



City of Grand Island

Tuesday, August 15, 2017

Special Meeting

Item F-1

#9642 - Consideration of Adding Article IX for a Rental Car Occupation Tax to Chapter 23 of the Grand Island City Code Related to Occupation Taxes

Staff Contact: William Clingman, Assistant Finance Director

Council Agenda Memo

From: William Clingman, Assistant Finance Director

Meeting: August 15, 2017

Subject: Consideration of Adding Article IX for a Rental Car Occupation Tax to Chapter 23 of the Grand Island City Code Related to Occupation Taxes

Presenter(s): William Clingman, Assistant Finance Director

Background

The City of Grand Island currently has an estimated ten businesses in city limits who will be impacted by the proposed occupation tax. Based on taxable sales numbers from the Nebraska Department of Revenue, it is estimated this occupation tax would generate around \$150,000 per year. The use of these funds will be dedicated to the lease or purchase of equipment for the Streets Division.

Discussion

An occupation tax, or similar fee, is common across the country, in particular for cities with major airports. In Nebraska, the City of Omaha and the City of Lincoln have similar taxes. This tax will provide funding to the Streets Division for the City of Grand Island for their equipment that is used to maintain the roads, which these rental cars drive on. Should the retailers who fall within this occupation choose to pass it along to customers, the citizens of Grand Island should see little to no impact to their everyday purchasing routines.

Alternatives

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

Recommendation

City Administration recommends that the City Council adopt the Rental Car Occupation Tax.

ORDINANCE NO. 9642

An ordinance to amend Grand Island City Code Chapter 23, Occupation Taxes, with the addition of Article IX, Sections 23-81 to 23-91 in its entirety; no other section of the Chapter is being amended; and to provide for publication and the effective date of this ordinance.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA:

SECTION 1. Chapter 23 of the Grand Island City Code is hereby adding the following article as follows:

Article IX RENTAL CAR OCCUPATION TAX

§23-81. Purpose.

Pursuant to the authority of Nebraska Revised Statute R.R.S. 1943, Section 15-203, the City Council finds, determines and declares that it is appropriate that a tax be imposed on all car rental businesses as herein defined for the purpose of raising revenues. The foregoing determination is made with due consideration of business in the City and the relation of business to the municipal welfare, together with relation thereof, to expenditures required by the City, and with consideration of just, proper and equitable distribution of the tax burdens within the City and other properly associated matters.

§23-82. Definitions.

As used in this chapter, the following words and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates or requires a different meaning:

- (a) “Car rental business” shall mean the business of renting cars, automobiles, vans, or trucks with three-fourths (3/4) ton or less manufacturer’s rated capacity without a driver, operator or chauffeur. The tax will still apply to any business even if the above items are not their primary business.
- (b) “Person” shall mean any natural person, individual, partnership, association, organization or corporation of any kind or character engaging in the car rental business.
- (c) “Rent” shall mean to hire out vehicles at stipulated rates per mile, per hour, per day, per week, or per month; provided, however, that such term shall not include the act of hiring out vehicles for a period exceeding thirty (30) consecutive days, and no tax shall be collected pursuant to this section for any vehicle rental contract to the same renter for a period exceeding thirty (30) consecutive days.
- (d) “Taxpayer” shall mean any person engaged in a car rental business herein defined who is required to pay the tax herein imposed.

(e) “Vehicle rental contract” shall mean each agreement with a car rental business to rent a vehicle for thirty (30) or fewer consecutive days and each vehicle rented under a single document shall be considered a separate vehicle rental contract. A vehicle rental contract shall be considered to be made within the city if the rental contract is executed by the renter within the city or the renter takes possession of the vehicle within the city.

Exceptions. The tax imposed by this section shall not be measured by, and no tax shall be collected for:

- (1) Any vehicle rental contract in which the vehicle is provided on a complimentary basis or for which no consideration is charged; and
- (2) Any vehicle rental contract for which the consideration is paid by a person not subject to the sales and use tax imposed by the Nebraska Revenue Act of 1967, as it is amended from time to time.

(f) “City Finance Director” shall mean the person appointed by the Mayor to that position or the individual designated by the City Finance Director to perform these duties for him or her

§23-83. Tax Imposed; Collection of Tax.

Beginning October 1, 2017, each person engaged in a car rental business shall pay an occupation tax in the amount of six percent (6%) of the actual rental rates charged for each vehicle rental contract made by that person within the city.

The tax imposed by this chapter may be shown as an add-on to the charge for renting a vehicle and shall be collectible at the time the vehicle is furnished, regardless of when the charge for the vehicle is paid. The car rental business operator shall remain responsible for payment of all taxes imposed, whether or not the taxes are actually collected from the customers.

§23-84. Return.

Each and every person engaged in a car rental business within the City for the calendar month beginning October 2017, and for each and every calendar month thereafter, shall prepare and file, on or before the 25th of the month following on a form prescribed and furnished by the City Finance Director, a return for the taxable calendar month, and at the same time pay to the City the tax herein imposed. The return shall be verified and sworn to by the officer in charge of the business. The return shall be considered filed on time if mailed in an envelope properly addressed to the City Finance Department, postage prepaid and postmarked before midnight of the 25th of the appropriate month.

§23-85. Tax Cumulative.

(a) The levy of the tax under this chapter is in addition to all other fees, taxes, excises and licenses levied and imposed under any contract or any other provisions of this Code or ordinances of the City, in addition to any fee, tax, excise or license imposed by the state.

(b) Payment of the tax imposed by this chapter shall not relieve the person paying the same from payment of any other tax now or hereafter imposed by contract or ordinance or by this Code, including those imposed for any business or occupation he or she may carry on, unless so provided therein. The occupational taxes imposed by this chapter shall be cumulative except where otherwise specifically provided.

§23-86. Use of Revenue.

The six percent (6%) occupation tax imposed by this chapter shall be used for the purpose of leasing or purchasing equipment for the Public Works Streets Division.

§23-87. Failure to File Return; Delinquency; Assessment by City Finance Director.

(a) If any person neglects or refuses to file a return or make payment of the taxes as required by this chapter, the City Finance Director shall make an estimate, based upon such information as may be reasonably available, of the amount of taxes due for the period or periods for which the taxpayer is delinquent, and upon the basis of such estimated amount, compute and assess in addition thereto (1) interest on such delinquent taxes, at the rate of one percent (1%) per month, or fraction thereof from the date when due and, (2) a late fee equal to ten percent (10%) thereof. Any such interest due may be compounded quarterly.

(b) The City Finance Director shall give the delinquent taxpayer written notice of such estimated taxes, late fees, and interest, which notice must be served personally or by certified mail.

(c) Such estimate shall thereupon become an assessment, and such assessment shall be final and due and payable from the taxpayer to the City Finance Director ten (10) days from the date of service of the notice or the date of mailing by certified mail; however, within such ten (10) day period the delinquent taxpayer may petition the City Finance Director for a revision or modification of such assessment and shall, within such ten-day period, furnish the City Finance Director the facts and correct figures showing the correct amount of such taxes.

(d) Such petition shall be in writing, and the facts and figures submitted shall be submitted in writing and shall be given under oath of the taxpayer.

(e) The City Finance Director may then modify such assessment in accordance with the facts which he or she deems correct. Such adjusted assessment shall be made in writing, and notice thereof shall be mailed to the taxpayer within ten (10) days; and all such decisions shall become final upon the expiration of thirty (30) days from the date of service, unless proceedings are commenced within that time for appeal in the District Court.

§23-88. Administration of Chapter; Miscellaneous Provisions.

(a) The administration of the provisions of this chapter are hereby vested in the City Finance Director who shall prescribe forms in conformity with this chapter for the making of returns, for the ascertainment, assessment and collection of the tax imposed hereunder, and for the proper administration and enforcement hereof.

(b) All notices required to be given to the taxpayer under the provisions of this chapter shall be in writing. Notices shall be mailed by first class or certified mail, postage prepaid, return receipt requested, to the taxpayer at his or her last known address.

(c) It shall be the duty of every taxpayer to keep and preserve suitable records and other books or accounts as may be necessary to determine the amount of tax for which he/she is liable hereunder.

- (1) Records of the gross revenue by which this tax is measured shall be kept separate and apart from the records of other sales or receipts in order to facilitate the examination of books and records as necessary for the collection of this tax.
- (2) It shall be the duty of every such taxpayer to keep and preserve for a period of four (4) years all such books, invoices and other records, which shall be open for examination at any time by the City Finance Director. If such person keeps or maintains their books, invoices, accounts or other records, or any thereof, outside of the state, upon demand of the City Finance Director he/she shall make the same available at a suitable place within the City, to be designated by the City Finance Director, for examination, inspection and audit by the City Finance Director. The taxpayer shall reimburse the City for the reasonable costs of the examination, inspection and audit if the City Finance Director determines that the taxpayer paid ninety percent or less of the tax owing for the period of the examination.
- (3) The City Finance Director in his or her discretion, may make, permit or cause to be made the examination, inspection or audit of books, invoices, accounts or other records so kept or maintained by such person outside of the state at the place where same are kept or maintained or at any place outside the state where the same may be made available, provided such person shall have entered into a binding agreement with the City to reimburse it for all costs and expenses incurred by it in order to have such examination, inspection or audit made in such place.
- (d) For the purpose of ascertaining the correctness of a return, or for the purpose of determining the amount of tax due from any person, the City Finance Director, or his/her duly authorized persons, may conduct investigations concerning any matters covered by this chapter; and may examine any relevant books, papers, records or memoranda of any such person.

§23-89. Recovery of Unpaid Tax by Action at Law.

- (a) The City Finance Director may also treat any such taxes, penalties or interest due and unpaid as a debt due the City.
- (b) In case of failure to pay the taxes, or any portion thereof, or any late fee or interest thereon when due, the City may recover at law the amount of such taxes, penalties and interest in any court of Hall County, Nebraska or of the county wherein the taxpayer resides or has its principal place of business having jurisdiction of the amounts sought to be collected.
- (c) The return of the taxpayer or the assessment made by the City Finance Director, as herein provided, shall be prima facie proof of the amount due.
- (d) The City Attorney may commence an action for the recovery of taxes due under this chapter and this remedy shall be in addition to all other existing remedies, or remedies provided in this chapter.
- (e) The City Finance Director may turn over any unpaid amount due to the City to a 3rd party collections agency, following any notice required by State law.

§23-90. Reserved

§23-91. Reserved

ORDINANCE NO. 9642 (Cont.)

SECTION 2. Chapter 23, Article IX, Sections 23-81 through 23-91, is being added in its entirety.

SECTION 3. This ordinance shall be in force and take effect from and after its passage and publication, within fifteen days in one issue of the Grand Island Independent as provided by law.

Enacted: August 15, 2017.

Jeremy L. Jensen, Mayor

Attest:

RaNae Edwards, City Clerk