



# Office of the City Clerk

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## Legislation Details (With Text)

**File #:** O2023-894  
**Type:** Ordinance  
**Status:** Failed to Pass  
**File created:** 1/18/2023  
**In control:** City Council  
**Final action:** 5/24/2023  
**Title:** Amendment of Municipal Code Title 3 by adding new Chapter 3-20 entitled "Employers' Expense Tax and Development Incentive Ordinance"  
**Sponsors:** Sigcho-Lopez, Byron, Ramirez-Rosa, Carlos  
**Indexes:** Ch. 20 Chicago Employer's Tax and Development Incentive Tax Ordinance  
**Attachments:** 1. O2023-894.pdf

Date	Ver.	Action By	Action	Result
5/24/2023	1	City Council	Failed to Pass	
1/18/2023	1	City Council	Referred	

### ORDINANCE

#### BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. Title 3 of the Municipal Code of Chicago is hereby amended by deleting Chapter 3-20 in its entirety, and inserting a new Chapter 3-20, as follows:

### CHAPTER 3-20

#### CHICAGO EMPLOYERS' EXPENSE TAX AND DEVELOPMENT INCENTIVE ORDINANCE 3-20-010 Title.

This Chapter shall be known and cited as the "Chicago Employers' Expense Tax and Development Incentive Ordinance" and the tax herein imposed shall be known and cited as the "Chicago Employers' Expense Tax."

#### 3-20-020 Definitions and construction.

For the purposes of this Chapter, the following definitions apply:

"Business" means any activity, enterprise, profession, trade or undertaking of any nature conducted or engaged in, or ordinarily conducted or engaged in, with the object of gain, benefit, or advantages, whether direct or indirect, to the employer or to another or others. The term shall include entities which are subsidiary or independent, conducting operations for the benefit of others and at no benefit to themselves, nonprofit businesses, and trade associations.

"Commission merchant" means as follows:

1. The term "commission merchant" means a person who, for compensation in the form of a commission, or partly commission and partly salary, engages in buying and selling activities, including the solicitation or negotiation of a sale or service requirement, or the forwarding or accepting of sales or service orders, which lead to the sale of services or of goods, wares, commodities, merchandise, shares of stock and insurance policies owned or authorized by some person other than the commission merchant. The term "commission merchant" shall include agents or employees who receive compensation in such form for such activities.

2. For the purpose of this Chapter, the term "commission merchant" means only those individuals who earn or to whom are owed commissions, or salaries and commissions together, of at least \$1,000.00 in any calendar quarter, from the same employer who is subject to the tax imposed by this Chapter.

3. The business of a commission merchant shall be deemed to include the buying and selling of services, goods, wares, commodities, merchandise, shares of stock and insurance policies by a person to the extent that the person does not, for themselves: (a) engage on a continuing basis in the business of servicing, manufacturing, refining, fabricating, milling, treating or other processing of the goods, wares, commodities, merchandise, shares of stock and insurance policies bought and sold and does not cause goods, wares, commodities or merchandise to be manufactured, refined, fabricated, milled, treated or otherwise processed on a continuing basis; (b) obtain or retain title to goods, wares, commodities, or shares of stock except in one or more of the following situations: while such may be in transit, or for short periods' of time before transportation commences or after it ceases; and (c) store or warehouse such

goods, wares, commodities or merchandise except during one or more of the following situations: while such goods, wares, commodities or merchandise are actually in transit or for short periods of time before transportation commences or after it ceases.

"Compensation" means any wages, gratuities, or commissions which have been earned or accrued by an employee or commission merchant.

"Comptroller" means the Comptroller of the City of Chicago.

"Department" means the Department of Finance.

"Employee" means an individual who is engaged to work for or under the direction and control of another for monetary or other valuable consideration, including wages, commissions, or gratuities. For purposes of this Chapter, said term excludes any individual performing:

1. Newspaper carrier delivery or distribution service when the individual is

under the age of 18 years;

2. Services in the employ of any organization described in Sections 501(c), 501(d), or 401(c) of Title 26 of the United States Code, as qualified by Sections 502 and 503 of said Title 26, unless such organization normally, income shall have the meaning set forth in Sections 511, 512, 513, 514 and 515 of Title 26 of the United States Code;

3. Services in the employ of one's parent, child, or spouse; and

4. Services in the employ of any governmental unit, including federal, state, or local political subdivisions.

"Employer" means any person that employs one or more employees or commission merchants performing services in whole or in part within the City. An employer is subject to the tax imposed by this Chapter for any full calendar quarter during which it employs 50 or more full-time employees or commission merchants, or any combination thereof.

"Exempt Community Areas" means those community areas: (1) listed in the top 20 for incidence of violent crime per 1,000 for the prior calendar year, excluding the Loop Community Area, as calculated by the UIC Great Cities Institute; and (2) listed in the top 20 hardship index, as calculated by the UIC Great Cities Institute.

"Full-time employee" means an individual who earns or to whom has accrued wages or gratuities, or any combination thereof, from employment of at least \$1,000.00 in any calendar quarter of a year from or for the same employer who is subject to the tax imposed by this Chapter.

"Unitary business group" means a group of persons related through common ownership or control, whose business activities are in the same general business, and whose members are functionally integrated through the exercise of centralized management.

"Wages" means compensation due to an employee by reason of employment.

### **3-20-30 Employer's expense tax.**

a) A tax is hereby imposed upon every employer who, in connection with the employer's business, engages, hires, employs, or contracts with 50 or more individuals as commission merchants and full-time employees, or any combination thereof, to perform work or render services in whole or in part within the City. Beginning April 1, 2023, the amount of the tax shall be \$38.00 per month for each commission merchant and full-time employee to whom compensation is paid, or to whom compensation has accrued. The incidence of this tax shall be upon the employer alone as an employer's expense tax and shall not be transferred directly or indirectly to the commission merchant or full-time employee under any circumstances. The tax is due for each calendar quarter the employer has 50 or more full-time employees or commission merchants, or combination thereof, at any time during such quarter, except that for any month within such quarter the employer's number of full-time employees or commission merchants, or combination thereof, falls below 50, then no tax shall be due for that month.

b) Such tax shall be levied only upon the number of those commission merchants or employees whose work or service is performed within the City, or if partly within and partly without the City, the numbers of those individuals who perform 50 percent or more of their work or service per calendar quarter within the City. If it is impractical to apportion such work or service aforesaid either because of the peculiar nature thereof or on account of unusual bases of compensation, or for any other similar reason, then the numbers of such individuals attributable to work performed or services rendered in the City shall be determined in accordance with rules and regulations adopted or promulgated by the Comptroller for this purpose, and in furtherance of the purposes of this Chapter. If the Comptroller determines that the percentage of work attributable to the City for any one or more employers is a relatively stable percentage, then the Comptroller is hereby authorized to establish that percentage as a prima facie percentage of work attributable to the City; provided, however, that the Comptroller shall condition the establishment of such fixed percentage upon the obligation of the employer to report immediately to the Comptroller any significant change in their mode of business which might or will have some effect upon the portion of work performed or service attributable to the City.

c) In calculating the employer's expense tax due, the employer shall not include employees who are permanent residents of an Exempt Community Area. Beginning June 1, 2023, and by January 31 of each year thereafter, the Department shall publish a map of the Exempt Community Areas.

### **3-20-040 Residence of taxpayer.**

This tax shall apply only to employers doing business within the City. An employer does business within the City, for the purposes of this Chapter, if they engage, hire, employ or contract with one or more individuals as commission merchants or full-time employee to perform work or render services in whole or in part within the City and fulfills one or more of the following criteria: (a) such employer maintains a fixed place of business within the City; (b) a commission merchant or employee of said employer maintains a fixed place of business within the City for the benefit or partial benefit of such employer; (c) such employer or their commission merchant or employee owns or leases real property within the City for business purposes; (d) such employer or their commission merchant or employee regularly maintains a stock of tangible personal property in the City for sale in the ordinary course of business; (e) such employer employs or otherwise uses real or personal property within the City; or (f) such employer or their commission merchant or employee conducts continuous solicitation of business within the City.

### **3-20-50 Payments, returns and extensions of time.**

The taxes herein imposed shall become due and payable for the preceding calendar quarter on the last day of the month following said calendar quarter and shall be considered delinquent if not paid on or before such date, and the taxes

herein imposed shall be paid in accordance with Section 3-4-187 or Section 3-4-188, as applicable. Each employer subject to the tax herein imposed shall execute and file an employers' expense tax return in accordance with Section 3-4-186 or Section 3-4-19, as applicable, on forms prepared for that purpose by the Department, concurrently with the payment of taxes imposed herein.

Each employer in the City, whether subject to the tax herein imposed or not, shall prepare and maintain at some accessible place within the City permanent, just, and accurate books, papers, and records setting forth the name and address of each commission merchant and employee performing work or rendering services in whole or in part for said employer in the City, designating that portion of the work for each such commission merchant or employee attributable to the City, plus the aggregate number of all such individuals whose work or service is attributable to the City, and such other and further pertinent information as the Comptroller may require in furtherance of the purposes of this Chapter.

### **3-20-060 Duties of the Department and Comptroller.**

It shall be the duty of the Department to collect and receive the tax imposed by this Chapter. The Department shall keep an accurate and separate account of all such tax payments received by it showing the name and address of the taxpayer and the date of each payment. The Comptroller may adopt, promulgate, and enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this Chapter, including provisions for reexamination, connection, and amendment of all returns. The Comptroller, or their designee, may examine the books, papers, and records of any employer or alleged employer during regular business hours, in order to verify the accuracy of any return made, or if no return was made, to ascertain the tax imposed by this Chapter.

### **3-20-070 Registration.**

Every employer subject to the tax imposed by this Chapter shall, within ten days after commencing business within the City, file in the office of the Department a certificate setting forth the name under which such business is, or is to be, conducted or transacted and the full name or names and address or addresses of the individual or individuals conducting or transacting the same, unless the party so certified is a corporation or trustee, in which event it shall set forth its said principal office or place of business and when and where incorporated or organized. Said certificate shall be executed and duly acknowledged by the person or persons so conducting or intending to conduct said business or by the president or secretary of the corporation, as the case may be.

In the event of a change in the identity of an employer, or termination of operations, employers subject to the tax imposed by this Chapter shall file a certificate setting forth the facts with respect to such change or termination in the office of the Department within ten days thereafter.

### **3-20-080 Allocation of Revenues.**

All revenues derived from the tax imposed by this Chapter shall be kept as a separate fund, and used for the following purposes, subject to due appropriation by the City Council: (1) one-quarter to fund the reopening, hiring of City-employed clinical staff, and maintaining of the Chicago Department of Public Health's mental health operations; (2) one-quarter for the building of new or fully rehabilitated city-owned affordable housing, playgrounds, parks, and amenities within

Exempt Community Areas as determined by the Department of Housing, and for providing community housing for persons leaving congregate facilities such as nursing homes, in areas to be decided in consultation with the disability rights community; (3) one-quarter to support violence prevention programs; and (4) one-quarter for the hiring of a CPS-employed nurse, counselor and librarian for every school in the Chicago Public Schools district, to fully staff and fund district schools, and reopen closed CPS schools to properly meet the needs of all of Chicago's children. No later than the fifth day of the month following the receipt of revenues from the tax imposed by this Chapter, the Comptroller shall transfer such revenues to the applicable funds in accordance with this Section and the annual appropriation ordinance. No member of the City Council or other municipal officer shall introduce, and no Committee of the City Council shall consider or recommend, any ordinance or order that is contrary in any way to any of the requirements of this Section.

### **3-20-090 Application of uniform revenue procedures ordinance.**

Whenever not inconsistent with the provisions of this Chapter or whenever this Chapter is silent, the provisions of the

Uniform Revenue Procedures Ordinance, Chapter 3-4 of the Municipal Code of Chicago, as amended, shall apply and supplement this Chapter.

SECTION 2. This ordinance shall take effect on April 1, 2023.