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Are Municipal Governments Unwittingly Hindering the New World of Work?

By Mim King

I recently learned, the hard way, how unprepared many municipal governments are for the new world of work and where it is performed. My small consulting firm was established in San Francisco ten years ago, then moved to Lexington, Kentucky in 2004. I have always complied with local business permit laws, even when I found them curious at best.

My place of business is my home office, the café down the road, or at a client's home or office in another city or state. My business is in my head and my laptop, both portable. Much of my time is devoted to business travel. People don't come to me; I go to them.

Upon my arrival in Lexington, the first step in establishing my local business was to open a bank account. I felt fortunate to find the one local bank that didn't require a business license to open a business account. I was willing to take the chance that by the time the city found me it would have awakened to the new world of work; where not everyone works in traditionally accepted ways. My accountant was not as optimistic about my situation but said nothing.

Experience, both mine and that shared by others, suggested it would take a few years for the city to "find" me, since most municipalities get their business licensing information from the state – often inefficiently and seldom quickly. Sure enough, in April, the City of Lexington finally mailed a notice, firmly reminding me that I needed a county business license.

The City of Lexington encompasses all of Fayette County, so the city issues the licenses and collects the fees for the county.

Knowing my unique situation, I called the city office hoping for a definition of "work performed in Fayette County," as it read on the form. Did that mean where I was, physically? Or where my clients were? Or was it the destination address on my invoices? The nice lady who answered said, "It's where you do the work." I retorted, "If I take my laptop across county lines and do my work there, am I subject to Fayette County tax?" She said, "No." I duly noted our conversation.

But I sensed I had an interested ear to present a case for the difference between a 9-5 employee and today's knowledge-worker: one who is mobile, works a flexible schedule, and seldom gets a regular paycheck. So I got her email address and promised to contact her again; even if I sensed that continued debate would be filled with circular logic.

I emailed my new government friend several questions. I kept repeating "travel . . . travel . . . travel . . . national clients . . . out of town." My image of her difficulty grasping this "new concept" was delicious.

I next sent her a detailed report listing my client base, earnings from each of them, and a copy of my Form 1040, with both bottom lines agreeing, for each year I was being asked to pay the Fayette/Lexington tax (2004-2007).

I then deleted those clients with addresses outside the city's purview: those I had to *go to* to serve, and the ones where I wasn't always sitting within my city limits to do their work.

The product of this documentation proved that a mere fraction of my overall annual client base falls within Lexington's city limits.

However, my accountant wanted to take my total net income and give the city its 2.25% right off-the-top. But, I knew that – again, by the city's own definition – my small percentage of clients whose work was done within the city limits was calculated properly.

By those calculations, my 2004-2007 municipal taxes combined payment was only about \$200 – **much less than what my accountant had originally suggested.**

Actually, after getting the City to define its own jargon, which I could say worked to my favor, the whole process was kind of fun. Thank goodness my own records were organized!

I don't know if this is the end of the story and won't until next year. But I do know because of my "portable business," government agencies have a hard time putting me into one of their pre-fab boxes. So if they challenge my calculations next year, I'll smugly refer them to **theirs** and hope the law hasn't been changed to my detriment – and chagrin.

When government agencies finally catch up to the new world of work, I'm sure they'll figure out some way to modify their requirements. Given that it took them four years to track me down, I'm not holding my breath for an early resolution.

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