

ORDINANCE NO. 2004 - 108

**DECLARING THE NECESSITY OF SUBMITTING TO THE ELECTORS OF THE CITY OF MASON THE QUESTION OF PRESERVING THE MUNICIPALITY'S RIGHT TO IMPOSE A MUNICIPAL INCOME TAX ON A SHAREHOLDER'S DISTRIBUTIVE SHARE OF THE NET PROFITS OF AN S CORPORATION AND DECLARING AN EMERGENCY**

**WHEREAS**, the Municipal Income Tax Ordinance of the City of Mason currently does, and prior to December 6, 2002 did, contain authority to tax the shareholders distributive share of net profits of an S Corporation; and

**WHEREAS**, if the City of Mason desires to preserve the aforesaid authority as it is contained in its Municipal Income Tax Ordinance, a recent change in State law as codified in Section 718.01(F)(9)(c) requires that the municipality submit the question of such continuation to its electors at the general election to be held on November 2, 2004; and

**WHEREAS**, pursuant to the aforesaid change in State law, the City may continue the right to tax such income only upon the affirmative vote of a majority of the electors of the municipality voting in favor of doing so; and

**WHEREAS**, the City of Mason desires to submit such question to the electors of the municipality at the general election to be held on November 2, 2004.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASON, five MEMBERS ELECTED THERETO CONCURRING:**

**SECTION 1.** That this Council hereby authorizes and directs the submission to the electors of the City of Mason at the general election to be held at the usual places of voting of said municipality on Tuesday, November 2, 2004, the question as to whether or not the City should continue its right to tax a shareholder's distributive share of the net profit of an S corporation:

**SECTION 2.** The foregoing issue, upon receiving an affirmative vote to continue such taxation by a majority of the electors voting thereon at the November 2, 2004 general election, shall become effective immediately upon its adoption.

**SECTION 3.** The Clerk of this Council is hereby authorized and directed promptly to forward a certified copy of this Ordinance to the Board of Elections of Warren County.

**SECTION 4.** The Board of Elections of Warren County shall cause an appropriate notice to be duly given of the election to be held on November 2, 2004 on the foregoing issue relative to the Municipal Income Tax Ordinance of this municipality and otherwise to provide for such election in the manner provided by the general laws of the State of Ohio.

**SECTION 5.** The Clerk of Council is hereby authorized and directed to cause the full text of such issue to be published once a week for two consecutive weeks in a newspaper published in the municipality with the first publication to be made at least fifteen (15) days prior to the general election to be held on November 2, 2004.

**SECTION 6.** The ballot submitting the question of the adoption of the aforesaid ballot issue shall read substantively as follows:

“Shall the City of Mason continue to tax an S corporation shareholder’s distributive share of net profits of the S corporation to the extent that is currently permitted by the City of Mason Municipal Income Tax Ordinance?”

YES \_\_\_\_\_

NO \_\_\_\_\_

A majority affirmative vote is necessary for passage.


**SECTION 7.** This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council and that all deliberations of this Council and of any committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

**SECTION 8.** This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the residents of this municipality for the reason that this Ordinance must be certified to the Board of Elections immediately and without delay in order for the question to appear at the general election to be held on November 2, 2004 and further to provide for the usual daily operation of the municipal tax department.

Passed this 9<sup>th</sup> day of August, 2004.

  
\_\_\_\_\_  
Mayor

Attest:

  
\_\_\_\_\_  
Clerk of Council

7/7/2004  
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