

AN ORDINANCE TO AMEND CHAPTER 44 OF THE CITY CODE REGARDING THE INSPECTION OF STATE OF DELAWARE TAX RETURNS BY THE CITY OF WILMINGTON

#4699

Sponsor:

**Council
Member
Freel**

Co-Sponsor:

**Council
President
Shabazz**

WHEREAS, the City of Wilmington (the “City”) is authorized to levy and collect earned income taxes pursuant to 22 *Del. C.* § 901 and *Wilm. C.* § 44-107; and

WHEREAS, to enforce the City’s ability to collect such taxes, the City often seeks information about the taxpayer and the amount of tax remitted to the State of Delaware’s Division of Revenue (the “Division”) to accurately assess how much taxable income a taxpayer has earned; and

WHEREAS, under 30 *Del. C.* § 581, the State of Delaware has certain requirements that must be met by the City to allow the Division to share certain information about individual taxpayers; and

WHEREAS, one of the requirements is that the City must adopt an ordinance requiring (1) that any information obtained from, or as a result of the examination or investigation of, such tax return be kept confidential and used only for collection purposes; and (2) that the City reimburse the Division for costs, if any, of acquiring such information; and

WHEREAS, the City wishes to amend its Code to incorporate the aforementioned requirements so that the City may work with the Division to gain information necessary to adequately ensure that the proper amount of earned income taxes are paid to the City.

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON
HEREBY ORDAINS:**

SECTION 1. Chapter 44 of the City Code is hereby amended by amending Section 44-112 thereof to delete the stricken language and to add the underlined language to read as follows:

Sec. 44-112. - Records of taxpayer.

(a) Every person who has paid or from whom there is due or alleged to be due any moneys collectible by the department, and any person upon whom there is imposed any other obligation to collect and remit to the city any such moneys shall:

(a)(1) Preserve and retain his or her books, records, accounts, copies of tax returns filed with other taxing authorities and other data relating thereto for a period of six years after such moneys become collectible or have been collected by the department, whichever is later;

(b)(2) When requested by the department, produce the books, records, accounts, and copies of tax returns filed with other taxing authorities and other data relating thereto, and give to the department the opportunity to make examination of such books, records, accounts, copies, data and any other property owned or controlled by such person in order to verify the accuracy of any report or return made, or if no report or return has been made, to ascertain the amount of tax due.

(e)(b) The director of finance (the "director") may permit the Commissioner of Internal Revenue of the United States, the proper officer of any state, the District of Columbia, or any possession or territory of the United States imposing a tax upon the incomes of individuals, (or) corporations or other artificial business entities, or a financial officer designated by any municipality of this state which imposes an income tax or wage tax, or the authorized representative of any (of) such officers, to inspect the tax return of any taxpayer, and the director may furnish to any such officer, or such officer's authorized representative, an abstract of the tax return of any tax payer or supply such officer or such officer's authorized representative with information contained in any return of such taxpayer or disclosed by the report of any examination or investigation of the income or return of such taxpayer, but only for the purpose of, and only to the extent necessary in, the administration of the tax laws of such other jurisdiction; provided, however, that no such permission shall be granted, and no such information shall be furnished, to any such officer or the officer's authorized representative unless the statutes of such other jurisdiction grant substantially similar privileges to the director or the director's legal representative. No such jurisdiction, or its representative, shall be permitted to examine a taxpayer's return unless such taxpayer shall have a place of residence, business or employment in such jurisdiction, and no jurisdiction or its representative shall be permitted to review any portion of a tax return filed under the authority of this chapter unless the governing body of such jurisdiction shall have adopted an ordinance requiring:

(1) That any information obtained from, or as a result of the examination or investigation of such tax return be kept confidential and only for collection purposes.

(2) That the jurisdiction reimburse to the department of finance its cost, if any, of acquiring and providing such information.

(c) Any information obtained from, or as a result of the examination or investigation of, tax returns filed with the State of Delaware shall be kept confidential and shall only be used for collection purposes by the city.

(d) The city shall reimburse the State of Delaware Director of the Division of Revenue's cost, if any, of acquiring the information referenced in subsection (c) of this section.

SECTION 2. This Ordinance shall become effective upon its passage by City Council and approval by the Mayor.

First Reading.....August 29, 2019
Second Reading.....August 29, 2019
Third Reading.....

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved this ____ day of _____, 2019.

Mayor

SYNOPSIS: This Ordinance amends Section 44-112 of the City Code to comply with the State Code requirements regarding the City's examination or investigation of the State of Delaware tax returns of any taxpayer who has a place of residence, business, or employment in the City. In addition, as a housekeeping matter, this Ordinance renumbers certain subsections of Section 44-112.