

AN ORDINANCE TO AMEND CHAPTER 44 OF THE CITY CODE TO EXEMPT FROM THE CITY'S EARNED INCOME TAX THE WAGES AND COMPENSATION PAID BY THE UNITED STATES TO ANY PERSON FOR ACTIVE SERVICE IN THE UNIFORMED SERVICES OF THE UNITED STATES

#0118

Sponsor:

Council
Member
McCoy

Co-Sponsor:

Council
Member
Spadola

WHEREAS, pursuant to *Wilm C.* § 44-107, an annual tax for general revenue purposes is imposed upon (1) salaries, wages, commissions, and other compensation earned by residents of the city; and (2) salaries, wages, commissions, and other compensation earned by nonresidents of the city for work done or services performed or rendered in the city; and

WHEREAS, pursuant to *Wilm C.* § 44-106, in recognition of the sacrifice and significant contribution of those who are active service members of the armed services of the United States, the City specifically excludes from its definition of "salaries, wages, commission, and other compensation" for purposes of the City's earned income tax any wage or compensation paid by the United States to any person for such service is specifically; and

WHEREAS, the City currently only exempts from taxation wage or compensation paid by the United States to any person for active service in the "armed services" of the United States; and

WHEREAS, City Code currently does not define "armed services"; and

WHEREAS, Department of Finance regulations suggest "armed services" equals active duty in the United States armed forces; and

WHEREAS, federal law (5 U.S.C. § 2101(2)), defines "armed forces" as the Army, Navy, Air Force, Marine Corps, Space Force, and Coast Guard; and

WHEREAS, federal law (5 U.S.C. § 2101(3)), defines the "uniformed services" of the United States as the "armed forces, the commissioned corps of the Public Health

Service, and the commissioned corps of the National Oceanic and Atmospheric Administration"; and

WHEREAS, in fulfilling their duties, the members of the commissioned corps of the Public Health Service and the commissioned corps of the National Oceanic and Atmospheric Administration provide crucial services to promote and ensure public health and safety in the United States; and

WHEREAS, City Council recognizes the importance of the essential work and contributions of all those in the uniformed services, and desires that the wages or compensation earned by any person from active service in the uniformed services, not just armed forces, be exempt from the City's earned income tax.

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

SECTION 1. Chapter 44 is hereby amended by deleting the stricken language and adding the underlined language to read as follows:

Sec. 44-106. – Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Salaries, wages, commissions, and other compensation means all salaries, wages, commissions, bonuses, incentive payments, fees and tips that may accrue or have accrued whether directly or through an agent and whether in cash or in property for services rendered, but excluding:

- (1) Periodical payments for sick or disability benefits and those commonly recognized as old age benefits.
- (2) Retirement pay or pensions paid to persons retired from service after reaching a specific age or after a stated period of employment.

- (3) Any wage or compensation paid by the United States to any person for active service in the uniformed services of the United States.
- (4) Any bonus paid by the United States, this state or any other state for such service.
- (5) As a limited exception only, salaries, wages or other payments made to any public safety officers of the state or of any jurisdiction other than the city police department when such officers are acting in the performance of their duties pursuant to state authorization or pursuant to the exercise of a mutual aid agreement between the city and the other jurisdiction, being a separate political subdivision, municipality or other governmental body, for a limited period of time, such that those public safety officers shall not be liable for payment of the tax otherwise incurred under this article, unless such public safety officers reside in the city.

Tax means the principal amount of the tax assessed under this article plus all associated interest, penalties and costs assessed in connection therewith, unless the context clearly indicates to the contrary.

Taxpayer means any persons required by this article to file a return or to pay a tax.

Uniformed Services means "the United States Army, Navy, Air Force, Marine Corps, Space Force, Coast Guard, the commissioned corps of the Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration."

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

First Reading.....October 2, 2025

Second Reading.....October 2, 2025

Third Reading.....

Passed by the City Council,

President of City Council

ATTEST: _____
City Clerk

Approved this ____ day of ____, 2025

Mayor

SYNOPSIS: This Ordinance amends Section 44-106 of the City Code to exclude the wages and compensation earned by persons from active service in the uniformed services of the United States from the definition of “salaries, wages, commissions and other compensation” for purposes of the City’s earned income tax, rather than limiting the exemption to those in active service in the “armed forces.”

FISCAL IMPACT: This Ordinance’s fiscal impact is anticipated to be *de minimis*.