

ORDINANCE 18-09

AN ORDINANCE ENACTING SECTION 881.17 OF THE CITY OF NEW CARLISLE INCOME TAX CODE FOR TAX YEARS BEGINNING JANUARY 1, 2016, WHICH ADOPTS SECTIONS 718.80 THROUGH 718.95 OF THE OHIO REVISED CODE

WHEREAS, the 132nd General Assembly passed House Bill (H.B.) 49, the State's general appropriations bill for the biennium, on June 29, 2017, including Section 803.100 purporting to require that municipalities, on or before January 31, 2018, adopt certain municipal income tax provisions that are also adopted within H.B. 49 to authorize State officials to collect and administer municipal net profits taxes; and

WHEREAS, Section 803.100 of H.B. 49 references and relies upon Section 718.04(A) of the Ohio Revised Code, which purports to make municipal income taxing authority conditional upon a municipality's adoption of code sections as dictated by the State; and

WHEREAS, upon the advice of the Division of Taxation Department of Finance City of Cleveland, Central Collection Agency (CCA), the City of New Carlisle did not adopt certain municipal income tax provisions adopted within H.B. 49 to authorize State officials to collect and administer municipal net profits taxes by January 31, 2018; and

WHEREAS, although the municipal income tax provisions of H.B. 49 and Section 718.04(A) of the Ohio Revised Code violate the Home Rule Amendment, the City of New Carlisle is nevertheless compelled to adopt H.B. 49's municipal income tax provisions to avoid any doubt or taxpayer challenge as to its ability to impose a municipal income tax under the terms of Section 803.100 of H.B. 49 and Section 718.04(A) of the Ohio Revised Code; and

WHEREAS, the City of New Carlisle, by enacting this new section, does not concede the legality of H.B. 49's municipal income tax provisions or Section 718.04(A) of the Ohio Revised Code; and

WHEREAS, it is in the City of New Carlisle's best economic interest to require any taxpayer who is engaged in business or profession in the City of New Carlisle to file net profit taxes with the City of New Carlisle, instead of electing to file with the State of Ohio, as a condition precedent to receive benefits from the City of New Carlisle's economic development incentive program, to ensure that said businesses and professions contribute to the public funds from which they will receive incentive benefits;

NOW, THEREFORE, BE IT ORDAINED that:

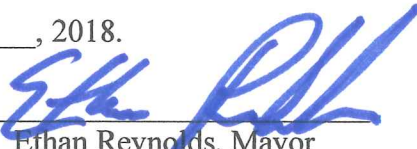
Section 1. New section 881.17 of the City of New Carlisle Income Tax Code for tax years beginning January 1, 2016, titled *Optional Procedures for Net Profit Taxes*, authorizing

certain taxpayers to elect for state officials to collect and administer municipal net profit taxes, shall hereby be enacted to read as set forth in Exhibit A of this Ordinance, attached hereto and incorporated by reference herein, for tax years starting on or after January 1, 2018.

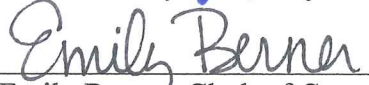
Section 2. If any provision of the H.B. 49 municipal income tax provisions is found unconstitutional, or is stayed or enjoined, that the provisions adopted in Section 1 of this Ordinance shall likewise be stayed.

Section 3. This Ordinance shall take effect and be in force on the earliest date allowed by law.

Passed this 21 day of May, 2018.



Ethan Reynolds, Mayor



Emily Berner, Clerk of Council

APPROVED AS TO FORM:

For 

Lynnette Dinkler., DIRECTOR OF LAW