

**ORDINANCE NO. 220.99**

**AN ORDINANCE RELATING TO LICENSE FEES UPON ALL PERSONS WHO ARE EMPLOYED BY ANOTHER IN ANY TRADE, OCCUPATION OR PROFESSION WITHIN THE COUNTY OF SIMPSON, COMMONWEALTH OF KENTUCKY, FOR THE HEALTH, EDUCATION, SAFETY, WELFARE AND CONVENIENCE OF THE INHABITANTS OF SIMPSON COUNTY, KENTUCKY.**

Be it ordained by the fiscal court of county of Simpson, Commonwealth of Kentucky:

**SECTION I**

**DEFINITIONS:**

Words and phrases used in this Ordinance shall have the ordinary and accepted meaning ascribed to them and the special meanings ascribed to them below:

- (a) The phrase "license fee" shall mean a tax imposed for the privilege of exercising the right to engage in trade, occupation or profession for compensation when employed by another within Simpson County, Kentucky. Said phrase shall not be construed to refer or apply to the right to engage in trade, occupation or profession for compensation for oneself for profit or gain.
- (b) The word "person" shall mean and include all natural persons, partnerships, firms, associations, governmental bodies and agencies and subdivisions thereof, and corporations and whenever used in any interpretation.
- (c) "Administrator" means the official administrator of the occupational tax, to be appointed by the Simpson County Fiscal Court.
- (d) The word "County" means Simpson County, Kentucky, including the city of Franklin and all areas of the County whether incorporated or not.

**SECTION II**

**EFFECTIVE DATES AND DURATION:**

This ordinance shall apply and be effective from and after April 1, 2003, and shall remain in full force and effect until repealed or modified in a lawful manner

**SECTION III**

**LICENSE FEES REQUIRED:**

- (a) On and after April 1, 2003, all persons engaged in any trade, occupation or profession within Simpson County, when employed by another, and not for themselves, shall pay a license fee measured by and equal to three-quarters of one (0.75%) percent of gross receipts paid for such service.

It shall be unlawful for any person to engage in any trade, occupation, or profession within Simpson County, without withholding, reporting and paying the license fees herein provided and required. Portions of this ordinance prescribing a

penalty in the form of fine or imprisonment, shall mean and include the individual members of a firm, partnership, or association and the officers of any governmental body or agency, or any corporation.

(b) The words and phrases "trade, occupation or profession" shall include any and all activities and the rendering of any and all services of all kinds or other remuneration, whether the person be resident of Simpson County or not, when employed by another and not for oneself.

(c) The phrase "gross receipts" and the word "compensation", shall have the same meaning and shall include the gross amount of all salaries, wages, commissions, bonuses, or other money payments of any kind, or other considerations having a monetary value, which a person receives or becomes entitled to, or is given credit for by an employer, without deduction for withholding taxes, social security benefits, any form of insurance or retirement benefits, or other deductions made by an employer in calculating "take home-pay" provided, however, that any traveling expenses actually incurred and paid by the employer, gratuities such as "tips" paid by someone other than the employer, and wages, salaries or other compensation received by domestic servants employed in a private home, shall be exempt from the operation of this ordinance.

(d) Notwithstanding any other provisions hereof, the following money receipts are also exempt from the license fee imposed by this ordinance:

(1) Old age or retirement payments. Periodical payments, commonly recognized as old age or retirement pensions, made to persons retired from service after reaching a specified age or after a stated period of employment are not subject to the license fee. Employer and employee contributions to such pensions are also not subject to the license fee.

(2) Disability, sickness, accident benefits, and unemployment compensation. Payments made to employees by an employer under a disability, sickness and accident plan are not subject to the license fee. Unemployment compensation payments made by the State or any other agency are not subject to the license fee.

(3) Death benefits. Death benefits payable by an employer to the beneficiary of an employee or to his estate, whether payable in a single sum or otherwise, are not subject to the license fee.

(4) Benefits arising under the Worker's Compensation Act. Amounts received by employees under the Worker's Compensation Act as compensation for a disability sustained during the course of employment, together with any amount of damages received by a suit or agreement on account of the disability, are not subject to the license fee.

(5) Wages, bonuses, salaries or incentive payments to the extent that said wages, bonus, salaries or incentive payments exceed the amount of such compensation subject to Federal Medicare tax withholding.

**SECTION IV**

**REGULATION, ADMINISTRATION, ENFORCEMENT AND COLLECTION OF LICENSE FEES AND THE PURPOSE THEREOF:**

It shall be the duty of the Administrator to collect all license fees and deposit the same in the General Fund of Simpson County the following business day, to be used to defray the general expenses of the County government. The Administrator shall have the power, and it shall be his duty, to enforce such rules and regulations, adopted by the Simpson County Fiscal Court, as may be necessary to administer this ordinance and to provide such printed forms as may be required for reporting, paying and receipting for all such license fees and for all other requirements in the proper and efficient administration of this ordinance.

**SECTION V**

**DUTY OF EMPLOYER TO WITHHOLD, REPORT AND PAY LICENSE FEES OF EMPLOYEES:**

(a) It shall be the duty of every person engaged in any trade, occupation, or profession, within the Simpson County who employs or engages the services of others in connection therewith, to withhold from the compensation of such employee, the license fees herein provided, at the time such compensation is paid or credited; said person shall report and pay the same to the Administrator on or before March 31, June 30, September 30, and December 31, of each year, for the license fees accrued during the preceding three months; with the first report and payment being due June 30, 2003; and except as provided in sub-section (b) and (c) below. Failure on the part of the employer to withhold, report and pay the license fees shall not relieve the employee from the liability therefor.

(b) A person engaged in agriculture business (raising crops and livestock) who employs less than five (5) employees on a regular time basis, (four hundred-fifty (450) hours during a quarter), may file a return and pay the withholding tax at the end of the taxable year.

(c) Any person may elect to estimate and pay in advance, the withholding tax that may become due from compensation to be paid employees for a taxable year. This procedure will exempt the person from filing quarterly returns. The penalty and interest for under-payment will be as provided in sub-section (d) below.

(d) All license fees not paid when due shall draw interest at the rate of eight (8%) percent per annum from due date until paid, and upon failure to pay any license fee when due, a penalty of ten percent (10%) is hereby imposed which penalty shall draw interest from due date.

## SECTION VI

### **DUTY OF EMPLOYEE WHEN EMPLOYER FAILS TO WITHHOLD, REPORT OR PAY:**

In the event an employer fails to withhold, report or pay license fees for which any employee is liable, then it shall be the duty of the employee to report and pay the same when due and to file reports showing total gross receipts for the period from April 1, 2003, to December 31, 2003, and thereafter annually for the period January 1<sup>st</sup> thru December 31<sup>st</sup>. Said reports shall be made upon forms furnished by the Administrator and shall be filed not later than April 15<sup>th</sup> of each year. In the event the Licensee has not paid the full amount of license fees due for any period, the deficit, together with interest and penalty, must be paid when the reports above provided for are filed or the amount legally determined by the Administrator. In the event of overpayment, Simpson County shall make prompt refund.

## SECTION VII

### **APPORTIONMENT OF LICENSE FEES WHERE COMPENSATION IS DERIVED FROM ACTIVITY BOTH WITHIN AND WITHOUT THE COUNTY:**

Whenever an employee receives compensation for service or activity performed within and without the County, the license fee required under this ordinance shall be computed and paid upon the basis of the proportion of compensation earned for services performed within the County.

In all cases of license fees computed upon the basis of apportionment of compensation, as herein provided, the apportionment may be shown by sworn statements of the licensee or employer, but shall not be binding upon the County. Said apportionment shall be subject to verification and determination by the Administrator through examination and audit of the books and records of the licensee or employer, or both, as required by the Administrator.

## SECTION VIII

### **RECORDS REQUIRED:**

The reports required by this ordinance shall be in the form prescribed by the Administrator and shall contain all essential information, dates and figures, upon which the license fees required by this ordinance are computed. Every person required to pay any license fee provided by this ordinance shall be required to make all books, records, and accounts upon which information required by this ordinance is based, available to the Administrator for the purpose of examination, audit, or verification; provided, however, that if any licensee or employer subject to the provisions of this ordinance shall voluntarily submit copies of income tax returns for examination, then in such case no further examination or audit will be required until and unless there is re-examination or audit made by the taxing authority to whom the return was made; and provided further, the Administrator may dispense with examination of the books, records, accounts, or tax returns of the licensee in any case where the Administrator is furnished with a certificate of an attorney at law, a licensed public accountant, or the sworn statement of any other

accountant or bookkeeper of the licensee stating that the amount of tax reported conforms to the income tax return filed by the licensee for the applicable period.

Nothing shall prevent or preclude the Administrator from conducting an examination and audit of the books, records, and accounts, as herein provided at any time he may have reasonable grounds to believe that the Licensee has not correctly reported and paid the license fees due under the provisions of this ordinance.

**SECTION IX**

**CONFIDENTIALITY OF REPORTS:**

All information obtained by the Administrator or any other official or employee of Simpson County, from any reports, examination or audit of books, accounts, income tax returns, or any other source, in the administration of this ordinance, shall be treated and considered as confidential and privileged except for official purposes, unless otherwise treated by judicial decree or specific provision of law, and shall not be open to inspection by the public.

Any official, agent or employee of Simpson County who divulges any information obtained under the provisions of this ordinance, except for the purposes of administering this ordinance as herein provided, shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than \$50.00 nor more than \$500.00 or punished by confinement for not more than twelve months, or at both fine and confinement.

It is further provided that the Administrator shall have the right to disclose to the Commissioner of Revenue of the State of Kentucky, or his duly authorized agent or employee, any of the information protected by this Section of this ordinance, provided reciprocal right to information concerning any person liable for license fees under the provisions of this ordinance is made available to the County by such State Authorities, and provided further, that the County may publish statistics based upon information obtained in the administration of this ordinance so long as such published statistics do not reveal the identity of any Licensee.

**SECTION X**

**PENALTIES FOR VIOLATIONS:**

Any person who violates any of the provisions of this ordinance, by failing to pay any license fee when due, or failing to withhold and pay any license fee when due, or failing to file any report or submit to any examination required by this ordinance, or in any other manner fails or refuses to comply with any of the terms or provisions of this ordinance, shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$50.00 nor more than \$500.00 or punished by confinement for not more than twelve months, or at both fine and confinement. Each failure or refusal to comply with any of the provisions of this ordinance shall constitute a separate offense, and each day that such failure or refusal continues without compliance shall constitute a separate offense.

**SECTION XI**

**SEVERABILITY:**

Each section and each provision of each section of this ordinance are severable, and if any provision, section, paragraph, sentence or part thereof, or the application thereof to any person, licensee, class or group, be held unconstitutional or invalid for any reason, such holding shall not affect or impair the remainder of this ordinance; it being the legislative intent to ordain and enact each provision, section, paragraph, sentence and part hereof, separately and independently of every other.

**SECTION XII**

**REPEALING CLAUSE:**

All ordinances or parts of ordinances in conflict with the provision of this ordinance are, to the extent of such conflict, hereby repealed.

**SECTION XIII**

With respect to any person or entity referred to herein, the singular shall include the plural, the plural shall include the singular, and the masculine or feminine shall include both and the neuter genders wherever susceptible to such.

March 3, 2003 FIRST READING

March 17, 2003 SECOND READING

At a meeting of the Fiscal Court of the County of Simpson, Commonwealth of Kentucky held March 17, 2003, on motion made by Honorable McCutchen, and seconded by Honorable Banton, the foregoing ordinance was adopted, after full discussion, by the following vote:

<u>Yes</u>	Larry Randolph
<u>Yes</u>	Kelly Banton
<u>Yes</u>	Kenneth Utley
<u>Yes</u>	Charles McCutchen, Sr.
<u>Yes</u>	Jim Henderson

APPROVED:

BY:

Jim Henderson  
JIM HENDERSON, COUNTY JUDGE EXECUTIVE  
COUNTY OF SIMPSON, COMMONWEALTH OF KENTUCKY

ATTEST:

Julie Freeman  
JULIE FREEMAN, Fiscal Court Clerk,  
County of Simpson, Commonwealth of Kentucky