule losses to offset wages.

2. The only expenses that can be deducted against qualifying wages are those employee business expenses deductible for federal income tax purposes in determining adjusted gross income, unless otherwise allowed on a uniform and consistent basis by the Tax Administrator. The total of such expenses cannot exceed the employee's related W-2 wage income from the same employer. If a taxpayer's taxable income for a taxable year includes income against which the taxpayer has taken a deduction for federal income tax purposes and reported on Form 2106 as attached to the taxpayer's federal income tax return filed for the taxable year, the taxpayer shall determine taxable income to the City by deducting the same amount deducted for federal income tax purposes and reported on the taxpayer's Form 2106 for that taxable year. This deduction shall be allowed for City income tax purposes only if the taxpayer attaches to the taxpayer's city income tax return a copy of Form 2106 and Schedule A as filed with the taxpayer's federal income tax return for that taxable year.

This change allows the deduction of Form 2106 expenses after the federal adjustment for 2% of AGI (Adjusted Gross Income) and requires a copy of federal Schedule A as well as federal Form 2106. Previously the deduction allowed was 100% of the Form 2106 expenses unless they were Line 4 only.

3. Any person required by the Internal Revenue Code to report, on an Internal Revenue Service Form 1099, payments made by such person to any individual not treated by such person as an employee for services performed by such individual shall also report such payment to the City where such services or any portion thereof were performed in the City, or where such payee is a resident of the City. Such report shall be made on a form prescribed by the Tax Administrator, which form shall include the name, address, federal taxpayer identification number, the amount of the payments made to each payee, and the percentage of such payments attributable to the City. Federal forms 1099 may be submitted in lieu of such report. Such return or forms shall be filed annually on or before February 28 of each year.

This change requires employers who pay individuals as independent contractors rather than as employees, to report this income to the City. This is typically Form 1099-MISC income and includes, but is not limited to, rents, royalties, commissions and other nonemployee compensation. Also, the portion allocable to the City is to be provided.

4. In no case shall penalty and interest charges be levied when the total of such penalty and interest amounts to less than ten dollars (\$10.00).

Previously there was no threshold for the assessment of penalty and interest. This change sets the minimum amount that will be assessed for penalty and interest at \$10.00.

5. A penalty shall be assessed for the failure to file tax returns, informational reports or any other filing as required by this Section. If the required filing is not more than 120 days late, the penalty assessed shall be twenty-five dollars (\$25.00). If the required filing is more than 120 days late, the penalty assessed shall be fifty dollars (\$50.00). Filings shall be deemed timely if postmarked by the due date.

*This change imposes a **late filing** fee regardless of whether any tax is due. In the past a penalty was only imposed when tax was owed. This fee will apply to the Form 1099 reporting requirement described in Item 3 above, tenant listings required of owners of rental property and withholding tax reconciliations, as well as to income tax returns.*

Also, this section of the Ordinance included the statement 'Interest but no penalty will be assessed where an extension has been granted by the Superintendent and the final tax paid within the period as extended'. That statement was eliminated, so any tax paid after the original due date is subject to penalty and interest.

6. Additional amounts of less than five dollars (\$5.00) shall not be refunded or assessed unless such assessment results from income which the taxpayer has failed to report.

Prior to 2010 the threshold for collection or refund of tax was \$1.00.

7. All taxes imposed by this chapter shall be collectible by a collection agency as other debts of like amount are recoverable, together with any interest and penalties, as well as any collection agency fees and expenses incurred by the City.

This change specifies that the taxpayer will pay collection agency fees which are sometimes 50% of the amount of the debt collected.