

AMERICAN PAYROLL ASSOCIATION

June 22, 2020

Mr. Adam P. Morrison
City of Eugene
Finance Division
100 West 10th Avenue, Suite 400
Eugene, OR 97401
amorrison@eugene-or.gov

Re: Recommendations on Council Ordinance 20616, *An Ordinance to Fund Community Safety Services with a Payroll Tax and Adding New Sections to the Eugene Code, 1971*

Dear Mr. Morrison:

Thank you for delaying the effective date of Council Ordinance 20616, *An Ordinance to Fund Community Safety Services with a Payroll Tax and Adding New Sections to the Eugene Code, 1971*, to 2021. The additional implementation time is appreciated by the American Payroll Association (APA) and payroll professionals working for employers conducting business in the City of Eugene.

APA offers for your consideration two recommendations to improve the administrative feasibility of the payroll tax and withholding requirements:

1. Adopt a withholding calculation that mirrors the calculation required by the Internal Revenue Service (IRS) and
2. Base the employer tax rate on known facts rather than results that can change throughout a tax period.

ADOPT A WITHHOLDING CALCULATION THAT MIRRORS THE IRS

The suggested draft tax rate tables appear ambiguous and could result in employers applying them inconsistently. APA strongly agrees with the City of Eugene's recent suggested approach to adopt tax rate tables that apply to wages paid in a pay period, rather than associating tax rates with rates of pay.

Employees often have variable or multiple rates of pay that change with different assignments or roles. Diverse tax rates associated with rates of pay also would confuse employees because they may vary over time based on factors such as commissions or periodic bonuses. Further, many employees are paid on a basis other than hours worked, which makes determining the relevant rate of pay for each pay period more administratively complicated.

However, the following excerpt from the City’s draft tax table shows that further clarification is needed:

Bi-weekly Payroll Period (80 hours per pay period/2080 annual)
If the employee made \$960 or less during the pay period, they are exempt from the employee payroll tax.
If the employee made at least \$961, but less than \$1,201, the tax rate is 0.0030 of the employee’s taxable wages.
If the employee made \$1,201 or more, the tax rate is 0.0044 of the employee’s taxable wages.

In this example, without further guidance from the City, the employer must decide whether to apply the highest rate of 0.0044 to all wages paid to the employee who earned more than \$1,201 in a biweekly pay period or a mixed rate of 0.0030 times the wages between \$961 and \$1,201, plus 0.0044 times wages over \$1,201.

Instead, APA recommends that the City adopt a withholding calculation that mirrors that of the IRS. Employers recognize and are able to use tax tables that are expressed by the IRS. The following uses the same example as above using the IRS’s method.

Biweekly payroll period (80 hours per pay period/2,080 total annual hours):

At least	But less than	The tentative amount of withholding is	Plus this amount
\$0	\$960	\$0	N/A
\$961	\$1,200	\$0	0.0030 times wages over \$961
\$1,201	No limit	\$0.72	0.0044 times wages over \$1,201

Refer to IRS Publication 15-T, *Federal Income Tax Withholding Methods*, for examples of IRS guidance and tax tables (www.irs.gov/pub/irs-pdf/p15t.pdf).

BASE THE EMPLOYER TAX RATE ON KNOWN FACTS

Optimally, the City of Eugene should base the employer tax rate on known facts rather than results that can change throughout a tax period. The City ordinance provides for a reduced payroll tax rate on the first \$100,000 in wages paid by employers with no more than two employees. Employers hire or terminate employees during the year. Thus, employers may apply a particular rate for most of a year, only to discover late in the year that they are subject to a different rate. Accounting for part-year changes and making retroactive adjustments is an unnecessary source of uncertainty and complexity, and an administrative burden on payroll departments and their employers.

In addition, a clear understanding of tax liability for the upcoming year is critical to business planning (e.g., setting product and service prices, establishing accurate annual budgets, managing cash flow, and ensuring compliance). APA recommends that the City consider eligibility for reduced tax rates based on the average number of employees in the prior calendar year. New employers could base the tax rate determination on a reasonable estimate of their employment levels for the current year.

Lastly, APA recommends clearer guidance on when wages would be subject to tax in situations in which the employee is not always working in the City. Frequently Asked Questions (FAQs) 11 and 12 on the City website (www.eugene-or.gov/FAQ.aspx?TID=113) appear to conflict. FAQ 11 explains that employees working outside of the City for an employer physically located in the City are still subject to the tax. FAQ 12 says the opposite. In all likelihood both answers may vary depending on further facts and circumstances. Guidance should emphasize that in these circumstances wages are exempt from the City's payroll tax only if the employee is working at a permanent business location outside the City. This will distinguish telecommuting or work that involves temporary jobs sites (such as construction jobs) from employers permanently located in the City of Eugene.

ABOUT APA

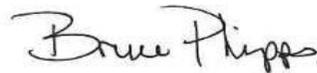
Established in 1982, APA is a nonprofit association serving the interests of about 21,000 payroll professionals nationwide. Nearly 300 members are located in Oregon, including 20 within the City of Eugene and another 10 in the surrounding areas. Many more members work for employers conducting business in Oregon, including payroll service providers serving Oregon employers and payroll software developers. APA's primary mission is to educate its members and the payroll industry about the best practices associated with paying America's workers while complying with applicable federal, state, and local laws and regulations. APA members are directly responsible for calculating wages and tax withholding for their employers.

We would be pleased to discuss implementation further with you. To reach APA, contact Alice Jacobsohn at 202-669-4001 or ajacobsohn@americanpayroll.org.

Sincerely,



Pete Isberg
Cochair, State & Local Topics Subcommittee



Bruce Phipps, CPP
Cochair, State & Local Topics Subcommittee



Carlanna Livingstone, CPP
Cochair, State & Local Topics Subcommittee



Alice P. Jacobsohn, Esq.
Senior Manager, Government Relations