

ORDINANCE 2004-53
Passed August 3, 2004

AN ORDINANCE DECLARING THE NECESSITY OF SUBMITTING TO THE ELECTORS OF THE CITY OF POWELL THE QUESTION OF PRESERVING THE MUNICIPALITY'S RIGHT TO CONTINUE TO IMPOSE A MUNICIPAL INCOME TAX ON A SHAREHOLDER'S OHIO SOURCE DISTRIBUTIVE SHARE OF THE NET PROFITS OF AN S CORPORATION AND DECLARING AN EMERGENCY.

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

WHEREAS, if the City of Powell desires to preserve the aforesaid authority with regard to Ohio source shares of net profits of S Corporations as it is contained in its Municipal Income Tax Ordinance, a recent change in State law as codified in Section 718.01(F)(9) 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 taxation of 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 Powell 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 MUNICIPALITY OF POWELL, DELAWARE COUNTY, OHIO AS FOLLOWS:

Section 1: This Council hereby authorizes and directs the submission to the electors of the City of Powell 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 to tax a shareholder's Ohio source 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 Delaware County.

Section 4: The Board of Elections of Delaware 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 Powell continue to tax an S Corporation shareholder's Ohio source distributive share of net profits of the S Corporation to the extent that is currently permitted, and was previously permitted prior to December 6, 2002, by the City of Powell 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.

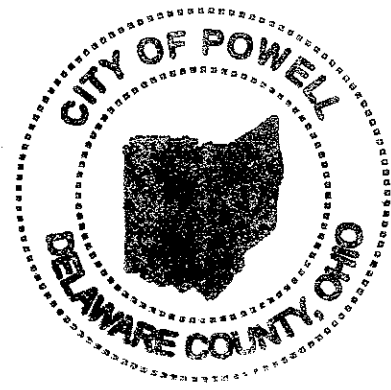
Section 8: This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the residents of this municipality for the reason that this Ordinance must be certified to the Board of Elections immediately and without 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 department. Therefore this ordinance shall take effect immediately upon the affirmative vote of not less than five members elected to Council and signature by the Mayor or otherwise at the earliest time allowed by law.

VOTE ON RULE SUSPENSION: Y 7 N 0

VOTE ON ORDINANCE NO. 2004-53 Y 7 N 0

Dan Wiencek 8/10/04
Date
Dan Wiencek
Mayor

Dawn Nauman 8/31/04
Date
Dawn Nauman
Clerk of Council



This legislation has been posted in accordance with the City Charter on this date 8/20/04
D Nauman
Clerk of Council